

<div>1</div> <div>1 CITY OF HACKENSACK ZONING BOARD OF ADJUSTMENT TUESDAY, NOVEMBER 30, 2010 COMMENCING AT 7:10 P.M.</div> <div>2</div> <div>3 ..... : TRANSCRIPT</div> <div>4 IN THE MATTER OF: Application V#23-08 SP# 21-08 : OF</div> <div>5 Address 320 Summit Avenue/ : PROCEEDINGS</div> <div>6 329 Prospect Avenue : Block 344, Lots: 3,4,5,14 : Zone R-75 &amp; R-3 : Applicant requests to demolish : the existing structures and : Construct a 19 story medical : office building. : .....</div> <div>7</div> <div>8 B E F O R E :</div> <div>9</div> <div>10 CITY OF HACKENSACK ZONING BOARD</div> <div>11 THERE BEING PRESENT:</div> <div>12 MICHAEL GUERRA, CHAIRMAN</div> <div>13 GEORGE DIANA, MEMBER</div> <div>14 FRANK RODRIGUEZ, MEMBER</div> <div>15 HUMBERTO GOEZ, MEMBER</div> <div>16</div> <div>17</div> <div>18</div> <div>19</div> <div>20</div> <div>21</div> <div>22</div> <div>23 LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. CERTIFIED COURT REPORTERS P.O. BOX 505 SADDLE BROOK, NJ 07663 201-641-1812 201-664-6339 FAX laccsr2@aol.com</div> <div>24</div> <div>25 LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</div>	<div>3</div> <div>1</div> <div>2 INDEX</div> <div>3</div> <div>4 WITNESS SWORN PAGE</div> <div>5 JOSEPH BURGIS, P.P. 17</div> <div>6 Cross Examination by Mr. Diktas: 18</div> <div>7 Redirect Examination by Mr. Basralian: 59, 71, 84</div> <div>8 Redirect Examination by Mr. Diktas: 61</div> <div>9 Cross Examination by Mr. Moskowitz: 64</div> <div>10 Questions by thee Board: 73</div> <div>11</div> <div>12</div> <div>13 EXHIBITS</div> <div>14 NO. DESCRIPTION ID EVID</div> <div>15 (NO EXHIBITS MARKED)</div> <div>16</div> <div>17</div> <div>18</div> <div>19</div> <div>20</div> <div>21</div> <div>22</div> <div>23</div> <div>24</div> <div>25</div> <div>LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</div>
<div>2</div> <div>1 A L S O P R E S E N T :</div> <div>2</div> <div>3 AL BORRELLI, ZONING OFFICER</div> <div>4 GREGORY POLYNIAC, P.P., P.E., NEGLIA ENGINEERING</div> <div>5 FRANK MISKOVICH, P.E., BIRDSALL ENGINEERING</div> <div>6</div> <div>7 A P P E A R A N C E S :</div> <div>8</div> <div>9 THE LAW OFFICES OF RICHARD MALAGIERE, P.C.</div> <div>10 RICHARD MALAGIERE ESQUIRE 14 Bergen Street, 1st Floor Hackensack, New Jersey 07601 Counsel to the Board 201-261-1414</div> <div>11</div> <div>12 WINNE, BANTA, HETHERINGTON, BASRALIAN &amp; KAHN, P.C.</div> <div>13 BY: JOSEPH L. BASRALIAN, ESQ. 21 Main Street Court Plaza South Hackensack, New Jersey 07601 Counsel to the Applicant 201-487-3800</div> <div>14</div> <div>15 McCARTER &amp; ENGLISH, ESQS.</div> <div>16 BY: THEODORE MOSKOWITZ, ESQ. 100 Mulberry Street Newark, New Jersey 07102 973-639-2048 Counsel for Interested Party, Prospect Avenue Coalition, LLC</div> <div>17</div> <div>18 DIKTAS, SCHANDLER GILLEN, ESQS.</div> <div>19 BY: CHRISTOS J. DIKTAS, ESQ. 596 Anderson Avenue Cliffside Park, New Jersey 07010 Counsel for Interested Party, Anastasia Burluk 201-943-8020</div> <div>20</div> <div>21</div> <div>22</div> <div>23</div> <div>24</div> <div>25</div> <div>LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</div>	<div>4</div> <div>1 CHAIRMAN GUERRA: Application V#23-08,</div> <div>2 00:00 SP#21-08, Address, 320 Summit Avenue/329 Prospect</div> <div>3 00:00 Avenue, Hackensack, New Jersey, Block 344, Lots 3, 4,</div> <div>4 00:00 5, 14, Zone R-75 and R-3, Bergen Passaic Long Term</div> <div>5 00:00 Acute Health Care Hospital L.L.C.</div> <div>6 Applicant requests to demolish the</div> <div>7 structures and construct a 19 floor medical office</div> <div>8 building. The following were found to be deficient:</div> <div>9 One, use variance required pursuant to</div> <div>10 40:55D(1).</div> <div>11 Two, insufficient lot area, required</div> <div>12 30,000 square feet, proposed 20,000 square feet.</div> <div>13 Three, insufficient lot width, required</div> <div>14 125 feet, proposed 100 feet.</div> <div>15 Four, insufficient rear yard setback,</div> <div>16 required 40 feet, proposed zero feet to edge of R-3</div> <div>17 district.</div> <div>18 Five, exceeds maximum lot coverage,</div> <div>19 permitted 30 percent, proposed 40.5 percent for R-3</div> <div>20 district.</div> <div>21 Six, exceeds maximum height ratio</div> <div>22 side-yard, permitted 4 to 1, proposed 19 to 1.</div> <div>23 Seven, insufficient buffer zone,</div> <div>24 required 6 feet, proposed zero feet to edge R-3</div> <div>25 district.</div> <div>LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</div>

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1 Eight, insufficient parking spaces,  
2 required 562, proposed 402.  
3 Nine, insufficient driveway width,  
4 required 18 to 22 feet for two-way, proposed 10 feet.  
5 Ten, no paving in side-yard.  
6 Eleven; insufficient area for back up  
7 aisle spaces.  
8 Twelve, exceeds maximum sign area,  
9 permitted 12 square feet, proposed 96 square feet.  
10 Thirteen, insufficient sign setback,  
11 required 20 feet, proposed zero feet.  
12 Fourteen, any other variance or waivers  
13 that may be required.  
00:-06 14 Counselor?  
00:-06 15 MR. BASRALIAN: Good evening, Mr.  
00:-06 16 Chairman, Members of the Board. Joseph Basralian for  
00:-06 17 the Applicant.  
18 This is a continuation hearing. Mr.  
19 Burgis is here. We concluded last month with the  
20 public and the reservations for any Board questions,  
21 but first, I think, there's cross examination by any  
22 attorneys present that wanted to address Mr. Burgis  
23 and his testimony.  
24 So, Mr. Burgis, would you come forward,  
25 please.

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1 MR. MALAGIERE: Mr. Chairman, may I  
2 invite Objector Counsel to enter appearances?  
3 CHAIRMAN GUERRA: Of course.  
4 MR. MALAGIERE: Counsel?  
5 MR. DIKTAS: Good evening, Mr. Chairman  
6 and Members of the Board, Cristos Diktas, Diktas,  
7 Schandler, Gillen, on behalf of Mrs. Burlyuk.  
8 MR. MOSKOWITZ: Good evening, Mr.  
9 Chairman and Members of the Board, Theodore Moskowitz  
10 of McCarter & English, Counsel to the Prospect Avenue  
11 Coalition and on behalf of my wife and myself as  
12 property owners.  
13 MR. MALAGIERE: Thank you, Counsel.  
14 Mr. Basralian, Mr. Burgis is finished  
15 with the public, as I understand?  
16 MR. BASRALIAN: That's correct.  
17 MR. MALAGIERE: He's finished. And  
18 he's going to be available for cross examination to  
19 Counsel or questions from the Board?  
20 MR. BASRALIAN: Right. I believe that  
21 the order was that first it would be Counsel,  
22 objecting Counsel and then obviously the Board.  
23 MR. MALAGIERE: And Mr. Keller, is your  
24 traffic?  
25 MR. BASRALIAN: Yes.

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1 MR. MALAGIERE: Is he coming back this  
2 evening?  
3 MR. BASRALIAN: Mr. Keller,  
4 unfortunately, had a medical procedure and is unable  
5 to be here. I didn't know that until, I guess, late  
6 yesterday. There's nothing I could do about it. He  
7 disclosed what it was.  
8 But we'll proceed with whatever other  
9 witness' clean up that we have as well.  
10 MR. MALAGIERE: Mr. Chairman, did you  
11 want to, prior to allowing Counsel to examine the  
12 witness, did you want to talk about the next meeting,  
13 which we're going to need to have, which I would  
14 anticipate concluding the application.  
15 CHAIRMAN GUERRA: His traffic expert  
16 not being here throws a little twist.  
17 MR. MALAGIERE: Well, that's what I was  
18 -- well, you couldn't vote tonight. You could,  
19 theoretically, but I wouldn't imagine Mr. Basralian  
20 would consent to a vote this evening anyway, in light  
21 of the --  
00:-03 22 MR. BASRALIAN: Well, you only have  
00:-03 23 four members present.  
24 MR. MALAGIERE: Right. Right. So it  
25 would have to be carried for a vote.

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1 CHAIRMAN GUERRA: Correct.  
2 MR. MALAGIERE: So, Mr. Keller not  
3 being here puts us into, I think, a meeting  
4 potentially in December.  
5 MR. BASRALIAN: Well, I have the dates  
6 --  
7 MR. MALAGIERE: Mr. Diktas, did you  
8 want enter a --  
9 MR. DIKTAS: Yes. Before, Mr.  
10 Basralian speaks.  
00:-03 11 If I may, Joe?  
00:-03 12 We have experts to present in  
00:-03 13 opposition.  
00:-03 14 MR. MALAGIERE: Okay. I wasn't aware  
00:-03 15 of that.  
00:-03 16 MR. DIKTAS: So, I have two --  
00:-03 17 definitely one, maybe two experts.  
00:-03 18 CHAIRMAN GUERRA: Experts in?  
00:-03 19 MR. DIKTAS: I have an  
00:-03 20 architect/planner and an engineer.  
00:-02 21 MR. MALAGIERE: Okay.  
00:-02 22 MR. DIKTAS: So, I do have these  
00:-02 23 gentlemen.  
00:-02 24 MR. MALAGIERE: Do you have any  
00:-02 25 availability for December or you don't know, as you

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00:-02 1 stand here?

00:-02 2 MR. DIKTAS: I don't know as I stand

00:-02 3 here.

00:-02 4 And my architect/planner/engineer and I

00:-02 5 have another engineer who's not here. He's usually

00:-02 6 on time.

00:-02 7 Oh, there he is.

00:-02 8 MR. MALAGIERE: Take a moment and then

00:-02 9 let us know.

00:-02 10 CHAIRMAN GUERRA: Yes.

00:-02 11 MR. MALAGIERE: Because we're looking

00:-02 12 at, just so you know, we're looking at the Chairman

00:-02 13 is considering a December hearing which may or may

00:-02 14 not be the last one in light of what you have.

00:-02 15 Counsel?

00:-02 16 MR. MOSKOWITZ: Yes, I also want to

00:-02 17 respectfully remind the Chair and the Chair's

00:-02 18 comments with respect to bringing Mr. Zarbady

00:-02 19 (phonetic) back because Mr. Zarbady, you questioned

00:-02 20 him about soil, the soil testing and the Chair and --

00:-02 21 MR. BASRALIAN: No, Mr. Zarbady was not

00:-02 22 the person.

00:-02 23 MR. MOSKOWITZ: Well, that's who --

00:-02 24 MR. BASRALIAN: He was the architect.

00:-02 25 MR. MOSKOWITZ: That's who answered my

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00:-02 1 questions.

00:-02 2 CHAIRMAN GUERRA: Well, who are we

00:-02 3 looking for?

00:-02 4 MR. MOSKOWITZ: Mr. Zarbady.

00:-02 5 CHAIRMAN GUERRA: You want Mr. Zarbady?

00:-01 6 MR. MOSKOWITZ: Yes. If, Counsel --

00:-01 7 MR. MALAGIERE: Well, what's the

00:-01 8 proffer?

00:-01 9 CHAIRMAN GUERRA: Yes.

00:-01 10 MR. MALAGIERE: What's the area of

00:-01 11 inquiry.

00:-01 12 CHAIRMAN GUERRA: Yes.

00:-01 13 MR. MOSKOWITZ: The proffer was a

00:-01 14 laundry list of questions about site testing and site

00:-01 15 preparation, demolition, drainage.

00:-01 16 MR. BASRALIAN: That was the engineer,

00:-01 17 not Mr. Zarbady. Mr. Zarbady is the architect.

00:-01 18 MR. MALAGIERE: Well, I will tell you

00:-01 19 what, why don't we do this. Mr. Moskowitz, why don't

00:-01 20 you provide me with a very short letter indicating

00:-01 21 who you want back, cite the transcripts specifically

00:-01 22 as to the areas you want to inquire, and a brief

00:-01 23 explanation of why it was not inquired when the

00:-01 24 individual was here, of course, a copy to Mr.

00:-01 25 Basralian. And we will deal with that at the next

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00:-01 1 meeting.

00:-01 2 MR. MOSKOWITZ: Certainly.

00:-01 3 MR. MALAGIERE: I appreciate your

00:-01 4 bringing that forward, but for purposes of this

00:-01 5 discussion, Mr. Chairman, what were you thinking

00:-01 6 about for purposes of a December -- which looks like

00:-01 7 we're going need one, we would like to get one in, a

00:-01 8 December meeting.

00:-01 9 CHAIRMAN GUERRA: What's available to

00:-01 10 us. I mean as far as the date, Mr. Malagiere.

00:-01 11 MR. MALAGIERE: Yes.

00:-01 12 MR. BORRELLI: The only date we have

00:-01 13 available, Mr. Chairman, would be December 22nd.

00:00 14 MR. BASRALIAN: Okay. Well, Mr. Keller

00:00 15 is not available on the 22nd. I have his calendar in

00:00 16 front of me.

00:00 17 MR. MALAGIERE: We'll have to carry it

00:00 18 until January. Do you want to pick a date or do you

00:00 19 want to have some time to talk about this while --

00:00 20 MR. BASRALIAN: I have his January

00:00 21 dates of non-availability, so...

00:00 22 MR. MALAGIERE: Al, do you?

00:00 23 MR. BORRELLI: I have a calendar that

00:00 24 we worked out some dates. I will pull it out in a

00:00 25 minute.

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00:00 1 MR. BASRALIAN: Tomorrow is the first

00:00 2 of December.

00:00 3 MR. MALAGIERE: Of December.

00:00 4 MR. BASRALIAN: I'm not available the

00:00 5 first and the third.

00:00 6 MR. MALAGIERE: Of?

00:00 7 MR. BASRALIAN: December.

00:00 8 MR. MALAGIERE: Well, December is out.

00:00 9 MR. BASRALIAN: Wednesdays --

00:00 10 MR. MALAGIERE: December is out.

00:00 11 MR. BASRALIAN: Even in January

00:00 12 Wednesdays I'm not -- I have hearings already

00:00 13 scheduled.

00:00 14 MR. MALAGIERE: Okay.

00:00 15 MR. BASRALIAN: And I have one, okay...

00:00 16 MR. MOSKOWITZ: Would it help you and

00:00 17 the Board if Counsel compare dates of their own

00:00 18 availability and witnesses and give you a response.

00:00 19 MR. MALAGIERE: Well, what we could do

00:00 20 is this, when is the regular meeting in December?

00:00 21 MR. BORRELLI: The regular meeting in

00:00 22 December is the 19th -- no, I mean the 15th.

00:00 23 MR. MALAGIERE: With the Chair's

00:00 24 permission for consideration, you could carry this to

00:00 25 the regular meeting for the purpose of having a

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<p style="text-align: right;">13</p> <p>00:00 1 discussion of when to carry it in January, when</p> <p>00:00 2 everybody has their calendars together, take</p> <p>00:00 3 20-minutes at the beginning of the regular meeting</p> <p>00:00 4 and announce it. And would that be acceptable?</p> <p>00:00 5 MR. BASRALIAN: Yes. I'm not going to</p> <p>00:00 6 be available. I will have to send someone with my</p> <p>00:00 7 calendar.</p> <p>00:00 8 MR. MALAGIERE: Yes, but it's for</p> <p>00:00 9 dates.</p> <p>00:00 10 MR. DIKTAS: May I stipulate, if I may,</p> <p>00:00 11 just for the record, maybe we could get together</p> <p>00:00 12 ahead of time so we can present the date to you.</p> <p>00:00 13 MR. MALAGIERE: I'll announce it.</p> <p>00:00 14 MR. DIKTAS: Counsel, with a consent</p> <p>00:00 15 letter?</p> <p>00:00 16 MR. MALAGIERE: Mr. Chairman, with your</p> <p>00:00 17 permission, I have no objection to that.</p> <p>00:00 18 CHAIRMAN GUERRA: They need to know the</p> <p>00:00 19 available dates in January.</p> <p>00:00 20 MR. BORRELLI: I have available dates</p> <p>00:00 21 here. I already checked with the City Clerk and she</p> <p>00:00 22 indicates that January 13th --</p> <p>00:00 23 MR. MALAGIERE: Well, the dates that Al</p> <p>00:00 24 would have available, I could deal with e-mails and</p> <p>00:00 25 telephone calls from the attorneys. And I could</p> <p style="text-align: center;"><b>LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C.</b> <b>201-641-1812</b></p>	<p style="text-align: right;">15</p> <p>00:01 1 understanding is along and broad strokes yours and</p> <p>00:01 2 the Chairman will make his determination. I</p> <p>00:01 3 understand your position, I do.</p> <p>00:01 4 I just don't want to take a lot of time</p> <p>00:01 5 with it because I'm going allow Counsel to try and</p> <p>00:01 6 put something in writing, which you're going to see,</p> <p>00:01 7 you can object to it and put a position into.</p> <p>00:01 8 And if Counsel can't point to an area</p> <p>00:01 9 of inquiry that was not available for cross</p> <p>00:01 10 examination at the time the witness was here and not</p> <p>00:01 11 preserved for some reason, I'm going to recommend to</p> <p>00:02 12 the Chairman that the individual not be brought back.</p> <p>00:02 13 MR. BASRALIAN: Thank you.</p> <p>00:02 14 Mr. -- just for the record, Mr. Thomas</p> <p>00:02 15 concluded his testimony back in March, I think.</p> <p>00:02 16 So, it's six months, seven months past</p> <p>00:02 17 that date. And I'm hearing it for the first time.</p> <p>00:02 18 So, let's get those things done. We'll</p> <p>00:02 19 address them please before the meeting on the 15th.</p> <p>00:02 20 If you're going carry it, you're going to announce</p> <p>00:02 21 you're going to carry this meeting to the 15th and</p> <p>00:02 22 then a decision of what's going to be done.</p> <p>00:02 23 So, if I'm not here someone else will</p> <p>00:02 24 be, I'll make sure.</p> <p>00:02 25 MR. MALAGIERE: I'll do it right now</p> <p style="text-align: center;"><b>LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C.</b> <b>201-641-1812</b></p>
<p style="text-align: right;">14</p> <p>00:00 1 announce it.</p> <p>00:00 2 MR. BORRELLI: Okay.</p> <p>00:00 3 MR. MALAGIERE: If I could coordinate</p> <p>00:00 4 with Al and the attorneys I could just announce it at</p> <p>00:00 5 the regular meeting.</p> <p>00:00 6 CHAIRMAN GUERRA: All right, that's</p> <p>00:00 7 fine.</p> <p>00:01 8 MR. DIKTAS: That's great.</p> <p>00:01 9 MR. BASRALIAN: A couple of procedural</p> <p>00:01 10 things here, Mr. Zarbady never testified about soils</p> <p>00:01 11 compaction, et cetera. And those questions --</p> <p>00:01 12 MR. MALAGIERE: Well, we're going to</p> <p>00:01 13 deal with that separately.</p> <p>00:01 14 MR. BASRALIAN: Yeah, but -- but if --</p> <p>00:01 15 it was my understanding that we had concluded the</p> <p>00:01 16 cross examination of Mr. Thomas who is the engineer.</p> <p>00:01 17 And I'm not going to reopen the box, unless there are</p> <p>00:01 18 specific --</p> <p>00:01 19 MR. MALAGIERE: Well, the Chair --</p> <p>00:01 20 MR. BASRALIAN: Excuse me. Unless</p> <p>00:01 21 there are things that he was supposed to address and</p> <p>00:01 22 had not addressed, because the cross examination is</p> <p>00:01 23 done. I mean at that point --</p> <p>00:01 24 MR. MALAGIERE: I'm sorry to speak over</p> <p>00:01 25 you. We're going to deal with it in the letter. My</p> <p style="text-align: center;"><b>LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C.</b> <b>201-641-1812</b></p>	<p style="text-align: right;">16</p> <p>00:02 1 for purposes of the transcript, with the Chair's</p> <p>00:02 2 permission?</p> <p>00:02 3 CHAIRMAN GUERRA: Yes.</p> <p>00:02 4 MR. MALAGIERE: When this application</p> <p>00:02 5 is concluded for tonight it will be carried, without</p> <p>00:02 6 further notice, to the regular meeting on</p> <p>00:02 7 December 15th, 2010, seven o'clock, these chambers.</p> <p>00:02 8 And from there we will announce to</p> <p>00:02 9 where it's going on a special meeting in January.</p> <p>00:02 10 MR. BASRALIAN: You start at seven</p> <p>00:02 11 o'clock?</p> <p>00:02 12 MR. MALAGIERE: Yes.</p> <p>00:02 13 MR. BASRALIAN: If it's handled first</p> <p>00:02 14 thing, I can make it to Park Ridge then.</p> <p>00:02 15 MR. DIKTAS: We can do it by letter,</p> <p>00:02 16 Counsel.</p> <p>00:02 17 MR. MALAGIERE: We may be able to do it</p> <p>00:02 18 --</p> <p>00:02 19 MR. BASRALIAN: I just want to make sure</p> <p>00:02 20 the dates are correct.</p> <p>00:02 21 CHAIRMAN GUERRA: We always start right</p> <p>00:03 22 at seven o'clock.</p> <p>00:03 23 MR. MALAGIERE: We got to get a</p> <p>00:03 24 Blackberry, Joe.</p> <p>00:03 25 MR. BASRALIAN: I do, I have a</p> <p style="text-align: center;"><b>LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C.</b> <b>201-641-1812</b></p>

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1	Blackberry.
2	MR. MALAGIERE: But in your car.
3	MR. BASRALIAN: No, it's in my pocket.
00:03 4	It's off right now because the meeting is in session.
00:03 5	Okay. Having said that, so if you give
00:03 6	me the names of your witnesses, who's going to be
00:03 7	testifying, for how long, I'd like to have that
00:03 8	information.
00:03 9	Again -- can we continue now with Mr.
00:03 10	Burgis?
00:03 11	MR. MALAGIERE: I'm going to swear you
00:03 12	in again, Mr. Burgis, please.
00:03 13	Do you swear the testimony you're about
00:03 14	to give before this Board will be the truth, the
00:03 15	whole truth and nothing but the truth, so help you
00:03 16	God?
00:03 17	THE WITNESS: Yes, I do.
00:03 18	J O S E P H B U R G I S,
00:03 19	25 Westwood Avenue, Westwood, New Jersey, having
00:03 20	been duly sworn, testifies as follows:
00:03 21	MR. MALAGIERE: Please identify
00:03 22	yourself, state your name for the record, give us a
00:03 23	business address. And identify the capacity in which
00:03 24	you will continue your testimony.
00:03 25	THE WITNESS: Joseph Burgis, <b>LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C.</b> <b>201-641-1812</b>

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00:03 1	B-u-r-g-i-s. The principal of the firm of Burgis
00:03 2	Associates, 25 Westwood Avenue in Westwood.
00:03 3	And I have testified as a licensed
00:03 4	professional planner.
00:03 5	MR. MALAGIERE: Just for purposes of
00:03 6	the record and for the new viewers who've just tuned
00:03 7	in, Mr. Burgis gave his direct testimony last month
00:03 8	as the planner. He was accepted by the Board as a
00:03 9	planner and was questioned by the public, and
00:04 10	entertained comments from the public. The public
00:04 11	portion is closed.
00:04 12	Mr. Burgis will now be made available
00:04 13	for examination by Mr. Moskowitz and Mr. Diktas.
00:04 14	MR. DIKTAS: Mr. Moskowitz will go
00:04 15	first?
00:04 16	MR. MALAGIERE: No.
00:04 17	MR. DIKTAS: Fine.
00:04 18	CROSS EXAMINATION
00:04 19	BY MR. DIKTAS:
00:04 20	<b>Q.</b> Good evening, Mr. Burgis, how are you?
00:04 21	MR. DIKTAS: Just so the record is
00:04 22	clear, I represent other municipalities and I have
00:04 23	other private projects. And I've used Mr. Burgis as
00:04 24	my expert in personal -- not personal, but as a
00:04 25	private attorney, and also in other municipalities. <b>LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C.</b> <b>201-641-1812</b>

	19
00:04 1	Garfield comes to my mind right away and earlier in
00:04 2	Cliffside and other towns that I've represented. I
00:04 3	just wanted that on the record, so that's clear.
00:04 4	Mr. Basralian?
00:04 5	CHAIRMAN GUERRA: Noted.
00:04 6	MR. DIKTAS: Thank you.
00:04 7	MR. MALAGIERE: Thank you.
00:04 8	BY MR. DIKTAS:
00:04 9	<b>Q.</b> Mr. Burgis, the last time you were
00:05 10	before this Board, you presented testimony through
00:05 11	Mr. Basralian; is that correct?
00:05 12	<b>A. Yes, it is.</b>
00:05 13	<b>Q.</b> Did you have an opportunity to read the
00:05 14	transcripts of your testimony?
00:05 15	<b>A. Yes, I did.</b>
00:05 16	<b>Q.</b> Early on in your testimony first you
00:05 17	discussed and you stated you did a field inspection
00:05 18	to see how the proposed project fits in with the
00:05 19	surrounding development patterns of the site; do you
00:05 20	remember that statement?
00:05 21	<b>A. Yes.</b>
00:05 22	<b>Q.</b> But then in your testimony you really
00:05 23	weren't clear, so let's attempt to clarify your
00:05 24	examination and the field inspections to use your
00:05 25	terminology. <b>LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C.</b> <b>201-641-1812</b>

	20
00:05 1	What is the predominant character of
00:05 2	the area on Summit Avenue?
00:05 3	<b>A. Single family residential.</b>
00:05 4	<b>Q.</b> Okay. And then you went on to --
00:05 5	<b>A. There are, obviously, to the south of</b>
00:05 6	<b>the site, along Summit, are a number of former single</b>
00:05 7	<b>family dwellings that have been converted to office</b>
00:05 8	<b>use. But, overwhelmingly, the entire length of</b>
00:06 9	<b>Summit Avenue is single family residential.</b>
00:06 10	<b>Q.</b> And this project that your client is
00:06 11	proposing to develop is also on Prospect and Summit
00:06 12	Avenue, correct?
00:06 13	<b>A. It's on both, yes.</b>
00:06 14	<b>Q.</b> And when and if this project is
00:06 15	approved and it's constructed what would be located
00:06 16	on the Summit Avenue site?
00:06 17	<b>A. The Summit Avenue side is characterized</b>
00:06 18	<b>by a landscape amenity in the source of a driveway</b>
00:06 19	<b>and access drive.</b>
00:06 20	<b>Q.</b> Is that similar in architectural and
00:06 21	planning design to the properties that are situated
00:06 22	right now on Summit Avenue?
00:06 23	<b>A. Well, a number of the properties on</b>
00:06 24	<b>Summit on that side of the street are characterized</b>
00:06 25	<b>by nice landscaped amenities.</b> <b>LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C.</b> <b>201-641-1812</b>

00:06 1 **So, in that context, yes.**  
 00:06 2 **Q.** Let me ask you what buildings, though,  
 00:06 3 or structures?  
 00:06 4 **A.** **There are no buildings being proposed**  
 00:06 5 **on that portion of the site.**  
 00:06 6 **Q.** Okay. So, it would be an open lot?  
 00:06 7 Would it be a driveway? Tell us what it would be?  
 00:06 8 **A.** **No, it would be a landscaped lot with a**  
 00:06 9 **circular driveway and access.**  
 00:07 10 **Q.** And how big is the circular driveway?  
 00:07 11 **A.** **Without scaling it...**  
 00:07 12 **Q.** A best faith estimate?  
 00:07 13 **A.** **Sixteen feet wide, maybe.**  
 00:07 14 **Q.** Are there any circular driveways 16  
 00:07 15 feet wide on Summit Avenue?  
 00:07 16 **A.** **Not that I recall.**  
 00:07 17 **Farther down there are, but not in this**  
 00:07 18 **immediate block.**  
 00:07 19 **Q.** You also testified that LTACH will  
 00:07 20 contain a total of 270,300 square feet and of that  
 00:07 21 175,500 square feet is actually above grade; do you  
 00:07 22 remember that testimony?  
 00:07 23 **A.** **Yes.**  
 00:07 24 **Q.** Of the 175,500 square feet above grade  
 00:07 25 where will that be located?

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00:07 1 **A.** **It will be what I had called the**  
 00:07 2 **Prospect Avenue portion of the site.**  
 00:07 3 **Q.** So, the Applicant has bifurcated the  
 00:07 4 project to have 175,500 square feet on the back end  
 00:07 5 of the project on Prospect and only the driveway on  
 00:07 6 the front; is that your testimony as a planner now?  
 00:07 7 **A.** **No, I wouldn't call it bifurcated as a**  
 00:08 8 **planner. The site is being developed in one**  
 00:08 9 **comprehensive entity. The design is such that what I**  
 00:08 10 **call the front of the property, Prospect, is**  
 00:08 11 **developed with the building and the Summit Avenue**  
 00:08 12 **portion does not contain any building.**  
 00:08 13 **Q.** You also proceeded to testify as to the  
 00:08 14 services that are included in the LTACH; do you  
 00:08 15 remember that?  
 00:08 16 **A.** **Yes.**  
 00:08 17 **Q.** You indicated that the LTACH will have  
 00:08 18 a trauma and a cancer treatment center; do you  
 00:08 19 remember that testimony?  
 00:08 20 **A.** **Yes.**  
 00:08 21 **Q.** What is your definition of a trauma  
 00:08 22 center?  
 00:08 23 **A.** **As I testified, I can look at my notes,**  
 00:08 24 **I had indicated that -- could you tell me what page**  
 00:09 25 **you were on?**

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00:09 1 **Q.** Sure. You're on page --  
 00:09 2 **A.** **I have it in my notes. I can see it**  
 00:09 3 **here, where we talked about services they provide**  
 00:09 4 **include trauma and cancer treatment.**  
 00:09 5 **And then it also added respiratory**  
 00:09 6 **therapy (indicating), preventive --**  
 00:09 7 **Q.** I have my own copy. Thank you.  
 00:09 8 **A.** **Respiratory therapy for ventilator**  
 00:09 9 **dependant patients, dialysis services, pain**  
 00:09 10 **management and rehabilitation.**  
 00:09 11 **Q.** Which is -- which is --  
 00:09 12 **A.** **The trauma.**  
 00:09 13 **Q.** -- the trauma? Trauma, as you  
 00:09 14 testified to, is one of the services. Tell us in the  
 00:09 15 planning concept that you're testifying to, the  
 00:09 16 trauma portion of this building and how that relates  
 00:09 17 to --  
 00:09 18 **A.** **Well, the trauma --**  
 00:09 19 **Q.** Let me finish please.  
 00:09 20 -- how it relates to the plan, to the  
 00:09 21 Master Plan and as to this City's Ordinances for  
 00:09 22 LTACH, which is a Long Term Acute Care Hospital  
 00:09 23 facility and now we're talking about a trauma center.  
 00:09 24 So, tell us about the trauma center in  
 00:09 25 the LTACH.

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00:09 1 **A.** **No, I believe I used the term "trauma"**  
 00:09 2 **in the context of dealing with cancer treatment,**  
 00:10 3 **that's how I was -- that was context in which I was**  
 00:10 4 **using it. In terms of --**  
 00:10 5 **Q.** So --  
 00:10 6 **A.** **-- the zoning for that particular**  
 00:10 7 **activity, I viewed this more globally in the context**  
 00:10 8 **of the Zoning Ordinance and the Master Plan,**  
 00:10 9 **particularly when the Master Plan has a goal and**  
 00:10 10 **objective. It talks about promoting adequate**  
 00:10 11 **community facilities and services for all portions of**  
 00:10 12 **the community. And I had commented the proposed**  
 00:10 13 **development increases the availability of healthcare**  
 00:10 14 **options to a greater extent than it is today.**  
 00:10 15 **Q.** I understand that. But let's just  
 00:10 16 stick with the term "trauma". Trauma is the medical  
 00:10 17 term of art. Trauma is, if you go -- God forbid, one  
 00:10 18 of us got hurt, the EMT would come, they take you to  
 00:10 19 the trauma center at Hackensack Hospital.  
 00:10 20 Is it your testimony now that LTACH  
 00:10 21 will have a trauma center in this project?  
 00:10 22 **A.** **It is not my understanding. It's not**  
 00:10 23 **my understanding that there is a trauma center per**  
 00:10 24 **se. I was using the term in the context of the**  
 00:11 25 **cancer treatment.**

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00:11 1 Q. So, you --  
 00:11 2 A. -- and that's.  
 00:11 3 Q. So, did you make a mistake or did you  
 00:11 4 misuse the term?  
 00:11 5 A. **I don't know if I made a mistake, I'm**  
 00:11 6 **just saying --**  
 00:11 7 Q. But "trauma" has a definition, so...  
 00:11 8 A. **And I used it, well, that -- it may be**  
 00:11 9 **true that that's what they're doing. I use that term**  
 00:11 10 **in the context of cancer treatment.**  
 00:11 11 Q. Okay. So --  
 00:11 12 A. **There's the trauma of cancer treatment.**  
 00:11 13 Q. Just if you go to page 17. Your  
 00:11 14 statement on page 17, line 9:  
 00:11 15 "The services that are included in  
 00:11 16 an LTACH include trauma and cancer treatment".  
 00:11 17 So, that's two distinct services. Then  
 00:11 18 you went on to respiratory therapy.  
 00:11 19 A. **I'm sorry. Where are you?**  
 00:11 20 Q. Page 17.  
 00:11 21 A. **Page 17.**  
 00:11 22 Q. Page 17, line 9 and 10.  
 00:11 23 A. **Again, I said -- and I'll repeat it, I**  
 00:11 24 **used the phrasing in the context of the cancer**  
 00:11 25 **treatment itself.**

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00:11 1 Q. Okay. So, then the -- the medical term  
 00:12 2 of art "trauma" is incorrect?  
 00:12 3 A. **I don't know. They may be doing that**  
 00:12 4 **as well. And they might have definition, I'm not**  
 00:12 5 **familiar with. But I do know how I was using it in**  
 00:12 6 **my presentation.**  
 00:12 7 Q. So you don't know if there's a trauma  
 00:12 8 center --  
 00:12 9 A. **I don't know --**  
 00:12 10 Q. -- at the LTACH?  
 00:12 11 A. **When you say a trauma center in the**  
 00:12 12 **context of a hospital providing a trauma center for**  
 00:12 13 **emergency services? No.**  
 00:12 14 Q. No, I'm just reviewing your testimony.  
 00:12 15 A. **In that context, I believe the answer**  
 00:12 16 **is no.**  
 00:12 17 Q. You also discussed about the 413  
 00:12 18 parking spaces.  
 00:12 19 A. **Yes.**  
 00:12 20 Q. How many underground levels are there?  
 00:12 21 A. **It has five.**  
 00:12 22 Q. And how many parking spaces are  
 00:12 23 required to conform to code?  
 00:12 24 A. **The ordinance requires, what is 568**  
 00:13 25 **calculated by Mr. Polyniak.**

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00:13 1 Q. As to those 558 spaces, could you --  
 00:13 2 A. **568.**  
 00:13 3 Q. Excuse me. 568. As to those 568  
 00:13 4 spaces, in a planning context as you're testifying,  
 00:13 5 could this project be built to include adequate  
 00:13 6 parking to service the differential of parking spaces  
 00:13 7 required?  
 00:13 8 A. **No, I believe there's an adequate**  
 00:13 9 **number of parking spaces.**  
 00:13 10 Q. That's not my question. My question is  
 00:13 11 in the planning context, could this project be built  
 00:13 12 to present a final project with 568 parking spaces  
 00:13 13 instead of 413?  
 00:13 14 A. **Not in its present configuration, no.**  
 00:13 15 Q. Could it be built in a different  
 00:13 16 configuration to meet the 568 parking spaces  
 00:13 17 requirement?  
 00:13 18 A. **Presumably, necessitating other**  
 00:14 19 **variance relief. But as I testified, I believe and**  
 00:14 20 **so does the traffic consultants, that the 413 spaces**  
 00:14 21 **are sufficient to accommodate need.**  
 00:14 22 Q. That's not my question.  
 00:14 23 We're not talking about need, we're  
 00:14 24 talking about the ordinance and the variance and the  
 00:14 25 ordinance requirements of 568 and the ability of the

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00:14 1 property to meet the 568 parking spaces as presented.  
 00:14 2 You just testified that your client  
 00:14 3 could not add the additional 155 spaces; is that your  
 00:14 4 testimony?  
 00:14 5 A. **I presume -- I had indicated that in**  
 00:14 6 **all likelihood it may need additional variance relief**  
 00:14 7 **unless they went further down into the ground.**  
 00:14 8 Q. So, if they went further down below the  
 00:14 9 five stories, say six or seven, could they conform  
 00:14 10 then to the parking requirement?  
 00:14 11 A. **I guess in the theoretical sense, I --**  
 00:14 12 **I'm not a structural engineer.**  
 00:14 13 Q. I understand. And we're talking  
 00:14 14 planning now.  
 00:14 15 A. **Okay.**  
 00:14 16 Q. We're limiting it to planning.  
 00:14 17 A. **Well, again, from the planning**  
 00:14 18 **perspective, if that's what you're asking me, I want**  
 00:14 19 **to make it clear that I believe the 413 spaces is**  
 00:15 20 **sufficient. And that's from the planning**  
 00:15 21 **perspective. And I gave testimony to that effect.**  
 00:15 22 Q. So, then it's your professional opinion  
 00:15 23 that the approximately 25 percent shortfall of  
 00:15 24 parking is adequate and it does not negatively impact  
 00:15 25 the zone?

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00:15 **1 A. Correct.**  
 00:15 **2 Q.** During your testimony you addressed a  
 00:15 **3** hypothetical pertaining to the floor area ratio,  
 00:15 **4** correct?  
 00:15 **5 A. I didn't entertain a hypothetical. I**  
 00:15 **6 used FAR, floor area ratio, as a means to measure**  
 00:15 **7 intensity of use of the project in comparison to**  
 00:15 **8 other buildings in the neighborhood.**  
 00:15 **9 Q.** Does the City of Hackensack have a FAR,  
 00:15 **10** a floor area ratio, requirement?  
 00:15 **11 A. No, and as I have testified I pointed**  
 00:15 **12 that out.**  
 00:15 **13 Q.** I understand that. Do you commonly  
 00:16 **14** address planning proposals that are not incorporated  
 00:16 **15** into the ordinance into your professional opinion?  
 00:16 **16 A. Oftentimes I will use a measure that**  
 00:16 **17 may or may not be in an ordinance in an effort to**  
 00:16 **18 provide a measure of intensity of use that would**  
 00:16 **19 present a consistent comparable from one site to the**  
 00:16 **20 next. Yes.**  
 00:16 **21 Q.** So have you reviewed in your FAR  
 00:16 **22** analysis all the buildings on Prospect Avenue to  
 00:16 **23** determine a constant?  
 00:16 **24 A. Yes. We measured, I think, it was 38**  
 00:16 **25 buildings and an office use everywhere along**  
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00:16 **1 Prospect, but we measured 38 buildings and determined**  
 00:16 **2 that floor space versus the lot size to do the**  
 00:16 **3 calculation.**  
 00:16 **4 Q.** And how did you measure the 38  
 00:16 **5** buildings. Did you review plans? Tell us?  
 00:16 **6 A. In some instances we have the plans.**  
 00:16 **7 In other instances, in many instances we did it from**  
 00:17 **8 an aerial where we scaled the buildings and counted**  
 00:17 **9 up the number of floors and then made a determination**  
 00:17 **10 as to how much floor space there was on those sites.**  
 00:17 **11 Q.** So your proposal as presented is  
 00:17 **12** speculation as per Joseph Burgis planner, not as  
 00:17 **13** anything objective, as established in the Hackensack  
 00:17 **14** Ordinance; is that correct?  
 00:17 **15 A. I can't answer that question that way.**  
 00:17 **16 But I can tell you that the data I presented is real.**  
 00:17 **17 It's clear, and I testified as such, that the**  
 00:17 **18 ordinance does not have an FAR requirement.**  
 00:17 **19 But utilizing the analysis that I did,**  
 00:17 **20 it enables the Board and the public to understand the**  
 00:17 **21 relative intensity of use of this site versus other**  
 00:17 **22 sites in the neighborhood.**  
 00:17 **23 Q.** I understand that, but I'm saying to  
 00:17 **24** you is there an objective criteria to establish FAR  
 00:18 **25** in the Zoning Ordinance of the City of Hackensack and  
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00:18 **1** did you extrapolate your position based on your  
 00:18 **2** experience as a planner?  
 00:18 **3 A. I extrapolated my experience and**  
 00:18 **4 knowledge based on the merits of an FAR whether or**  
 00:18 **5 not it's contained in the ordinance.**  
 00:18 **6 Q.** But it's not contained in the  
 00:18 **7** ordinance?  
 00:18 **8 A. It's not speculative, that was the word**  
 00:18 **9 that you used and that was the word that I was**  
 00:18 **10 objecting to.**  
 00:18 **11 Q.** But there's no objective criteria?  
 00:18 **12 A. That is an objective criteria.**  
 00:18 **13** MR. BASRALIAN: Excuse me. It's been  
 00:18 **14** asked and answered three times in a row that there is  
 00:18 **15** no FAR in the ordinance.  
 00:18 **16** MR. DIKTAS: I understand.  
 00:18 **17** MR. BASRALIAN: So it's asked and  
 00:18 **18** answered three times.  
 00:18 **19** MR. DIKTAS: Well, maybe --  
 00:18 **20** MR. MALAGIERE: That's okay, Chris.  
 00:18 **21** Mr. Basralian, your objection is on the  
 00:18 **22** record.  
 00:18 **23** Please move on. Thank you.  
 00:18 **24 Q.** I'd like to into your testimony as to  
 00:18 **25** Mr. Malcolm Kasler.  
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00:19 **1 A. Yes.**  
 00:19 **2 Q.** And you talked about Mr. Kasler in the  
 00:19 **3** contents of the zoning ordinances and the Master Plan  
 00:19 **4** of the City; is that correct?  
 00:19 **5 A. Yes, I did.**  
 00:19 **6 Q.** And you talked about you working for  
 00:19 **7** Mr. Kasler; is that correct?  
 00:19 **8 A. Yes.**  
 00:19 **9 Q.** Did you work with Mr. Kasler on the  
 00:19 **10** ordinances of this City?  
 00:19 **11 A. No, I did not.**  
 00:19 **12 Q.** Is Mr. Kasler with us any longer?  
 00:19 **13 A. Has he passed away? Yes, he has.**  
 00:19 **14 Q.** And he was a friend of many of us --  
 00:19 **15 A. Many of us.**  
 00:19 **16 Q.** -- in this room?  
 00:19 **17 A. Yes.**  
 00:19 **18 Q.** Could you speak for Mr. Kasler, when --  
 00:19 **19** if he was present today, knowing his character?  
 00:19 **20 A. Could I speak for him?**  
 00:19 **21 Q.** Yes.  
 00:19 **22 A. No one spoke for Malcolm, but...**  
 00:19 **23** But having worked with him for, I  
 00:19 **24** guess, five or six years, I was his director of  
 00:19 **25** planning at the firm, we did have many discussions on  
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00:20 1 the relevant merits of some kind -- certain types of  
 00:20 2 zoning regulations, particularly when it came to  
 00:20 3 high-rise development. Because, as you know, he was  
 00:20 4 the planner also for Fort Lee and prepared their  
 00:20 5 Master Plan and ordinance at one time.

00:20 6 **Q.** But you could never speak for Malcolm?

00:20 7 **A.** **No, I'm not speaking for --**

00:20 8 **Q.** And you weren't involved in the  
 00:20 9 drafting of the City's ordinances?

00:20 10 **A.** **No, I left Malcolm at about the time**  
 00:20 11 **that he was working on the Master Plan and the**  
 00:20 12 **ordinances.**

00:20 13 **Q.** So, your statement that you were very  
 00:20 14 comfortable with the mindset of Malcolm Kasler, but  
 00:20 15 that's your impression of what --

00:20 16 **A.** **I can --**

00:20 17 **Q.** -- comfortable was with Malcolm,  
 00:20 18 correct?

00:20 19 **A.** **It is my impression, knowing him for**  
 00:20 20 **many years and having worked for him for five.**

00:20 21 **Q.** Who adopts the ordinances in any city  
 00:20 22 or borough or township?

00:20 23 **A.** **The governing body.**

00:20 24 **Q.** Was there any legislative history that  
 00:21 25 you reviewed regarding Hackensack's City Ordinance?

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00:21 1 **A.** **No.**

00:21 2 **Q.** Did you contact Malcolm's son's firm to  
 00:21 3 see if there was any records that he may have had in  
 00:21 4 his file as to any legislative intent or if it was  
 00:21 5 his mindset at the time when he drafted the  
 00:21 6 ordinances or the Master Plan?

00:21 7 **A.** **No.**

00:21 8 **Q.** Going to -- I may be jumping before Mr.  
 00:21 9 Basralian's jumps up, I am at page 65 of your  
 00:21 10 testimony. I'm just following your transcript. If  
 00:21 11 we go back to the parking on page 11, where you talk  
 00:22 12 about the 84 percent or the 86 percent of the demand  
 00:22 13 of the parking requirements and the 413 is okay.  
 00:22 14 It's not necessary. It doesn't do anything to get to  
 00:22 15 568.

00:22 16 What I thought was interesting in your  
 00:22 17 comment, the additional parking, "is not necessary  
 01:00 18 and doesn't do anything but provide additional cost  
 01:00 19 to this application and for no obvious benefit".

00:22 20 Do you still stand by that position?

00:22 21 **A.** **Yes.**

00:22 22 **Q.** In your professional opinion, what is  
 00:22 23 one of the greatest problems in any development as to  
 00:22 24 traffic and the impact of traffic and the ancillary  
 00:22 25 impact of traffic?

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00:22 1 **A.** **Well, there's a variety issues when it**  
 00:22 2 **comes to traffic. It's the volume of traffic and how**  
 00:22 3 **it impacts the surrounding road network, in terms of**  
 00:22 4 **on-site traffic circulation. It's to ensure a safe**  
 00:22 5 **and efficient design, and adequate parking to meet**  
 00:22 6 **the needs.**

00:22 7 **Q.** Adequate parking?

00:22 8 **A.** **Yes.**

00:22 9 **Q.** What about this 25 percent deficiency  
 00:23 10 that we have in this project. Do you feel that with  
 00:23 11 the 25 percent parking deficiency that that's  
 00:23 12 adequate for the needs of this Applicant and, more  
 00:23 13 importantly, the residents adjacent on Summit, on  
 00:23 14 Prospect. The residents of the City of Hackensack  
 00:23 15 and visitors to the City.

00:23 16 **A.** **Now, as I had pointed out in my**  
 00:23 17 **testimony and a really hard fact to the testimony of**  
 00:23 18 **the traffic consultants and Mr. Keller on behalf of**  
 00:23 19 **the Applicant and Mr. Miskovich on behalf of the**  
 00:23 20 **municipality, both concludes, and they did the**  
 00:23 21 **analysis, they both concluded that the parking garage**  
 00:23 22 **at peak hour would be occupied at about 84 percent.**  
 00:23 23 **It had about an 84 percent factor.**

00:23 24 **Clearly, indicating that the 413**  
 00:24 25 **parking spaces is more than adequate to meet peak**

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00:24 1 **hour demand.**

00:24 2 In addition to that, you noted in my  
 00:24 3 testimony, I also pointed out that some of the  
 00:24 4 parking standards that were being utilized, for the  
 00:24 5 purposes of calculating those 568 space requirement,  
 00:24 6 did not necessarily match what was being proposed.

00:24 7 And one example was the use of the  
 00:24 8 parking standards for hospital use of 3.9 beds --  
 00:24 9 excuse me -- 3.9 spaces per bed.

00:24 10 And I had pointed out 14 or 16  
 00:24 11 different elements of a hospital that are not  
 00:24 12 incorporated into this proposed use, thereby  
 00:24 13 suggesting that that standard really is unnecessarily  
 00:24 14 applied to this particular use.

00:24 15 And I actually made some other comments  
 00:24 16 about some of the other standards that were being  
 00:24 17 applied to this use. And the fact that the traffic  
 00:25 18 consultants both concluded that 413 parking spaces is  
 00:25 19 more than adequate to meet demand, certainly seems to  
 00:25 20 support my position that the parking standards that  
 00:25 21 were imposed aren't necessarily appropriate for the  
 00:25 22 use.

00:25 23 **Q.** Have you done any research pertaining  
 00:25 24 to parking in other LTACH projects that are --

00:25 25 **A.** **No. Mr. Keller had testified to that.**

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00:25 1 Q. I didn't ask that. I asked you as the  
 00:25 2 planner --  
 00:25 3 A. No, I relied on -- I relied on Mr.  
 00:25 4 Keller analysis.  
 00:25 5 Q. So, you don't know then?  
 00:25 6 A. I'm not a traffic consultant, no.  
 00:25 7 Q. Do you know as to any planning  
 00:25 8 requirements of LTACHs in the state --  
 00:25 9 A. In terms of parking, no.  
 00:25 10 Q. -- we're only talking planning.  
 00:25 11 I'm talking parking.  
 00:25 12 A. In terms of parking, no.  
 00:25 13 Q. One of the mandates of the Municipal  
 00:25 14 Land Use Law is open areas; isn't that correct?  
 00:26 15 40:55G-2(c) and in parenthesis "planning to provide  
 00:26 16 adequate light, air and open space".  
 00:26 17 A. Yes.  
 00:26 18 Q. Your testimony on page 73, line 3, you  
 00:26 19 testified:  
 00:26 20 "I don't think there's a need for a  
 00:26 21 front yard?"  
 00:26 22 I know you also just testified that the  
 00:26 23 front yard here is on Prospect; is that correct?  
 00:26 24 A. Page 73?  
 00:26 25 Q. Lines 3 and 4.  
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00:26 1 A. I think I was talking about -- I don't  
 00:26 2 think there's a need for a front yard variance.  
 00:26 3 Q. It doesn't say that.  
 00:26 4 A. I know, but that's clearly what I had  
 00:26 5 said.  
 00:26 6 Q. So, you're changing your testimony?  
 00:26 7 A. I'm not changing my testimony.  
 00:26 8 As an aside, in another area of this  
 00:26 9 transcript it says that talking about a range of uses  
 00:26 10 from one point to another, it says "there's a gambit  
 00:26 11 of uses", when I said that there was "gamut."  
 00:26 12 I mean there are errors there sometimes  
 00:26 13 in the transcripts.  
 00:26 14 Q. I'm just --  
 00:27 15 A. Clearly, and if you read the context of  
 00:27 16 the rest of page 73 and the pages before it and  
 00:27 17 afterwards, I'm talking about the front yard  
 00:27 18 requirement.  
 00:27 19 Q. Okay. You then went on to testify as  
 00:27 20 to that you represent on page 74, you represented  
 00:27 21 hundreds of municipalities. You've never seen that  
 00:27 22 ratio -- that kind of ratio any place, but the City  
 00:27 23 of Hackensack that you represented.  
 00:27 24 Were you talking about the side yard  
 00:27 25 setback? The vertical dimension tapering of the  
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00:27 1 building? What are we talking about?  
 00:27 2 A. I was talking about the four-to-one  
 00:27 3 ratio at that point. And how it mirrored, to a  
 00:27 4 certain degree, what I call -- the planners and  
 00:27 5 architects call the "wedding cake formula" that  
 00:27 6 creates the tiered effect of many buildings in New  
 00:27 7 York City.  
 00:27 8 And I know that -- I know it's hearsay  
 00:27 9 at this point, but Malcolm and I had often talked  
 00:27 10 about this kind of design control to create, as one  
 00:28 11 builds up, you know, in a taller buildings you  
 00:28 12 require greater setbacks to ensure a certain amount  
 00:28 13 of visual open space to the skyline.  
 00:28 14 That was the purpose of the four-to-one  
 00:28 15 ratio that I was talking about.  
 00:28 16 Q. That's in this ordinance?  
 00:28 17 And that's in the ordinance, correct?  
 00:28 18 A. Yes, there is that four-to-one ratio  
 00:28 19 requirement.  
 00:28 20 Q. That was undertaken by Mr. Kasler,  
 00:28 21 correct?  
 00:28 22 A. Yes, and what --  
 00:28 23 Q. So, even though it's unusual in your  
 00:28 24 interpretation Malcolm Kasler, who drafted these, and  
 00:28 25 whom we all recognize as an expert, even though he's  
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00:28 1 no longer with us, in the field, had the foresight to  
 00:28 2 include this in Hackensack when they designed the  
 00:28 3 areas for high-rise buildings on Prospect?  
 00:28 4 A. Yes. And it's a good, legitimate tool.  
 00:28 5 And the reason why I say it's unusual in the State of  
 00:28 6 New Jersey you don't see that many municipalities  
 00:28 7 with 20 and 30 story buildings. You see it in Fort  
 00:28 8 Lee. You see it --  
 00:28 9 Q. Now --  
 00:28 10 A. -- in Cliffside Park. You see it --  
 00:29 11 Q. Hackensack?  
 00:29 12 A. -- you see it on sections along the  
 00:29 13 Hudson River.  
 00:29 14 Q. Edgewater?  
 00:29 15 A. No. Along the river where I wrote that  
 00:29 16 ordinance.  
 00:29 17 But areas where we have high rise  
 00:29 18 development in the State of New Jersey are limited  
 00:29 19 and that's, I think, what I was suggesting.  
 00:29 20 Q. Do you comply with it?  
 00:29 21 A. Yes. The interpretation of that.  
 00:29 22 Q. What about the side yards?  
 00:29 23 A. We do not comply with that side yard.  
 00:29 24 Q. Did you request a variance?  
 00:29 25 A. Yes.  
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00:29 1	<b>Q.</b> Do you feel that the impact of not
00:29 2	complying with this -- what is the impact to the zone
00:29 3	and to the structures by not complying with this when
00:29 4	it's drafted in a sense by Mr. Kasler who was, at
00:29 5	that time, one of the utmost premier experts in
00:29 6	planning for high rises and the effect on the
00:29 7	neighboring properties by not having this wedding
00:30 8	cake effect?
00:30 9	<b>A.</b> Well, we do, in fact, have the wedding
00:30 10	cake effect.
00:30 11	<b>The difficulty of this site as I had</b>
00:30 12	<b>indicated in my direct testimony, is that we have a</b>
00:30 13	<b>somewhat oddly configured lot where it's in one</b>
00:30 14	<b>portion of the property we have 100 foot setback</b>
00:30 15	<b>width and in another portion of the property we have</b>
00:30 16	<b>150 foot width.</b>
00:30 17	<b>And in an effort to place all of the</b>
00:30 18	<b>building in the Prospect Avenue portion of the</b>
00:30 19	<b>property, Prospect Street portion of the property, it</b>
00:30 20	<b>necessitated a greater amount of building on that</b>
00:30 21	<b>part of the site. But, in turn, we ended up with the</b>
00:30 22	<b>open space feature that we talked about at the outset</b>
00:30 23	<b>of this cross examination, where the balance of</b>
00:30 24	<b>competing interest actually is.</b>
00:30 25	<b>Q.</b> Well, if the building was smaller then
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00:30 1	we wouldn't have this competing interest and we could
00:30 2	meet the requirements of the zone; is that correct?
00:30 3	<b>A.</b> In a theoretical sense you could just
00:30 4	<b>build a single family house here and keep the single</b>
00:31 5	<b>family houses on Prospect.</b>
00:31 6	<b>However, in terms of what is being</b>
00:31 7	<b>proposed, the design seems to function well and</b>
00:31 8	<b>certainly compliments the surrounding neighborhood.</b>
00:31 9	<b>When you look at the adjoining lots,</b>
00:31 10	<b>you've got their parking directly up against this</b>
00:31 11	<b>property line.</b>
00:31 12	<b>The site's property line, you have that</b>
00:31 13	<b>on both sides.</b>
00:31 14	<b>So, placing a building somewhat closer</b>
00:31 15	<b>to the property line than permitted by code does not</b>
00:31 16	<b>represent a significant, from my perspective, adverse</b>
00:31 17	<b>effect in the surrounding neighborhood.</b>
00:31 18	<b>Q.</b> That's not my question, though. I
00:31 19	<b>asked you could we build -- could the LTACH be built</b>
00:31 20	<b>to meet the requirement of the wedding cake effect,</b>
00:31 21	<b>so you don't have this variance.</b>
00:31 22	<b>Could it be made smaller?</b>
00:31 23	<b>A.</b> I would -- I could only say that
00:31 24	<b>theoretically, presumably, it could. I'm not the</b>
00:31 25	<b>architect. I certainly didn't go through that</b>
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00:31 1	<b>exercise.</b>
00:31 2	<b>Q.</b> I understand.
00:32 3	You give an opinion on page 62, on line
00:32 4	10, as to there's a -- you testify:
00:56 5	"Finally, is the medical adult daycare.
00:56 6	And as I've already indicated that the need
00:56 7	from the studies that we've read clearly
00:57 8	suggested the need is not being addressed
00:57 9	properly in Bergen County..."
00:32 10	What expertise do you have to opine as
00:32 11	to the need of the adult medical daycare as a
00:32 12	planner?
00:32 13	<b>A.</b> I had looked at a Robert Wood Johnson
00:32 14	<b>study of adult daycare needs. And they had estimated</b>
00:32 15	<b>that Bergen County needs, on average I think it's one</b>
00:32 16	<b>-- let me find the specifics to this...</b>
00:33 17	<b>Robert Wood Johnson report recommended</b>
00:33 18	<b>an estimate of need equivalent the 1.25 percent of</b>
00:33 19	<b>the adult population or an adult daycare beds that's</b>
00:33 20	<b>slots.</b>
00:33 21	<b>Bergen County presently has an adult</b>
00:33 22	<b>population of about up 135,000 residents.</b>
00:33 23	<b>If you do the math at the 1.25 percent,</b>
00:33 24	<b>that would suggest a need for 1,668 adult daycare</b>
00:33 25	<b>slots. And at the moment there are 1,006 slots,</b>
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00:33 1	<b>suggesting a shortfall of 682 slots".</b>
00:33 2	We're providing 180.
00:33 3	<b>Q.</b> Did you confirm the data from the
00:33 4	Robert Wood's report?
00:33 5	<b>A.</b> No, I took their report at face value.
00:33 6	<b>It was their study.</b>
00:33 7	<b>Q.</b> Did you look for any other studies to
00:33 8	see if there were any contrary data?
00:33 9	<b>A.</b> I could not find any other studies that
00:34 10	<b>was the one and only study on this issue that I</b>
00:34 11	<b>found.</b>
00:34 12	<b>Q.</b> So, what you're really doing is, you're
00:34 13	just reiterating a demographic from Robert Wood
00:34 14	Johnson Hospital and not any type of independent
00:34 15	review of the work that they did, correct?
00:34 16	<b>A.</b> I believe they did their own
00:34 17	<b>independent study. And I'm reporting it to the</b>
00:34 18	<b>Board.</b>
00:34 19	<b>Q.</b> So then that's their study, that's not
00:34 20	your study?
00:34 21	<b>A.</b> That is correct.
00:34 22	<b>Q.</b> Let's talk about the side yards. What
00:34 23	is your position as to the side yards of this
00:34 24	property?
00:34 25	<b>A.</b> In terms of?
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00:34 1 **Q.** The variance, impact to the zone,  
 00:34 2 effect on the Master Plan.  
 00:34 3 **A.** Well, as I had indicated in my direct  
 00:35 4 testimony that in some respects it's a (c)(1). In  
 00:35 5 other respects it a (c)(2) variance relief.  
 00:35 6 As I had previously indicated with you  
 00:35 7 that because of the irregular configuration of the  
 00:35 8 property with the varying widths, and the desire to  
 00:35 9 place all the building in the front portion of the  
 00:35 10 site, we thereby are able -- by placing all of the  
 00:35 11 building in the front portion of the site, we are  
 00:35 12 able to provide that open space amenity along Summit  
 00:35 13 Avenue. I thought that was a positive for the  
 00:35 14 community.  
 00:35 15 In terms of the (c)(1) variance  
 00:35 16 argument, it is the physical dimensions, the 100 to  
 00:35 17 the 150 foot width, it varies from front to back,  
 00:35 18 that affects the ability to comply.  
 00:35 19 So, in that context, I think we meet  
 00:35 20 the statutory test.  
 00:35 21 **Q.** You meet the statutory test, but what  
 00:36 22 is the dimension and the effect of that minimal  
 00:36 23 dimension, the effect of a variance on the minimal  
 00:36 24 dimension, when you have a -- how many stories is  
 00:36 25 this building?

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00:36 1 **A.** Nineteen.  
 00:36 2 **Q.** Nineteen stories. And how many feet is  
 00:36 3 that 226 feet?  
 00:36 4 **A.** It's 227.  
 00:36 5 **Q.** Okay. So, what's effect of a 227-foot  
 00:36 6 building with de minimis side yards, if any? From a  
 00:36 7 planning concept, you said --  
 00:36 8 **A.** Well --  
 00:36 9 **Q.** -- tell us your opinion?  
 00:36 10 **A.** -- it's a 19 story structure which fits  
 00:36 11 in with the entire corridor. There are seven and  
 00:36 12 11 story buildings right next to us, but the  
 00:36 13 ordinance does, in fact, permit a tall building at  
 00:36 14 this location.  
 00:36 15 **Q.** It does or does not?  
 00:36 16 **A.** It does.  
 00:36 17 **Q.** The height?  
 00:36 18 **A.** The ordinance permits up to 30 stories  
 00:36 19 in this area.  
 00:36 20 **Q.** If you meet all the other criteria?  
 00:36 21 **A.** Whether you meet the criteria or not  
 00:36 22 the ordinance permits a 30 story building.  
 00:36 23 But in terms of the impact of the side  
 00:37 24 yard variance, I testified that I thought it was  
 00:37 25 mitigated to a certain extent by the fact that the

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00:37 1 building design on the adjoining lots has parking  
 00:37 2 lots right up to the edge of the property. And there  
 00:37 3 still is a setback between our building and the  
 00:37 4 adjoining buildings.  
 00:37 5 So, there is still some level of light,  
 00:37 6 air and open space. On top of that we have the  
 00:37 7 wedding cake effect on the upper levels. We do have  
 00:37 8 a conforming setback. It's the lower level that we  
 00:37 9 don't have.  
 00:37 10 **Q.** You don't on the lower levels?  
 00:37 11 **A.** Right.  
 00:37 12 **Q.** Could the building have been designed  
 00:37 13 to meet the criteria for the side yards?  
 00:37 14 **A.** You'd have to ask the architect that.  
 00:37 15 **Q.** Well, as a planner; could they have  
 00:37 16 shrunk the building?  
 00:37 17 **A.** I'm not -- I didn't design the  
 00:37 18 building. I don't know.  
 00:37 19 **Q.** As a planner, could you as a planner  
 00:37 20 plot this LTACH on the site as it is without  
 00:37 21 variances? It's a real easy question; yes or no?  
 00:37 22 **A.** No, I didn't do that exercise so I  
 00:37 23 really couldn't answer that question.  
 00:37 24 **Q.** You weren't asked to see if the  
 00:38 25 building could be designed in a planning concept

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00:38 1 without variances?  
 00:38 2 **A.** No, my responsibility was to assess the  
 00:38 3 design to determine whether or not the statutory  
 00:38 4 burden could be met.  
 00:38 5 **Q.** Let's talk about that one driveway on  
 00:38 6 page 76; 10 foot driveway?  
 00:38 7 **A.** Which page?  
 00:38 8 **Q.** Page 76. On page 76, line 10, you talk  
 00:38 9 about a waiver.  
 00:38 10 **A.** Uh-huh.  
 00:38 11 **Q.** You said on line 10:  
 01:37 12 "One is the minimum driveway width of  
 01:37 13 the service driveway. Our service driveway is  
 01:37 14 10 feet, you're required 18 feet."  
 01:38 15 Then you go on to opine that "only one  
 00:38 16 vehicle would ever be there at a time. You  
 00:39 17 will never have cars or trucks going at the  
 00:39 18 same time in different directions".  
 00:39 19 Can you stand here, unequivocally,  
 00:39 20 based on your 30 years plus of practice and say that  
 00:39 21 never will there be a time in this 19 story building,  
 00:39 22 if this Planning Board -- excuse me, if this Zoning  
 00:39 23 Board grants them the variance to build, that you'd  
 00:39 24 never have two cars going in opposite directions?  
 00:39 25 **A.** I can say that unequivocally and the

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00:39 **1 reason why, the driveway is 10 feet. A car is less**  
 00:39 **2 than 7 feet in width. You can't get two 7 footers**  
 00:39 **3 going in opposite directions on a 10 foot aisle. So,**  
 00:39 **4 I think that's the answer.**  
 00:39 **5 Q.** And in your experience of driving since  
 00:39 **6** you were 15 or 16 you've never seen people go down  
 00:39 **7** opposite lanes?  
 00:39 **8 A.** **Following the law, 16 in Pennsylvania**  
 00:39 **9 which is allowed.**  
 00:39 **10 Q.** You have never seen two people come at  
 00:39 **11** each other, one one way or coming in and out of the  
 00:39 **12** Garden State Plaza in certain tight areas, you've  
 00:40 **13** never seen that happen?  
 00:40 **14 A.** **Not in a 10 foot wide dimension, no.**  
 00:40 **15 Q.** Okay.  
 00:40 **16** Let's talk about your signs, I really  
 00:40 **17** didn't see the follow up in the transcript as to your  
 00:40 **18** sign testimony, other than it's too small as proposed  
 00:40 **19** under the ordinance?  
 00:40 **20** So, how big is this sign going to be,  
 00:40 **21** because I've reviewed the transcript.  
 00:40 **22 A.** **It's 108 square feet, and what you**  
 00:40 **23 missed because --**  
 00:40 **24 Q.** Mr. Schandler covered for me.  
 00:40 **25 A.** **It makes a reference to Poland Springs,**  
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00:40 **1 someone did, because I didn't.**  
 00:40 **2** **Somebody asked could you make the**  
 00:40 **3 letters small enough to fit the 12 square feet --**  
 00:40 **4 Q.** I read about that.  
 00:40 **5 A.** **-- and I held this up (indicating) and**  
 00:40 **6 said if you could read, you know, Poland Springs over**  
 00:40 **7 here (indicating) from that distance, you know, maybe**  
 00:40 **8 we'd be able to do it.**  
 00:40 **9** **But it didn't come across well in the**  
 00:40 **10 --**  
 00:40 **11 Q.** No, it didn't.  
 00:40 **12 A.** **-- in the transcript.**  
 00:40 **13** **Bergen Passaic Long Term Acute Care**  
 00:41 **14 Hospital is a lot of letters to fit in 12 feet square**  
 00:41 **15 feet. You just cannot do that.**  
 00:41 **16** **And, consequently, that's the need, the**  
 00:41 **17 reason for the variance. The name of the company is**  
 00:41 **18 much larger than could ever fit in our ordinance**  
 00:41 **19 limitations.**  
 00:41 **20** So, from a planning perspective the  
 00:41 **21** question becomes, what can fit well and still be  
 00:41 **22** readable for the motoring public, because when one  
 00:41 **23** motors down the street you have to be able to read  
 00:41 **24** the signs so you can still drive in a safe and  
 00:41 **25** efficient manner and know where to turn into the  
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00:41 **1** site.  
 00:41 **2 Q.** And how big of an area are you looking  
 00:41 **3** for?  
 00:41 **4 A.** **108 square feet. And I see the letters**  
 00:41 **5 --**  
 00:41 **6 Q.** Which wall in here is 108 square feet?  
 00:41 **7 A.** **Which wall is 108 square feet?**  
 00:41 **8 Q.** Well, is that wall square where the  
 00:41 **9** city map is, is that 108 square feet?  
 00:41 **10** The wall behind the dais where the  
 00:42 **11** Chairman is and the City's landmark, trademark, is  
 00:42 **12** that 108 square feet?  
 00:42 **13 A.** **No. It's larger than that. Just to**  
 00:42 **14 give you a sense of scale, we're talking about**  
 00:42 **15 basically a 10 by 10 foot area, because it is square**  
 00:42 **16 we're not talking about a square, we're talking about**  
 00:42 **17 a long rectangle.**  
 00:42 **18 Q.** Okay. So, let's start from the --  
 00:42 **19** where in this room, it's a pretty big room, if you  
 00:42 **20** start at that exit sign, the exit here from this  
 00:42 **21** chambers and you wrapped your way around us the  
 00:42 **22** vertical line straight without the walls, where would  
 00:42 **23** it end?  
 00:42 **24 A.** **That I couldn't tell you, but maybe I**  
 00:42 **25 could find in my notes the actual dimension of the**  
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00:42 **1 sign because I just don't recall what it is.**  
 00:42 **2 Q.** Because I didn't see it in the  
 00:42 **3** transcript.  
 00:42 **4 A.** **I just don't recall what it was.**  
 00:42 **5 Q.** Can you take a minute so we can address  
 00:42 **6** that because you need a variance for it --  
 00:42 **7 A.** **Yes.**  
 00:42 **8 Q.** -- so let's know what the variance  
 00:42 **9** you're requesting.  
 00:42 **10 A.** **Yes. Sheet 22 of the architect's**  
 00:43 **11 submittal shows the sign.**  
 00:43 **12** **Again, it is 24 feet long**  
 00:43 **13 four-and-a-half feet wide. And the letter heights**  
 00:43 **14 are 12 inches.**  
 00:43 **15 Q.** Okay. So it's --  
 00:43 **16 A.** **So 24 feet.**  
 00:43 **17 Q.** -- 24 foot long?  
 00:43 **18 A.** **No, they have (indicating).**  
 00:43 **19 Q.** They're not the square.  
 00:43 **20 A.** **No, I certainly need some help.**  
 00:43 **21** (Whereupon, discussion is held off the  
 00:43 **22** record.)  
 00:44 **23** MR. DIKTAS: So just for the record,  
 00:44 **24** from there to here is the work station (indicating).  
 00:44 **25** MR. BASRALIAN: Excuse me, I'm not sure  
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00:44 1 that this man is testifying and all he's doing is  
 00:44 2 giving you information.  
 00:44 3 MR. DIKTAS: I'm asking --  
 00:44 4 MR. BASRALIAN: So let's --  
 00:44 5 MR. DIKTAS: I'm doing --  
 00:44 6 MR. BASRALIAN: Let's direct the  
 00:44 7 question to Mr. Burgis, not to someone I don't know  
 00:44 8 who walked out of the audience to measure.  
 00:44 9 MR. DIKTAS: That's my expert.  
 00:44 10 BY M. DIKTAS:  
 00:44 11 Q. Mr. Burgis --  
 00:44 12 MR. BASRALIAN: When he comes to  
 00:44 13 testify you can measure it.  
 00:44 14 MR. DIKTAS: That's fine.  
 00:44 15 Q. Mr. Burgis, mark off 24 feet for us.  
 00:44 16 A. I was going to estimate that it was a  
 00:44 17 little less than this wall (indicating).  
 00:44 18 MALE AUDIENCE MEMBER: Sir, here's a  
 00:44 19 six-foot ruler, if it'll help.  
 00:45 20 MR. DIKTAS: Thank you very much. Here  
 00:45 21 you go.  
 00:45 22 CHAIRMAN GUERRA: You're killing me.  
 00:45 23 THE WITNESS: Why don't we start --  
 00:45 24 Q. Why don't you start from that point  
 00:45 25 (indicating).

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00:46 1 MR. DIKTAS: The bar.  
 00:46 2 THE WITNESS: -- the bar, it extends  
 00:46 3 from the doorway leading up to the dais, to the aisle  
 00:46 4 on the far side of the room.  
 00:46 5 MR. DIKTAS: Okay.  
 00:46 6 THE WITNESS: Now, that's the retaining  
 00:46 7 wall on which -- the wall on which the sign is set.  
 00:46 8 The letters are 12 inch high. That's what was  
 00:46 9 described as the 24 foot dimension is the bracket  
 00:46 10 around which the letters will fit.  
 00:46 11 The sign, itself, obviously is  
 00:46 12 something slightly less than that, as you can see  
 00:46 13 from on exhibit Sheet 22 entitled, "Building Sign  
 00:47 14 Along Prospect Avenue".  
 00:47 15 Q. And this sign will be illuminated?  
 00:47 16 A. No, I don't believe it is.  
 00:47 17 Q. I'm sorry.  
 00:47 18 A. I don't believe it is.  
 00:47 19 Q. Could you ask Mr. Basralian and put it  
 00:47 20 on the record yes or no.  
 00:47 21 CHAIRMAN GUERRA: It Is illuminated.  
 00:47 22 MR BASRALIAN: It's indicated on there.  
 00:47 23 It is indicated on there.  
 00:47 24 THE WITNESS: Not on this exhibit.  
 00:47 25 MR. BASRALIAN: It is a backlit sign.

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00:45 1 A. Yes.  
 00:45 2 Q. Here you go.  
 00:45 3 MR. MALAGIERE: Let the record reflect  
 00:45 4 that a resident has provided a six-foot ruler and  
 00:45 5 that Mr. Diktas and the witness are using that to  
 00:45 6 estimate a 24-foot dimension along the bar.  
 00:45 7 THE WITNESS: That's 12 feet.  
 00:45 8 MR. DIKTAS: Right here to the edge of  
 00:45 9 the... (indicating).  
 00:45 10 THE WITNESS: Why don't you mark that.  
 00:45 11 MR. DIKTAS: This is a guesstimate,  
 00:45 12 just for the record so that we can clarify it.  
 00:45 13 CHAIRMAN GUERRA: This isn't a  
 00:45 14 guesstimate this is an exactimate.  
 00:45 15 MR. DIKTAS: Well, we might be off a  
 00:45 16 few.  
 00:45 17 MR. MALAGIERE: Ballpark estimate.  
 00:45 18 (Whereupon, discussion is held off the  
 00:45 19 record.)  
 00:46 20 MR. DIKTAS: The length of the wall on  
 00:46 21 which it sits.  
 00:46 22 MR. MALAGIERE: Why don't you put it on  
 00:46 23 the record was that generally meted out to be, by  
 00:46 24 describing it in the context of this room.  
 00:46 25 THE WITNESS: In the context of --

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00:47 1 MR. DIKTAS: Thank you.  
 00:47 2 MR. BASRALIAN: Or backlit letters.  
 00:47 3 The sign itself is backlit letters.  
 00:47 4 MR. MALAGIERE: There's been a  
 00:47 5 stipulation by Counsel for the Applicant that the  
 00:47 6 sign is backlit letters.  
 00:47 7 For the record, thank you.  
 00:47 8 MR. DIKTAS: Thank you.  
 00:47 9 BY MR. DIKTAS:  
 00:47 10 Q. So, we know how long your proposed sign  
 00:47 11 background is going to be. What is permitted now?  
 00:47 12 What is the dimension of the ordinance?  
 00:47 13 MR. BASRALIAN: Objection. He didn't  
 00:47 14 say it was the sign. He said it was the retaining  
 00:47 15 wall.  
 00:47 16 MR. DIKTAS: I said the back drop for  
 00:47 17 the sign. That's what I said.  
 00:47 18 MR. BASRALIAN: I thought you said  
 00:47 19 sign.  
 00:47 20 MR. DIKTAS: I said the back drop for  
 00:47 21 the sign.  
 00:47 22 MR. BASRALIAN: Then I stand corrected.  
 00:47 23 So would you ask the question again, so that I can  
 00:48 24 understand it.  
 00:48 25 Q. You just gave us the dimension for the

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00:48 1 backdrop of the sign.

00:48 2 **A. Correct.**

00:48 3 **Q.** Okay. Which would be placed on the

00:48 4 building, correct?

00:48 5 **A. On the retaining wall.**

00:48 6 **Q.** On the retaining wall.

00:48 7 **A. Yes.**

00:48 8 **Q.** Okay. What is the actual dimension

00:48 9 permitted under the zone?

00:48 10 **A. It's 12 square feet. And I had it**

00:48 11 **incorrect that I was consistently saying 108 square**

00:48 12 **feet, it's actually 96 square feet. And you are**

00:48 13 **permitted 12 square feet.**

00:48 14 **Q.** So, how many square feet differential

00:48 15 is that?

00:48 16 **A. Eighty-four.**

00:48 17 **Q.** Thank you. That's a hard one.

00:48 18 **A. That's the easiest one yet.**

00:48 19 **But, again, it's because of the unusual**

00:48 20 **nature of the name, you know, how long it is, that**

00:48 21 **one cannot place the name of this --**

00:48 22 FEMALE AUDIENCE MEMBER: So, change the

00:48 23 name.

00:48 24 **A. -- facility in a 12 square feet**

00:48 25 **dimension.**

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00:48 1 **Q.** You can't place it or you can't place

00:48 2 it to the dimension that the Applicant wants?

00:48 3 **A. No, you can't place that name in**

00:48 4 **12 square feet and make it readable for the motoring**

00:49 5 **public. And that's really the key from a planning**

00:49 6 **perspective because you want to make sure that as one**

00:49 7 **drives down the street you can readily see, read and**

00:49 8 **understand the sign, so you know where to turn.**

00:49 9 **Q.** So, when Mr. Kasler did this ordinance

00:49 10 and when it was in place, we had the high rise ideas

00:49 11 and he consciously only gave 12 square feet, that was

00:49 12 adequate for Mr. Kasler who we consider as one of the

00:49 13 planning masters of our generation.

00:49 14 **A. Yes.**

00:49 15 **Q.** So, that was incorrect then, that that

00:49 16 zoning analysis and planning analysis to construct

00:49 17 only a 12 square feet is --

00:49 18 **A. No, I --**

00:49 19 **Q.** -- insufficient?

00:49 20 **A. -- I think there has to be a**

00:49 21 **recognition of what is trying to be conveyed. The**

00:49 22 **same reason when the Excelsior got their sign, that**

00:49 23 **is an understanding that the sign, at 12-square foot,**

00:50 24 **wouldn't have fit to be readable and be consistent**

00:50 25 **with the overall design of the front of that site.**

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00:50 1 There are a number of others that I

00:50 2 could point to as well, but -- I remember

00:50 3 representing the Excelsior and their variance, and it

00:50 4 was granted that for that very reason.

00:50 5 **Q.** Every application is granted on its own

00:50 6 merits; isn't that correct?

00:50 7 **A. Right. You took those words right out**

00:50 8 **of my mouth --**

00:50 9 **Q.** Okay.

00:50 10 **A. -- that really is what we're -- whereas**

00:50 11 **12 square foot may be appropriate in certain**

00:50 12 **situations, it's not in others. I don't think in**

00:50 13 **this particular case it is.**

00:50 14 MR. DIKTAS: I have no further

00:50 15 questions.

00:50 16 Thank you.

00:50 17 MR. MALAGIERE: Thank you, Mr. Diktas.

00:50 18 Mr. Basralian, do you want to redirect?

00:50 19 MR. BASRALIAN: Yes, please.

00:50 20 REDIRECT EXAMINATION

00:50 21 BY MR. BASRALIAN:

00:50 22 **Q.** Since we ended up with talking about

00:50 23 the sign, let's make it perfectly clear here. When

00:50 24 you're talking about a 24-foot wall, you are talking

00:50 25 about the retaining wall that's part of the

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00:50 1 structure; are you not?

00:50 2 **A. Correct.**

00:50 3 **Q.** It wasn't constructed, was it, or not

00:50 4 designed specifically for a sign, but rather as a

00:51 5 retaining wall for access to the building?

00:51 6 **A. That is correct.**

00:51 7 **Q.** And that the actual letters are 12

00:51 8 inches high on the first line by 22 feet, that would

00:51 9 be a 22-foot long sign; would it not?

00:51 10 **A. That is correct.**

00:51 11 **Q.** A 22-square foot sign. And there are

00:51 12 three numbers there that are approximately 12 inches

00:51 13 high as well and they're a little less than three

00:51 14 feet long. So, it would be less than three square

00:51 15 feet. So, altogether you're talking about 31 square

00:51 16 feet; is that correct?

00:51 17 **A. In the actual sign. And the ordinance**

00:51 18 **says you have to draw a box around that sign.**

00:51 19 **Q.** So, if you draw a box around it, it

00:51 20 would be 48 square feet then --

00:51 21 **A. Right.**

00:51 22 **Q.** Is that correct?

00:51 23 **A. Correct.**

00:51 24 **Q.** Not 128, because it's mounted on the

00:51 25 wall. And those letters are mounted independently on

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00:51 1 the wall and not within a frame?  
 00:51 2 **A. Correct.**  
 00:51 3 **Q.** According to the plan; is that correct?  
 00:51 4 **A. That is correct.**  
 00:51 5 **Q.** Mr. Diktas made a point of using the  
 00:51 6 word "trauma". You're aware that there are no  
 00:51 7 emergency rooms in this hospital where trauma is  
 00:52 8 normally treated?  
 00:52 9 **A. That is correct. That is what I was**  
 00:52 10 **trying to make that distinction.**  
 00:52 11 **Q.** All right. So, that just so everyone  
 00:52 12 understands, it is not a trauma center where an  
 00:52 13 ambulance drives up and drop off somebody, that's for  
 00:52 14 Hackensack University Medical Center, not for this  
 00:52 15 facility. That's been discussed many, many times,  
 00:52 16 correct?  
 00:52 17 **A. Yes.**  
 00:52 18 MR. BASRALIAN: No further questions at  
 00:52 19 this point on redirect.  
 00:52 20 MR. MALAGIERE: Recross?  
 00:52 21 MR. DIKTAS: Just one.  
 00:52 22 RECROSS EXAMINATION  
 00:52 23 BY MR. DIKTAS:  
 00:52 24 **Q.** What is the date of the Robert Wood  
 00:52 25 Johnson report?

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00:52 1 **A. I don't have it in my notes, but if**  
 00:52 2 **memory serves I think it was 2006 or 2007.**  
 00:52 3 **Q.** But you're not sure?  
 00:52 4 **A. No. It's either --**  
 00:52 5 **Q.** Don't speculate. You're under oath.  
 00:52 6 Thank you.  
 00:52 7 **A. That's right.**  
 00:52 8 MR. MALAGIERE: Chairman has indicated  
 00:52 9 that he wants to take a break before we proceed with  
 00:52 10 further cross examination.  
 00:52 11 CHAIRMAN GUERRA: Yes. We have been  
 00:53 12 hearing testimony for an hour-and-a-half.  
 00:53 13 We'll be right back.  
 00:53 14 (Whereupon, a short recess is taken.)  
 01:15 15 CHAIRMAN GUERRA: Okay, everyone be  
 01:15 16 seated. We are back better than ever.  
 01:16 17 MR. MALAGIERE: You're still under  
 01:16 18 oath, sir.  
 01:16 19 THE WITNESS: Yes.  
 01:16 20 MR. DIKTAS: Just a point of  
 01:16 21 information for the record, I don't have the plan  
 01:16 22 delineating the sign. So if Mr. Basralian can --  
 01:16 23 MR. BASRALIAN: It's all a public  
 01:16 24 record of the municipality.  
 01:16 25 MR. DIKTAS: Do you have an extra one?

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01:16 1 MR. BASRALIAN: I can give you -- I  
 01:16 2 don't have one now, but I will give you one sheet  
 01:16 3 that shows the sign.  
 01:16 4 MR. DIKTAS: That's all I'm looking  
 01:16 5 for. Thank you.  
 01:16 6 MR. BASRALIAN: Fine.  
 01:16 7 MR. MALAGIERE: Do you need that to  
 01:16 8 further cross examine or it is just for purposes --  
 01:16 9 MR. DIKTAS: No, this is for when my  
 01:16 10 expert comes in --  
 01:16 11 MR. MALAGIERE: Understood.  
 01:16 12 MR. DIKTAS: -- just to review it.  
 01:16 13 MR. MALAGIERE: So, that's not a  
 01:16 14 retention issue.  
 01:16 15 MR. DIKTAS: I just have one more  
 01:16 16 question, if I may?  
 01:16 17 MR. MALAGIERE: Of course.  
 01:16 18 BY MR. DIKTAS:  
 01:16 19 **Q.** Mr. Burgis, is the sign double sided?  
 01:16 20 **A. No.**  
 01:16 21 **Q.** Okay.  
 01:17 22 **A. It's up against the wall.**  
 01:17 23 MR. DIKTAS: Thank you.  
 01:17 24 MR. MALAGIERE: Mr. Basralian, anything  
 01:17 25 you need to clarify, sir?

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01:17 1 MR. BASRALIAN: No.  
 01:17 2 MR. MALAGIERE: Mr. Moskowitz?  
 01:17 3 MR. BASRALIAN: I reserve for redirect.  
 01:17 4 MR. MALAGIERE: Of course.  
 01:17 5 MR. MOSKOWITZ: Yes.  
 01:17 6 CROSS EXAMINATION  
 01:17 7 BY MR. MOSKOWITZ:  
 01:17 8 **Q.** I just had a brief question or two  
 01:17 9 concerning the sign, Mr. Burgis. My name is Ted  
 01:17 10 Moskowitz.  
 01:17 11 **A. Hi.**  
 01:17 12 **Q.** I live in Hackensack. I am  
 01:17 13 representing Prospect Avenue Coalition as well as my  
 01:17 14 wife and myself as the owners.  
 01:17 15 This sign, do I understand it that the  
 01:17 16 sign is 108 square feet?  
 01:17 17 **A. No, I said it was 108, in reality, I --**  
 01:17 18 **what I had done is boxed the outer perimeter of the**  
 01:17 19 **letters.**  
 01:17 20 **Q.** Isn't that the way the ordinance calls  
 01:17 21 for the sign to be measured?  
 01:17 22 **A. Yes, but these letters are individually**  
 01:17 23 **placed on the retaining wall, if you just measured**  
 01:17 24 **the words "Bergen Passaic Long Term Acute Care" --**  
 01:17 25 **Q.** But the ordinance doesn't say anything

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01:17 **1** about measuring the letters to find out how big a  
 01:18 **2** sign is?  
 01:18 **3** **A. No, that's correct. That's why I**  
 01:18 **4 said --**  
 01:18 **5** **Q.** I know, that's why, doesn't the  
 01:18 **6** ordinance say that you measure the sign by the frame  
 01:18 **7** or the perimeters of the sign?  
 01:18 **8** **A. Yes.**  
 01:18 **9** **Q.** Okay.  
 01:18 **10** **A. However, if I can comment on that?**  
 01:18 **11** **Q.** You can comment perhaps when your own  
 01:18 **12** counsel talks to you.  
 01:18 **13** So, this, at least as far as the  
 01:18 **14** ordinance defines it, this sign will be about eight  
 01:18 **15** times -- more than eight or nine times the size of  
 01:18 **16** what's allowed in the ordinance, correct?  
 01:18 **17** It's 108 against 12?  
 01:18 **18** **A. No. Because, when I had said 108 I was**  
 01:18 **19 using the entire retaining wall on which it sits as**  
 01:18 **20 in the area. And I then corrected that.**  
 01:18 **21** **Q.** So it's much larger than what the  
 01:18 **22** ordinance permits?  
 01:18 **23** **A. It's much smaller -- it's much smaller**  
 01:18 **24 than that. If you draw a box around the sign,**  
 01:18 **25 itself, it's 48 square feet.**  
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01:19 **1** **Q.** So, just, five -- four, five times  
 01:19 **2** bigger than it needs to be.  
 01:19 **3** And you explained, if I understood it,  
 01:19 **4** it needs to be big so that people can see it and find  
 01:19 **5** where they're going?  
 01:19 **6** **A. Correct.**  
 01:19 **7** **Q.** You do know what's going to be in this  
 01:19 **8** building, don't you?  
 01:19 **9** **A. Yes.**  
 01:19 **10** **Q.** You know that all of the people or just  
 01:19 **11** about all of the people in the long term acute care  
 01:19 **12** part of the facility, they're coming in by ambulance.  
 01:19 **13** Do you think the sign is needed to  
 01:19 **14** attract the ambulance drivers? Certainly not.  
 01:19 **15** **A. I think it's necessary for anyone who's**  
 01:19 **16 coming to the site to know where the driveway is to**  
 01:19 **17 provide access into the property in a very safe and**  
 01:19 **18 efficient manner.**  
 01:19 **19** **There had been a comment from a member**  
 01:19 **20 of the public at the last meeting, almost 19 story**  
 01:19 **21 building, of course, people will be able to find it,**  
 01:19 **22 but the reality is that's not the way one drives down**  
 01:20 **23 the street, looking up. You're looking along the**  
 01:20 **24 street edge, looking for the driveway where you want**  
 01:20 **25 to turn in. And that's the benefit of having a sign**  
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01:20 **1 that's readable.**  
 01:20 **2** **Q.** So, you think that the ambulance  
 01:20 **3** drivers bringing the acute care patients need a big  
 01:20 **4** sign?  
 01:20 **5** **A. Whether it's the ambulance drivers**  
 01:20 **6 or --**  
 01:20 **7** **Q.** Well, just -- I'm just asking you about  
 01:20 **8** the ambulance drivers --  
 01:20 **9** **A. Whoever is driving, yes.**  
 01:20 **10** **Q.** And you know that the adult daycare  
 01:20 **11** people are primarily being brought by bus; don't you?  
 01:20 **12** **A. Yes.**  
 01:20 **13** **Q.** You think the buses need that sign?  
 01:20 **14** **A. Yes.**  
 01:20 **15** **Q.** And the dialysis patients are also  
 01:20 **16** coming generally in assisted ways. And do you think  
 01:20 **17** they need the sign?  
 01:20 **18** **A. Yes, because whether it's the ambulance**  
 01:20 **19 drivers, the bus drivers or the others who are**  
 01:20 **20 driving people to the site, you do not know if it's**  
 01:20 **21 the same driver every day. It can be different**  
 01:20 **22 people.**  
 01:20 **23** **Some people who are not familiar with**  
 01:20 **24 the street and, therefore, they need to know where**  
 01:21 **25 that driveway is.**  
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01:21 **1** **Q.** So, you're telling me that because of  
 01:21 **2** in your experience people that drive daycare patients  
 01:21 **3** to the same place every day of the week or every  
 01:21 **4** three days or how ever many days they're there,  
 01:21 **5** forget where they were the day before --  
 01:21 **6** **A. No, that's not --**  
 01:21 **7** **Q.** -- or that they change drivers from the  
 01:21 **8** day before?  
 01:21 **9** **A. That's a nice sarcastic way to put it.**  
 01:21 **10 But that's not what I said.**  
 01:21 **11** **I had said that on occasion there may**  
 01:21 **12 be a new driver coming to the site, and those people**  
 01:21 **13 need to know where to turn, where the property is.**  
 01:21 **14 Of course, those who go on a regular basis will know**  
 01:21 **15 where this facility is, but there will, on occasion,**  
 01:21 **16 be newcomers, new people, driving for the first time**  
 01:21 **17 to the property.**  
 01:21 **18** **Q.** So, it's your view that these  
 01:21 **19** occasional newcomers justify the sign that's four or  
 01:21 **20** five or six times the --  
 01:21 **21** **A. It's not --**  
 01:21 **22** **Q.** -- size of the -- the standard size?  
 01:21 **23** **A. It's four times, not five or six. It's**  
 01:21 **24 four.**  
 01:21 **25** **And what I just testified to is that,**  
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01:22 1 **yes, it addresses the safe and efficient circulation**  
 01:22 2 **issue.**  
 01:22 3 And, secondly, because of the size of  
 01:22 4 the name, it's difficult, if not impossible, to get  
 01:22 5 "Bergen Passaic Long Term Health Care Hospital" in a  
 01:22 6 12 square foot dimension and make it readable at all.  
 01:22 7 **Q.** So, are you then --  
 01:22 8 **A.** **So, in terms of -- if I can finish?**  
 01:22 9 **Q.** Go ahead.  
 01:22 10 **A.** **So, in terms of making a sign that's**  
 01:22 11 **readable, and in terms of making a sign that from an**  
 01:22 12 **aesthetic point of view fits into the scale of the**  
 01:22 13 **overall site, front facade of the site, this 48**  
 01:22 14 **square footer certainly makes sense.**  
 01:22 15 **Q.** So, if by any chance it could later be  
 01:22 16 called "Bergen Passaic Hudson" you'd have to make the  
 01:22 17 sign bigger or no one could find it?  
 01:22 18 **A.** **No, again, that's a nice sarcastic way**  
 01:23 19 **to put it, but the name is what it is.**  
 01:23 20 **Q.** Well, I didn't mean to be sarcastic,  
 01:23 21 but I have difficulty with your testimony explaining  
 01:23 22 that you need a big sign so that people can find the  
 01:23 23 place.  
 01:23 24 It's not Sears Roebuck or a used car  
 01:23 25 lot. The people who go there know where they're  
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01:23 1 going. There's been a lot of testimony about how  
 01:23 2 they've been brought and I -- your entire  
 01:23 3 justification then, at least in your view as a  
 01:23 4 planner, for changing and going around the ordinance  
 01:23 5 is because you're afraid that people can't safely  
 01:23 6 find it.  
 01:23 7 **A.** **That's not what I said. I said that it**  
 01:23 8 **is one route -- that is one issue, that you want to**  
 01:23 9 **make certain, in terms of a safe and efficient**  
 01:23 10 **movement of vehicles off of the street into the site,**  
 01:23 11 **that everyone, whether it's a newcomer or not, knows**  
 01:23 12 **precisely where that driveway is.**  
 01:23 13 **And in terms of the scale, aesthetics**  
 01:24 14 **of the sign, in relation to the building, 48 square**  
 01:24 15 **feet certainly seems reasonable. And will compliment**  
 01:24 16 **the site to a much greater degree than a 12 square**  
 01:24 17 **footer.**  
 01:24 18 **If you drive up and down Prospect**  
 01:24 19 **Street, I don't know that there is one sign along**  
 01:24 20 **this street that actually complies to the 12 square**  
 01:24 21 **foot limitation.**  
 01:24 22 **Q.** We're not here -- if we were here as  
 01:24 23 the zoning police tonight, we wouldn't be here. It  
 01:24 24 wouldn't be this meeting.  
 01:24 25 So, we're talking about --  
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01:24 1 **A.** **I don't know what that meant.**  
 01:24 2 CHAIRMAN GUERRA: Neither do I know  
 01:24 3 what that means.  
 01:24 4 **Q.** If you are planning to object to what's  
 01:24 5 on other sites --  
 01:24 6 **A.** **I'm not. And I didn't say that I was.**  
 01:24 7 **So, don't put words into my mouth, Mr. Moskowitz.**  
 01:24 8 **You keep trying to that.**  
 01:24 9 **Quite frankly, I find that offensive.**  
 01:24 10 CHAIRMAN GUERRA: Yes, we're going to  
 01:24 11 stop this. Okay?  
 01:24 12 The sarcasms, the battling back and  
 01:24 13 forth. Ask questions. There's no need for this.  
 01:24 14 We're not doing stand up tonight. All right? Ask  
 01:24 15 the questions without any sarcasm. Okay?  
 01:24 16 MR. MOSKOWITZ: I have no further  
 01:24 17 questions of this witness.  
 01:24 18 CHAIRMAN GUERRA: Thank you.  
 01:24 19 MR. MALAGIERE: Mr. Basralian,  
 01:25 20 redirect?  
 01:25 21 MR. BASRALIAN: Yes.  
 01:25 22 REDIRECT EXAMINATION  
 01:25 23 BY MR. BASRALIAN:  
 01:25 24 **Q.** Mr. Burgis, I think even your  
 01:25 25 characterization of the sign as 48 square feet is  
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01:25 1 incorrect.  
 01:25 2 The plan that was submitted shows that  
 01:25 3 the letters are 12 inches high, that's 22 inches  
 01:25 4 long. And even if you box it, it's still only 22  
 01:25 5 square feet, because the numbers, if you look, are  
 01:25 6 not included as part of the sign. They are  
 01:25 7 identification which are mandated by law to have on  
 01:25 8 the building.  
 01:25 9 So, the plan that was submitted by the  
 01:25 10 architect shows the letters as 12 inches high by  
 01:25 11 22 feet as scaled out here. That would equate, it  
 01:25 12 seems to me, as 22 feet -- 22 square feet, and not  
 01:25 13 48.  
 01:25 14 So, wherever that number came from, I  
 01:25 15 think I may have mislead you, because the numbers  
 01:25 16 aren't included, that is identification purposes.  
 01:25 17 **A.** **And I was including that number --**  
 01:25 18 **Q.** Right.  
 01:25 19 **A.** **That's a mistake.**  
 01:25 20 **Q.** So, numbers are not included within the  
 01:25 21 sign because they're necessary --  
 01:25 22 **A.** **That's correct.**  
 01:25 23 **Q.** -- for identification for all sorts of  
 01:25 24 purposes.  
 01:25 25 So, if we could put aside, put it to  
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<p style="text-align: right;">73</p> <p>01:25 1 rest, the sign is 22 square feet, boxed, according to</p> <p>01:25 2 the law.</p> <p>01:25 3 <b>A. That's correct.</b></p> <p>01:25 4 MR. BASRALIAN: I have no further</p> <p>01:25 5 questions of this witness.</p> <p>01:26 6 MR. MALAGIERE: Mr. Moskowitz, recross?</p> <p>01:26 7 MR. MOSKOWITZ: No, thank you.</p> <p>01:26 8 MR. MALAGIERE: Okay.</p> <p>01:26 9 MR. RODRIGUEZ: I have a couple of</p> <p>01:26 10 questions for Mr. Burgis, I apologize.</p> <p>01:26 11 Mr. Burgis, let me just ask you, as you</p> <p>01:26 12 look at the rendering of the front, of all the</p> <p>01:26 13 elevations of this building and the site, right?</p> <p>01:26 14 THE WITNESS: Yes.</p> <p>01:26 15 MR. RODRIGUEZ: What's the front of the</p> <p>01:26 16 building?</p> <p>01:26 17 THE WITNESS: Prospect.</p> <p>01:26 18 MR. RODRIGUEZ: Why?</p> <p>01:26 19 THE WITNESS: It's oriented, the</p> <p>01:26 20 building is oriented towards that side of the site.</p> <p>01:26 21 There is an access from Summit, but from my</p> <p>01:26 22 perspective the orientation is primarily on Prospect.</p> <p>01:26 23 MR. RODRIGUEZ: You know looking at the</p> <p>01:26 24 renderings myself, I don't see why anyone driving by</p> <p>01:26 25 this site, if they go up Prospect and drove up</p> <p style="text-align: center;"><b>LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C.</b> <b>201-641-1812</b></p>	<p style="text-align: right;">75</p> <p>01:28 1 other high rise development up and down the street,</p> <p>01:28 2 the high rise development up and down the street is</p> <p>01:28 3 oriented towards Prospect. And I think that's the</p> <p>01:28 4 principle element of this site.</p> <p>01:28 5 MR. RODRIGUEZ: Well, here's the</p> <p>01:28 6 problem that I see. I understand what you're saying,</p> <p>01:28 7 but also you said a lot in your answer, one being</p> <p>01:28 8 that our ordinance as it is, designates this property</p> <p>01:28 9 as having two front yards.</p> <p>01:28 10 And really it does in a way. And</p> <p>01:28 11 you're familiar with other large healthcare</p> <p>01:28 12 facilities in the region, aren't you?</p> <p>01:28 13 THE WITNESS: Yes.</p> <p>01:28 14 MR. RODRIGUEZ: I mean just to take you</p> <p>01:28 15 down through Hackensack Medical Center, is not</p> <p>01:28 16 necessarily the greatest example because even though</p> <p>01:28 17 it's setback, we have two large medical facility</p> <p>01:28 18 buildings in front of the hospital.</p> <p>01:29 19 But you have a very -- you have a</p> <p>01:29 20 property that is 30 Prospect, the hospital, the main</p> <p>01:29 21 hospital address, is a Prospect Avenue address, but</p> <p>01:29 22 it's well set back. And there's a beautiful</p> <p>01:29 23 fountain. There's got to be at least two or three</p> <p>01:29 24 almost a football field before you get to the</p> <p>01:29 25 actually hospital of landscaped grounds; is there</p> <p style="text-align: center;"><b>LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C.</b> <b>201-641-1812</b></p>
<p style="text-align: right;">74</p> <p>01:26 1 Summit, and saw the property, absent the set of signs</p> <p>01:26 2 on Prospect, why wouldn't they consider that the</p> <p>01:27 3 Summit Avenue side was the front of the building?</p> <p>01:27 4 It has a very nice circular drive. I</p> <p>01:27 5 know there's been testimony calling it a park, but to</p> <p>01:27 6 me looking at it, whether it's park-like or not, it's</p> <p>01:27 7 what it is, is it's a very nicely -- compliments to</p> <p>01:27 8 the landscape architect, very nicely landscaped front</p> <p>01:27 9 yard, with a very nice circular drive to a hospital.</p> <p>01:27 10 Why -- explain to me, particularly for</p> <p>01:27 11 me, why a passerby looking at that front elevation on</p> <p>01:27 12 Summit Avenue wouldn't look at that and say, that's</p> <p>01:27 13 the front of the hospital, the front of some</p> <p>01:27 14 building, if they couldn't identify it as to what it</p> <p>01:27 15 was.</p> <p>01:27 16 THE WITNESS: Well, by your ordinance,</p> <p>01:27 17 this lot has two fronts. It has two front yards.</p> <p>01:27 18 MR. RODRIGUEZ: Okay.</p> <p>01:27 19 THE WITNESS: Okay? Because all</p> <p>01:27 20 through lots are considered that have two front</p> <p>01:27 21 yards.</p> <p>01:27 22 My perspective is that the orientation</p> <p>01:28 23 of the building is really a function of where the</p> <p>01:28 24 building is placed.</p> <p>01:28 25 And, certainly, in relation to all the</p> <p style="text-align: center;"><b>LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C.</b> <b>201-641-1812</b></p>	<p style="text-align: right;">76</p> <p>01:29 1 not?</p> <p>01:29 2 THE WITNESS: Yes.</p> <p>01:29 3 MR. RODRIGUEZ: I mean, if you go --</p> <p>01:29 4 although the scale is different, it's a larger front</p> <p>01:29 5 yard, but if you're familiar with did VA Hospital in</p> <p>01:29 6 East Orange, what you have is a property that is on a</p> <p>01:29 7 hill with a humongous circular drive and front yard</p> <p>01:29 8 which is very pastoral; isn't that right?</p> <p>01:29 9 THE WITNESS: That one I'm not familiar</p> <p>01:29 10 with at all.</p> <p>01:29 11 MR. RODRIGUEZ: How about the one --</p> <p>01:29 12 it's not a regular hospital, but the Lyons Veterans</p> <p>01:29 13 Affairs facility in Basking Ridge; are you familiar</p> <p>01:29 14 with that one?</p> <p>01:29 15 THE WITNESS: No.</p> <p>01:29 16 MR. RODRIGUEZ: I mean, I've seen that</p> <p>01:29 17 one, similar, even grander scope, it is a huge front</p> <p>01:30 18 yard to that, much larger than this, but very well</p> <p>01:30 19 manicured, very beautiful with the facility being at</p> <p>01:30 20 the other side of the property, with most of it being</p> <p>01:30 21 beautifully landscaped in front. But you look at</p> <p>01:30 22 these facilities, Morristown Memorial Hospital --</p> <p>01:30 23 THE WITNESS: Okay.</p> <p>01:30 24 MR. RODRIGUEZ: -- is also --</p> <p>01:30 25 THE WITNESS: Mr. Rodriguez, I don't</p> <p style="text-align: center;"><b>LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C.</b> <b>201-641-1812</b></p>

<p style="text-align: right;">77</p> <p>01:30 1 know that you can lambast an applicant for trying to</p> <p>01:30 2 make both sides of his property look attractive.</p> <p>01:30 3 MR. RODRIGUEZ: Certainly not.</p> <p>01:30 4 THE WITNESS: And I think from a --</p> <p>01:30 5 MR. RODRIGUEZ: And that's not --</p> <p>01:30 6 THE WITNESS: -- from the use variance</p> <p>01:30 7 application perspective, I think the question is</p> <p>01:30 8 immaterial. You know the fact is that the Applicant</p> <p>01:30 9 has a designer that came up with a beautiful design</p> <p>01:30 10 for Summit. And they did that purposely because they</p> <p>01:30 11 recognized the character of the street.</p> <p>01:30 12 They also recognized the character of</p> <p>01:30 13 Prospect, which is also attractive. But the</p> <p>01:30 14 relationship -- or excuse me -- the orientation is a</p> <p>01:30 15 high rise development character and that's where the</p> <p>01:31 16 building is placed.</p> <p>01:31 17 MR. RODRIGUEZ: Here's my question for</p> <p>01:31 18 you as a planner. It's one site of one site plan, if</p> <p>01:31 19 the project somehow were to get approved and a year</p> <p>01:31 20 from now the next developer comes with another</p> <p>01:31 21 healthcare facility and buys up a few houses on</p> <p>01:31 22 Summit Avenue, whether a little further north or a</p> <p>01:31 23 little further south of this property, and they get a</p> <p>01:31 24 planner like yourself and say -- you know, and say to</p> <p>01:31 25 this Board, you know, Board, you have already put a</p> <p style="text-align: center;"><b>LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C.</b> <b>201-641-1812</b></p>	<p style="text-align: right;">79</p> <p>01:32 1 rise development on Summit, because there's a</p> <p>01:32 2 driveway and a nice landscaped amenity on Summit</p> <p>01:32 3 leading to this facility.</p> <p>01:32 4 I can't see ever making that a</p> <p>01:33 5 legitimate argument.</p> <p>01:33 6 MR. RODRIGUEZ: Well, even though</p> <p>01:33 7 really you have two front yards.</p> <p>01:33 8 THE WITNESS: Well, the two front yards</p> <p>01:33 9 is a technical element of the ordinance because the</p> <p>01:33 10 ordinance says that on any lot that's a through lot</p> <p>01:33 11 you have to have front yard setbacks from both</p> <p>01:33 12 streets that you front upon.</p> <p>01:33 13 MR. RODRIGUEZ: As a planner couldn't</p> <p>01:33 14 you see modifications that you could make to the</p> <p>01:33 15 Summit Avenue front of this building that makes it</p> <p>01:33 16 more consistent with it not being a front yard.</p> <p>01:33 17 Can't you think of some of those things?</p> <p>01:33 18 THE WITNESS: I haven't really given</p> <p>01:33 19 that one much thought, because I felt that the</p> <p>01:33 20 design, itself, as you've ready stated, is a very</p> <p>01:33 21 attractive design. I don't know why one would want</p> <p>01:33 22 to diminish that aspect of this design.</p> <p>01:33 23 MR. RODRIGUEZ: Well, I --</p> <p>01:33 24 THE WITNESS: The driveway, the</p> <p>01:33 25 circular driveway is an element to accommodate those</p> <p style="text-align: center;"><b>LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C.</b> <b>201-641-1812</b></p>
<p style="text-align: right;">78</p> <p>01:31 1 hospital on Summit Avenue. The place that the</p> <p>01:31 2 current hospital, the LTACH, has two front yards.</p> <p>01:31 3 One of them is on Summit Avenue. And look, absent</p> <p>01:31 4 the fact that there's no sign on Summit Avenue, to</p> <p>01:31 5 stare at the front of it, the Summit Avenue facade</p> <p>01:31 6 and property, what you have is a beautiful landscaped</p> <p>01:31 7 front entrance.</p> <p>01:31 8 So, you can't say Board, that you have</p> <p>01:32 9 not already set a precedent of giving approval to a</p> <p>01:32 10 substantial healthcare facility on Summit Avenue.</p> <p>01:32 11 Particularly given --</p> <p>01:32 12 THE WITNESS: Well, that's --</p> <p>01:32 13 MR. RODRIGUEZ: -- that our own</p> <p>01:32 14 ordinance says that this building has two front</p> <p>01:32 15 yards, one of them being Summit Avenue.</p> <p>01:32 16 THE WITNESS: But that's where I</p> <p>01:32 17 disagree with you.</p> <p>01:32 18 MR. RODRIGUEZ: Why?</p> <p>01:32 19 THE WITNESS: Because the Applicant</p> <p>01:32 20 has, as we discussed it many times, the Applicant has</p> <p>01:32 21 taken pains to make certain that the entirety of the</p> <p>01:32 22 building is in the high rise residential zoned</p> <p>01:32 23 portion of the property.</p> <p>01:32 24 I know I would be hard pressed to say</p> <p>01:32 25 to a client that I could represent you for a high</p> <p style="text-align: center;"><b>LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C.</b> <b>201-641-1812</b></p>	<p style="text-align: right;">80</p> <p>01:34 1 few that will the property, you know, that -- that</p> <p>01:34 2 entrance. The overwhelming majority of the people</p> <p>01:34 3 who will be coming to the site will be coming through</p> <p>01:34 4 Prospect, as you heard testimony from both the</p> <p>01:34 5 traffic consultants.</p> <p>01:34 6 MR. RODRIGUEZ: Well, eliminating the</p> <p>01:34 7 driveway, since you raise the driveway, before I got</p> <p>01:34 8 to raise it, I got to raise it, would certainly make</p> <p>01:34 9 it more akin to a backyard rather than a front yard,</p> <p>01:34 10 wouldn't it? If you just had a public walkway there</p> <p>01:34 11 with a nicely manicured, very nice appearing</p> <p>01:34 12 backyard, that would eliminate some of the front yard</p> <p>01:34 13 aspect, would it not, as a planner?</p> <p>01:34 14 THE WITNESS: Eliminating the driveway?</p> <p>01:34 15 MR. RODRIGUEZ: Yes.</p> <p>01:34 16 THE WITNESS: Within the context of the</p> <p>01:34 17 way you're asking the question, it would.</p> <p>01:34 18 However, it then serves to generate</p> <p>01:34 19 additional traffic on Prospect which has been a bone</p> <p>01:35 20 of contention.</p> <p>01:35 21 You know, there's a balance here that</p> <p>01:35 22 we're trying to achieve. And one is to provide that</p> <p>01:35 23 attractive amenity. And also make the project fit in</p> <p>01:35 24 with this neighborhood.</p> <p>01:35 25 And when you go down this neighborhood</p> <p style="text-align: center;"><b>LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C.</b> <b>201-641-1812</b></p>

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01:35 1 you do see other circular driveways down Summit.  
 01:35 2 MR. RODRIGUEZ: Right.  
 01:35 3 THE WITNESS: It is not an unusual  
 01:35 4 thing to see.  
 01:35 5 So, the design just reinforces how this  
 01:35 6 project fits in with that neighborhood design.  
 01:35 7 MR. RODRIGUEZ: And all those other  
 01:35 8 circular drives on Summit are in the front of homes?  
 01:35 9 THE WITNESS: And so are -- but the  
 01:35 10 houses --  
 01:35 11 MR. RODRIGUEZ: Or professional  
 01:35 12 offices?  
 01:35 13 THE WITNESS: But those houses are  
 01:35 14 professionals offices are in that portion of the  
 01:35 15 City -- the Summit Avenue portion of their  
 01:35 16 properties. And that's the distinction that I  
 01:35 17 continue to try to make that that's not the case  
 01:35 18 here. The building is entirely placed in the high  
 01:35 19 rise zone portion of the property.  
 01:35 20 MR. RODRIGUEZ: Well, I do understand  
 01:35 21 that point.  
 01:35 22 Eliminating the garage access from  
 01:36 23 Summit Avenue would also further reduce the front  
 01:36 24 yard feeling to that Summit Avenue frontage of that  
 01:36 25 building; would it not?

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01:36 1 THE WITNESS: I don't know that I can  
 01:36 2 agree with you too much on this point. I mean we  
 01:36 3 keep going back and forth. I think I've said what  
 01:36 4 I've said.  
 01:36 5 MR. RODRIGUEZ: And by the way, and  
 01:36 6 also relative to the LTACH portion the building, in  
 01:36 7 terms of the staffing and the parking issue, did you  
 01:36 8 rely on anything else other than the Applicant's data  
 01:36 9 for how much staffing would be required for the LTACH  
 01:36 10 portion of the building?  
 01:36 11 THE WITNESS: No, I relied on the  
 01:36 12 Applicant's information in that regard.  
 01:36 13 MR. RODRIGUEZ: And you did take us  
 01:36 14 through at the last meeting, sir, the history of  
 01:36 15 Prospect Avenue and Summit Avenue. They were some  
 01:36 16 great pictures.  
 01:36 17 You agree with me that the parking  
 01:36 18 requirement for hospitals, both by regulation or  
 01:37 19 ordinance, as well as by just actual physical need by  
 01:37 20 such facilities, over the years has dramatically  
 01:37 21 increased per bed or how ever way you would calculate  
 01:37 22 it.  
 01:37 23 THE WITNESS: The parking standard you  
 01:37 24 have for a conventional hospital is not unreasonable.  
 01:37 25 We have done a study of 85 and 93 hospitals in the

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01:37 1 State of New Jersey.  
 01:37 2 MR. RODRIGUEZ: Yes.  
 01:37 3 THE WITNESS: And came to the  
 01:37 4 conclusion that 3.8, 3.7 spaces per bed is not an  
 01:37 5 unreasonable standard, but the distinction, and the  
 01:37 6 reason why I said you do not apply that standard here  
 01:37 7 is for the reasons I mentioned in my direct  
 01:37 8 testimony. There were 16 -- I think actually it was  
 01:37 9 18 different elements of a hospital that don't exist  
 01:37 10 in this LTACH.  
 01:37 11 MR. RODRIGUEZ: Well, I do understand  
 01:37 12 that.  
 01:37 13 THE WITNESS: That's why while three --  
 01:38 14 you're use 3.9, not 3.7, but 3.9 is not necessarily  
 01:38 15 unreasonable for a hospital standard.  
 01:38 16 It clearly is not reasonable given the  
 01:38 17 characteristics of this particular facility.  
 01:38 18 MR. RODRIGUEZ: But, you agree with me  
 01:38 19 whether you use 3.7 or 3.9, that number has inflated  
 01:38 20 over the years from what it may have been 20 or  
 01:38 21 30 years ago, as what would be a reasonable number  
 01:38 22 for a hospital?  
 01:38 23 THE WITNESS: I would say certainly  
 01:38 24 from 30 or so years ago.  
 01:38 25 Clearly, I would say in the past 10 to

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01:38 1 15 it's sort of stabilized.  
 01:38 2 MR. RODRIGUEZ: Thank you.  
 01:38 3 THE WITNESS: You're welcome.  
 01:38 4 CHAIRMAN GUERRA: Okay. Anybody else?  
 01:38 5 (NO RESPONSE.)  
 01:38 6 Counsel?  
 01:38 7 REDIRECT EXAMINATION  
 01:38 8 BY MR. BASRALIAN:  
 01:38 9 Q. Mr. Rodriguez raised some points, but  
 01:38 10 according to the plan, you would agree that there is  
 01:38 11 no entrance on the Summit Avenue side. It's a drop-  
 01:38 12 off point. There is not physical doorway to enter  
 01:39 13 the building from that side, correct?  
 01:39 14 A. Correct.  
 01:39 15 Q. And the only way they could do it is to  
 01:39 16 go to the side entrance on the south side of the  
 01:39 17 building?  
 01:39 18 A. On the south side, yes.  
 01:39 19 Q. So, there is no connection to the  
 01:39 20 entry, just because there happens to be a drop-off  
 01:39 21 drive that has been testified to as being used  
 01:39 22 occasionally?  
 01:39 23 A.  
 01:39 24 That is correct.  
 01:39 25 MR. BASRALIAN: I don't have any

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01:39 1 further question.

01:39 2 CHAIRMAN GUERRA: Thank you.

01:39 3 MR. MALAGIERE: Mr. Chairman?

01:39 4 CHAIRMAN GUERRA: Anyone else?

01:39 5 MR. MALAGIERE: Anyone else?

01:39 6 (NO RESPONSE.)

01:39 7 MR. MALAGIERE: This witness has

01:39 8 concluded. Of course all witnesses are reserved for

01:39 9 Board questions.

01:39 10 As we spoke about earlier, Mr.

01:39 11 Chairman, with your permission, this application will

01:39 12 be carried without further notice to the

01:39 13 December 15th, 2010, regular meeting the Hackensack

01:39 14 Zoning Board of Adjustment. At that time, hopefully

01:39 15 before that time, we will have, with all Counsel

01:39 16 agreed to, and with Mr. Borrelli's input, a date in

01:39 17 January for a special meeting at which time at that

01:39 18 meeting we will announce it. And these proceeding

01:40 19 will continue at that time.

01:40 20 Mr. Basralian will hopefully inquire

01:40 21 and understand the availability of Mr. Keller. We'll

01:40 22 be able to continue his cross examination.

01:40 23 And Mr. Diktas, hopefully, will be able

01:40 24 to afford his witnesses, his experts, for that

01:40 25 particular meeting in January, and see how much we

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01:40 1 can get done at that time.

01:40 2 MR. BASRALIAN: Thank you.

01:40 3 I'd like a couple of things, though,

01:40 4 that I'd like to make sure that Mr. Diktas will have

01:40 5 his -- and anyone else who's got witnesses, available

01:40 6 for that meeting, so that we don't show up and find

01:40 7 out that they couldn't make it because they couldn't

01:40 8 schedule it in. So, let's try to get a date and Mr.

01:40 9 Borrelli said he would contact all three attorneys,

01:40 10 myself and Mr. Diktas.

01:40 11 CHAIRMAN GUERRA: Yes, agreed.

01:40 12 MR. BASRALIAN: Get the date, get

01:40 13 exactly who you're going to have so we know whether

01:40 14 we can fit it into that time period.

01:40 15 Also I would expect the letter from Mr.

01:40 16 Moskowitz as to why he wants to recall somebody. As

01:40 17 I recall, Mr. Keller, the only testimony was the

01:40 18 cross examination by Mr. Moskowitz who had not

01:41 19 concluded his testimony.

01:41 20 MR. MALAGIERE: Well, I think he's

01:41 21 going be open to cross examination on the new

01:41 22 evidence he provides.

01:41 23 MR. BASRALIAN: Yes, as to that, of

01:41 24 course. But that's the reason I am bringing him back

01:41 25 is because --

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01:41 1 MR. MALAGIERE: Not just for Mr.

01:41 2 Moskowitz, but anyone can cross him on that.

01:41 3 MR. BASRALIAN: I understand, but only

01:41 4 on the testimony that's elicited that evening.

01:41 5 Otherwise if Mr. Moskowitz wasn't going to cross

01:41 6 examine I wouldn't be bringing him back.

01:41 7 MR. MALAGIERE: Yes, I think that

01:41 8 ultimately the reason that he's going to be provided

01:41 9 back to the Board is because there was new testimony

01:41 10 as to the basis for his opinion as to the parking

01:41 11 requirement.

01:41 12 I think that's game for cross

01:41 13 examination. Other than that topic and things that

01:41 14 are incidental to that topic, he is not available for

01:41 15 cross examination.

01:41 16 So, it's not just another shot to

01:41 17 recross him on all of his direct testimony.

01:41 18 MR. BASRALIAN: I thought that we had

01:41 19 concluded his testimony on the parking requirements.

01:41 20 There was nothing else to be added.

01:41 21 MR. MALAGIERE: Well, you provided to

01:41 22 me and to Mr. Moskowitz and to anyone else who wanted

01:41 23 it, you provided this to us (indicating).

01:41 24 MR. BASRALIAN: Oh, you're talking

01:41 25 about the employees?

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01:41 1 MR. MALAGIERE: Well, this is the basis

01:41 2 for his opinion.

01:41 3 MR. BASRALIAN: Yes, that is the

01:42 4 employee use, yes, okay.

01:42 5 MR. MALAGIERE: Well, it's not just

01:42 6 limited to the employee use. It's limited to how the

01:42 7 he came up with the parking requirements because the

01:42 8 employee poll or whatever you want to call it, feeds

01:42 9 into his conclusion.

01:42 10 MR. BASRALIAN: I was also the same

01:42 11 conclusion that Mr. Miskovich came to in terms of his

01:42 12 trip generation.

01:42 13 MR. MALAGIERE: Well, that's your take

01:42 14 on his testimony which, I guess, the record will

01:42 15 speak for itself.

01:42 16 MR. BASRALIAN: It certainly does.

01:42 17 MR. MALAGIERE: With that, and your

01:42 18 permission, Mr. Chairman, this application is carried

01:42 19 without further notice December 15, 2010, 7 p.m.

01:42 20 MR BASRALIAN: Thank you.

01:42 21 Have a good evening all.

01:42 22 MR. MALAGIERE: With your permission,

01:42 23 Mr. Chairman, a vote to adjourn?

01:42 24 MR. DIANA: Aye.

01:42 25 MR. MALAGIERE: All in favor.

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(Whereupon, all present Board Members  
respond in the affirmative and the motion is  
passed by a unanimous vote.)

(Whereupon, this matter will be  
continuing at a future date. Time noted 9  
p.m.)

**LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C.**

**201-641-1812**

C E R T I F I C A T E

I, LAURA A. CARUCCI, C.C.R., R.P.R., a Notary  
Public of the State of New Jersey, Notary ID. #15855,  
Certified Court Reporter of the State of New Jersey,  
and a Registered Professional Reporter, hereby  
certify that the foregoing is a verbatim record of  
the testimony provided under oath before any court,  
referee, board, commission or other body created by  
statute of the State of New Jersey.

I am not related to the parties  
involved in this action; I have no financial  
interest, nor am I related to an agent of or employed  
by anyone with a financial interest in the outcome of  
this action.

This transcript complies with  
regulation 13:43-5.9 of the New Jersey Administrative  
Code.

\_\_\_\_\_  
LAURA A. CARUCCI, C.C.R., R.P.R.  
License #XI02050, and Notary Public  
of New Jersey #15855, Notary  
Expiration Date March 1, 2014

Dated: \_\_\_\_\_

**LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C.**

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