

1 ZONING BOARD OF ADJUSTMENT
2 CITY OF HACKENSACK
3 COUNTY OF BERGEN

4 IN RE: BERGEN PASSAIC LTACH
5 APPLICATION V# 23-08 SP# 21-08
6 329 PROSPECT AVENUE, HACKENSACK,
7 NEW JERSEY, BLOCK 344,
8 LOTS 3, 4, 5, 14,
9 ZONE R-75 AND R-3

10 -----

11 Thursday, June 25, 2009
12 Council Chambers
13 65 Central Avenue
14 Hackensack, New Jersey
15 Commencing 7:00 p.m.

16 B E F O R E:

17 CAPTAIN JOHN CARROLL
18 FRANK RODRIGUEZ
19 WILLIAM DiMINNO, VICE CHAIRMAN
20 MICHAEL GUERRA, CHAIRMAN
21 GEORGE DIANA
22 HUMBERTO GOEZ
23 DAN GILMORE

24 RICHARD MALAGIERE, ESQ., BOARD ATTORNEY
25 MARCELLA SBARBARO, BOARD SECRETARY
GREGORY POLYNIAK, BOARD PLANNER
JOSEPH MELLONE, CONSTRUCTION OFFICIAL
FRANK A. MISKOVICH, PE, CME, BOARD ENGINEER

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A-16 Id. Vehicles Turning Path Plan, Bergen Passaic LTACH, Lots 3, 4, 5 & 14, Block 344, City of Hackensack prepared By Omiland Engineering Associates, Inc. Dated 5/6/09

A-17 Id. Stormwater Management Report prepared By Omiland Engineering Associates, Inc. Dated 5/6/09

A-18 Id. Minor Subdivision Plat prepared by Gluckler & Den Bleyker dated 10/23/08

A-19 Id. Existing Conditions Aerial Map Prepared by Omiland Engineering Associates, Inc., dated 5/6/09

A-20 Id. Site Plan Rendering prepared by Omiland Engineering Associates, Inc. Dated 5/6/09

1 CHAIRMAN GUERRA: Okay. The application
2 that we're all here for, application V#23-08, SP#21-08
3 address 320 Summit Avenue, Hackensack, New Jersey,
4 Block 344, Lots 3, 4, 5, 14, Zone R75 and R3, Bergen
5 Passaic Long Term Acute Care Hospital, LLC. Applicant
6 requests to demolish the existing one family structure
7 and construct a 24 story medical office building.

8 Do I need to read in all the --

9 MR. MALAGIERE: I think that's --

10 CHAIRMAN GUERRA: It's part of the record.

11 MR. MALAGIERE: It's in the record. It
12 will show up in the transcripts.

13 Thank you, Mr. Chairman.

14 MR. MALAGIERE: Mr. Chairman, if I may, of
15 course, for the record, we'll recognize the
16 applicant's counsel and then I'd like to, with the
17 Chair's permission, recognize any objector counsel so
18 they could put their appearances on the record.

19 CHAIRMAN GUERRA: Please.

20 MR. MALAGIERE: Mr. Basralian.

21 MR. BASRALIAN: Joseph Basralian, Attorney
22 for the applicant.

23 I think there is a correction. It's not a 24
24 story medical --

25 THE AUDIENCE: I can't hear.

1 MR. BASRALIAN: It's not a 24 story office
2 medical building or medical building. It's a 24 story
3 long term acute care hospital. You read it as a
4 medical office.

5 CHAIRMAN GUERRA: I read what it says.

6 MR. MALAGIERE: That's okay. The record
7 is clear on that issue.

8 Mr. Basralian, with your permission, I'll
9 introduce or ask any objector counsel to come forward
10 and make an appearance.

11 Anyone here on behalf of anybody?

12 MR. MOREJON: Good evening. My name is
13 Julio Morejon from the law firm of Diktas, Shandler,
14 Gillman & Morejon representing objector Anastasia
15 Burlyuk. I hope, Mrs. Burlyuk, I pronounce your name
16 correctly. I apologize on behalf of the firm.

17 As I specified, I represent an objector. I
18 don't know what --

19 MR. MALAGIERE: Just for the record, make
20 your appearance, Counsel.

21 Thank you. You're welcome.

22 MR. MOREJON: I gave my formal name and
23 address to the court reporter.

24 MR. MALAGIERE: Thank you, sir.

25 Anyone else?

1 MR. MOSKOWITZ: Theodore Moskowitz, Esq..

2 I visited with you last week. I just wanted to
3 take a moment, if I might, to ask the Chair and
4 Counsel a question with respect to two points of
5 order.

6 At the May 14th hearing on these matters,
7 Counsel and Mr. Pineles were directed to produce
8 certain documents. Production was objected to. And,
9 I'm speaking specifically the Boswell engagement
10 letter for the traffic and parking study.

11 And, to my knowledge, I have made some inquiry
12 that those documents have not yet been produced. And,
13 I respectfully ask the Chairman, Counsel, to direct it
14 be produced.

15 My second point of order request is that I
16 respectfully request of the Chair and its counsel that
17 Mr. Pineles, principal of Pineles's examination remain
18 open, remain under oath until all experts finish
19 testifying for purposes of answering supplemental
20 questions and questions unanswered by the experts.

21 As the Board will certainly recall, in many
22 instances, Mr. Pineles told us a number of questions
23 would be answered, repeated his assertions that the
24 experts "would answer".

25 To the extent the experts don't answer, I would

1 like Mr. Pineles's examination held open and his oath
2 continued until the conclusion of these proceedings.

3 I thank the Chair and Counsel.

4 MR. MALAGIERE: Thank you.

5 Mr. Chairman, as you recall from last time and
6 as the transcripts reflect, there were, I believe,
7 five people who the chair recognized to continue
8 cross-examination of the first witness, Mr. Pineles.
9 And, I'd ask if any of those --

10 Mr. Pineles is here?

11 MR. BASRALIAN: Correct.

12 MR. MALAGIERE: If any of those people are
13 here.

14 The first one is Pierre please forgive me if I
15 say your name improperly, Gaillard.

16 MR. GAILLARD: Yes.

17 MR. MALAGIERE: Okay. Sir. We're going
18 to have you up here again, sir, if you wouldn't mind,
19 please. And, we'll continue, I believe -- as I
20 recall, you were already asking questions when we
21 adjourned.

22 Mr. Pineles, welcome. Good evening. We're just
23 going to put you on the record and swear you in again,
24 if you don't mind.

25 Identify yourself for the record please.

1 MR. PINELES: Richard Pineles, P I N E L E
2 S.

3 MR. MALAGIERE: Give us your position,
4 sir.

5 MR. PINELES: I'm a principal in charge of
6 the Bergen Passaic LTACH.

7 MR. MALAGIERE: Do you swear the testimony
8 you're about to give before this Board to be the
9 truth, the whole truth, nothing but the truth so help
10 you God.

11 MR. PINELES: I do.

12 MR. MALAGIERE: Thank you very much.

13 Sir, I'm going to ask you to step forward,
14 identify yourself for the record.

15 Sir, we're going to swear you in as well.

16 If you would just give us your name, spell your
17 last name and give us your home address.

18 MR. MOREJON: Pierre Gaillard, G A I L L A
19 R D. I reside at 260 Standish Avenue, Hackensack.

20 MR. MALAGIERE: Could I ask you to just
21 pick the Bible up. If would you put your left hand on
22 the Bible, raise your right hand.

23 Do you swear the testimony you're about to give
24 before this Board to be the truth, the whole truth,
25 nothing but the truth, so help you God?

R. Pineles - by P. Gaillard

1 MR. GAILLARD: Yes, I do.

2 MR. MALAGIERE: Sir, please continue your
3 examination of this witness.

4 EXAMINATION BY MR. GAILLARD:

5 Q Basically I would like to know why --

6 MALE SPEAKER: Excuse me, sir. Louder
7 please. We can't hear you.

8 Q Basically, basically I would like to know
9 why Hackensack was picked when Passaic County has
10 facilities and, at the present moment, Hackensack.

11 Bergen County has 70 towns. Passaic has 16
12 towns. And, you picked Hackensack with an over
13 abundance of facilities based on the State and County
14 buildings in this town.

15 Why did you pick Hackensack?

16 MR. MALAGIERE: I'm going to read what I
17 believe to be his response to that. And, if there's
18 something more to it, you can, of course, ask it.

19 But, I'm on Page 42 of your questions from last
20 time.

21 "QUESTION: As the Counsel stated, the
22 name of the property is Bergen -- I have to find it,
23 Bergen Passaic Long Term Acute Care Hospital. Since
24 you stated that you only want to come to Hackensack,
25 have you ever looked in Passaic or other towns."

R. Pineles - by P. Gaillard

1 "ANSWER: As I, I think I addressed that
2 earlier, sir, that we looked at other sites and we
3 came up upon this site and I believe this is ideally
4 suited for this facility."

5 "QUESTION: What made you think this could
6 be the only property and not be in Passaic?"

7 "ANSWER: I didn't say it was the only
8 potential site. I said this is ideal, in our
9 estimation, an ideal location for this facility."

10 Okay. So, I believe he's answered that
11 question.

12 MR. GAILLARD: Of course.

13 MR. MALAGIERE: But, of course, you can
14 follow-up.

15 Q Well, the reason why, like I said before,
16 the State and County elects Hackensack. We're
17 inundated with this and at the present moment, we are
18 like an in and out town, from 9:00 to 5:00. And, that
19 would be more added burden to Hackensack, Hackensack's
20 power supply, sewer supply, sewage.

21 And, are they going to pay for the additional
22 work that has to be done to be straining our system
23 presently, like I said, the sewer, electrical?

24 MR. MALAGIERE: Is that the question?

25 MR. GAILLARD: Yes.

R. Pineles - by P. Gaillard

1 MR. MALAGIERE: Please respond to that
2 question.

3 A I think the short answer -- I didn't catch
4 your last name.

5 Q Gaillard.

6 A Is that we will be a tax paying entity in
7 town. We would pay our share of whatever is assessed
8 us in real estate taxes. And, I assume that those tax
9 payments will be used to defray costs of general
10 operating costs of the City of Hackensack.

11 Q Okay. Also, the type of vehicle, will the
12 ambulance come there, are they going to have -- are
13 they going to be forced to be parking off the street
14 or are they going to be on the street parking while
15 they're waiting for the patient to come down?

16 A Actually, they're going to park inside the
17 garage, on the top level of the garage. We have a
18 number of spaces dedicated for the discharge and, I
19 guess, entry of patients inside the garage. So, they
20 will not be on the street or, or off, off premises.

21 Q You're just saying you're discharging or
22 picking up. But, where would the ambulance be when
23 they're waiting for them to return while they're
24 having their care?

25 A Yes. They'll be, when they're not moving

R. Pineles - by P. Gaillard

1 and in use, they will be located inside the garage,
2 underground.

3 Q Okay. Also, what type of fuel are you
4 going to use?

5 Are they going to be using natural gas, bio fuel
6 or gasoline?

7 MR. MALAGIERE: I think -- again, I'm
8 sorry to interrupt you in this area of inquiry and I
9 apologize for this but, we want to make sure we give
10 everyone a chance to ask questions. And, we want to
11 make sure we don't tread over the same ground
12 unnecessarily.

13 "QUESTION: Yes, you stated that your
14 vehicles will be a GMC."

15 "ANSWER: Not General Motors."

16 "QUESTION: A CNG."

17 "ANSWER: I said we're exploring the
18 possibility of utilizing transport vehicles powered by
19 compressed natural gas."

20 "QUESTION: Where are you going to put the
21 tanks so they can refuel them?"

22 "ANSWER: We haven't gotten anywhere to
23 look at that. It can be on-site or off-site."

24 "QUESTION: If it's on-site, I have 20
25 years of experience of this type of vehicle. And,

R. Pineles - by P. Gaillard

1 it's no good. My, my ex-company, ConEd, I'm retired
2 47 years of service, I had quite enough of experience
3 with compressed natural gas. These vehicles are no
4 good."

5 "ANSWER: Thank you."

6 "QUESTION: When you have excess ambulance
7 waiting for their patients to come down, where are
8 they going to park?"

9 "QUESTION: Most, most of the traffic, not
10 most, all of the traffic ambulances, coming and going,
11 letting patients off, will park or wait at the top
12 level of the garage underground."

13 So, do you want to follow-up on that colloquy?

14 MR. GAILLARD: No. I have other questions
15 to ask related to that.

16 MR. MALAGIERE: Okay.

17 Q The gasoline, I mean the, the structure of
18 the building -- I just don't like natural gas because,
19 like I said, I was involved in my years of service and
20 I had, like you said, 20 years of experience with
21 natural gas vehicles and now my company is using bio
22 fuel. So, I haven't talked to the guys on that.

23 But, my, my -- we could never have a tank of
24 gas. We fill up on slow fill at night and it never
25 goes to maximum. It always goes to maximum of

R. Pineles - by P. Gaillard

1 three-quarters. So, you can't run that vehicle all
2 the time, especially in the wintertime, because you're
3 going to run out. Because, it doesn't -- you don't
4 get that much out of it, out of the vehicle.

5 That's why I'm against natural gas vehicles,
6 mainly in the wintertime, because I went through that,
7 through that period.

8 The 24 stories, you're directly in the path of
9 Pattern 24 at Teterboro Airport. At the present
10 moment, we do not need another World Trade Center
11 catastrophe. That's why I'm also against it, because
12 they'll be flying between the hospital and the
13 structure to which you are going to put up.

14 And, now, lately, since Teterboro is an
15 international airport, we're having foreign pilots
16 come in and they're not going to know that structure,
17 they're going to be used to the old way.

18 And, also, when you put up your structure of 24
19 stories, how high are you going to put the tower on
20 the top of that so the plans don't know it's here?
21 Because, I know you have to put some lighting on the
22 top for that.

23 MR. MALAGIERE: That question would seem
24 to be addressed to a professional, probably the
25 architect.

R. Pineles - by P. Gaillard

1 And, any approval, if approval were to be
2 granted, would be subject to all down stream approvals
3 or approvals of the County, State FAA, Federal.

4 So, this Board wouldn't, wouldn't consider that.
5 They would just make it a condition of approval if it
6 were to be granted.

7 MR. GAILLARD: I see. So the fact that
8 the height, when they say 24 stories -- so, it's not
9 24 stories, it's 24 stories plus because of that
10 tower.

11 I would like to be able to come back on to the
12 mike when their experts come up and show what their
13 plans are.

14 MR. MALAGIERE: Of course you will, as
15 everyone else, will have that opportunity.

16 Thank you, sir.

17 MR. GAILLARD: Thank you very much.

18 MR. MALAGIERE: I appreciate that.

19 Thank you.

20 The next person, the next person who put their
21 name on from last time that wished to further question
22 Mr. Pineles was Robert Gartnae, G A R T N A E.

23 Am I saying that right, Gartnae?

24 FEMALE SPEAKER: Mr. Gartnae is not
25 present.

R. Pineles - by A. Cundanmal

1 MR. MALAGIERE: Okay. There is another
2 woman, Anita Cundanmal, C U N D A N M A L.

3 MS. CUNDANMAL: Yes.

4 MR. MALAGIERE: I apologize for spelling
5 out your name but I don't want to mispronounce it.

6 I would like to have you put your appearance on
7 the record, give us your name, spell your last name,
8 and give us your home address.

9 MS. CUNDANMAL: Nita Cundanmal, C U N D A
10 N M A L, 277 Prospect Avenue, Hackensack New Jersey,
11 Apartment 5B.

12 MR. MALAGIERE: Can I ask you to put your
13 left hand on the Bible and raise your right hand.

14 MS. CUNDANMAL: I would like to affirm.

15 MR. MALAGIERE: Of course.

16 Raise your right hand.

17 Do you affirm the testimony you're about to give
18 before this Board to be the truth, the whole truth and
19 nothing but the truth, so help you God.

20 MS. CUNDANMAL: Yes.

21 MR. MALAGIERE: Thank you.

22 EXAMINATION BY MS. CUNDANMAL:

23 Q Good evening, Mr. Pineles.

24 MR. MALAGIERE: You have to speak into the
25 microphone and just, if you could just -- I know

R. Pineles - by A. Cundanmal

1 you're not used to, speak slowly, if you can.

2 Q Just a minute ago your testimony was
3 reread and you indicated that this was an ideal site.

4 Can you tell me why it's so ideal?

5 A I, I think, at the first session of our
6 application, I testified extensively. So, I'll try
7 here, tonight, to just summarize why I think this is
8 an ideal site.

9 Number 1, the demographics of the area, Bergen
10 County in particular, are compelling as to why there
11 are, there is, today, and why there will be, in the
12 years to come, a great need for medical facilities
13 such as the one we propose.

14 Bergen County is the most populated -- the mike
15 goes in and out -- Bergen County is the most populated
16 County in the State of New Jersey. Today it has
17 roughly 905,000 people.

18 Within three miles of the proposed site there
19 are, today, over 38,000 people who are of age 65 years
20 and older as is represented in the chamber tonight.

21 CHAIRMAN GUERRA: Please. Go ahead, sir.

22 A Our long term, our proposed long term
23 acute care facility, while it serves people of all
24 ages, it is geared and the practice is in the health
25 type business more oriented to the elderly and

R. Pineles - by A. Cundanmal

1 geriatric patient of which I said there is plenty.

2 Secondly, Hackensack has a wealth of potential
3 employees, medical professionals, medical technicians
4 and the like, more so than many other areas of the
5 State of New Jersey. Obviously, many are attracted to
6 and surround Hackensack University Medical Center.
7 So, there's a plentiful supply of people who could
8 staff this facility and render the health care
9 services.

10 And, I think I stated earlier, that we believe
11 that we will provide over 500 permanent health care
12 positions at this facility from three different
13 programs.

14 And, and, and thirdly, as I think the site is
15 very amenable and conducive to the structure and the
16 parking that is required to staff these three
17 programs.

18 Q Are you referring to the prevailing
19 character of the immediate area?

20 A Yes, I am.

21 Q Okay. So you realize that's going to
22 change with the construction for two years and your
23 building coming up?

24 A Well, construction, the construction is
25 the construction. I don't think the construction

R. Pineles - by A. Cundanmal

1 changes the character of the neighborhood. I think --

2 Q Go ahead.

3 A Unfortunately, for any type of changes,
4 some construction is required. And, it happens all
5 over. Hackensack is not unique that way.

6 Q Okay. So let's get past the construction.

7 Once the building comes up, would you disagree
8 with me that it's going to change the present charm of
9 Summit Avenue and Prospect Avenue?

10 Would you agree there's charm right now that
11 you're going to change?

12 A I would agree Hackensack has a certain
13 character. I don't believe that our facility, as is
14 proposed, will change the character of this
15 neighborhood. There are, in the R3 zone, where our
16 facility is proposed, there are, I believe, more than
17 20 buildings that are characterized as high-rise.
18 And, there are probably about 10 buildings that are
19 far greater in scope and scale than our proposed
20 facility.

21 Q All right. We'll get to that when we see
22 your architect's plans and then maybe we'll have a
23 better idea of what the building really looks like and
24 then we can figure out if it's going to change the
25 charm of the area.

R. Pineles - by A. Cundanmal

1 Now, you just -- I asked you why the site was
2 ideal and you indicated because the demographics and
3 you testified that Hackensack is conducive to this
4 project.

5 But, why Summit? Why 3, 16, 20, and 24 Summit
6 Avenue and 390 --

7 A 329.

8 Q -- 329 Prospect? Why this, these blocks
9 and lots?

10 Why not anywhere else in Hackensack?

11 This was kind of a little bit the last time but
12 now I ask you to think, to give me a serious response
13 to why you wouldn't think of putting it somewhere
14 else.

15 A I'm going to -- I can't pronounce your
16 name but I'll call you Mrs. K but --

17 Q No.

18 A -- all my testimony here --

19 Q My name is easy, Cundanmal.

20 A Okay.

21 Q Three syllables. Yes.

22 A Anyway, this property became available
23 because various people, who owned it, had it up for
24 sale and we purchased it. We had to find, looked to
25 find other sites and were unsuccessful in finding

R. Pineles - by A. Cundanmal

1 another site where we thought we could put this
2 facility and look at this facility --

3 Q How many other sites did you look at?

4 A We looked at what was available in town.
5 I don't have a specific number.

6 Q So, what would you do if the zoning Board
7 denied you?

8 A Well, what would I do in what regard?

9 Q In regard to putting up this facility, in
10 Hackensack.

11 A I think I'd have to visit that when and if
12 that, that circumstance occurs.

13 Q So you have no alternate plans right now?

14 A No, we don't.

15 Q Either to put the property elsewhere or
16 what you might do with the property if you're left
17 with it in your hands?

18 A No.

19 Q Okay. I'm going to ask that you think
20 about this and then, if at some point again, we can
21 ask you that question, if you have any thoughts, I
22 would appreciate your responses.

23 A Okay.

24 Q All right. Now, are you personally aware
25 of the present traffic situation along Prospect Avenue

R. Pineles - by A. Cundanmal

1 and peak hours, Prospect, Summit, peak hours?

2 A I can tell you I have driven on Prospect.
3 I have driven it many times, probably most weekdays of
4 the year.

5 Q Okay.

6 A So, to that extent I'm aware of it. But,
7 but, by no means do I know the traffic statistics. I
8 would defer to our traffic engineer to give you and
9 the Board a detailed analysis of the traffic in town.

10 Q Okay. So, would you agree that a vast
11 amount of traffic currently for this area?

12 A You know, I think the term vast is a
13 relative term.

14 Q Okay. I'll ask you another question.

15 A It's, it's probably extremely high in, you
16 know, in rural Wyoming but, for this area, Hackensack,
17 urban area, I don't think it's vast. I wouldn't
18 characterize it.

19 Q Assuming you build this facility, assuming
20 you are committed to build this facility, do you agree
21 that, during its construction period and if you're
22 going to say that's a temporary period, that's fine,
23 and once the facility is operational, more to the
24 point, would you agree that there's going to be
25 considerably more traffic along Prospect, Summit,

R. Pineles - by A. Cundanmal

1 Passaic and Central?

2 Would you agree?

3 A I would agree that there will be some more
4 traffic, considerably more, no.

5 Q So, just some more?

6 A Yes.

7 Q Okay. And, then, just with the some more
8 traffic, would you agree that it's going to be some
9 more congestion than there is right now?

10 A There may be.

11 Q Oh. Did you instruct your traffic expert
12 to consider and address how this some more increased
13 traffic or/and congestion, sorry, traffic will impact
14 ambulances on emergency calls carrying possibly dying
15 patients or patients in need of critical care that,
16 that go up and down Prospect Avenue?

17 A I did not give such specific direction to
18 our traffic engineer as they're professionals and they
19 know what, you know, what criteria to analyze and, and
20 assess.

21 Q Do you know if this is addressed by your
22 traffic expert?

23 A I don't know specifically the answer to
24 that, no.

25 Q Have you seen the traffic report?

R. Pineles - by A. Cundanmal

1 A Yes, I have.

2 Q And, did you see anything about it in
3 there?

4 A I don't recall reading it as I stand here,
5 no.

6 Q Could it be because there isn't any?

7 A I think those questions would best be
8 posed to the traffic engineer.

9 Q Well, my question started out asking
10 whether you gave any instructions. Arguably, if
11 there's nothing in there, it could be because you
12 didn't give such instructions despite them being
13 experts.

14 Certainly you indicated something about what you
15 were concerned about or maybe you didn't do that
16 either?

17 A Ms. Cundanmal, I don't want to be
18 argumentative but what we do want to say, we are in
19 the health care business, we provide health care and
20 we are very concerned about people's well-being,
21 welfare. And, if I, if I, if I felt, in any which
22 way, that the construction, either the construction of
23 this facility or the location of this facility was
24 going to have a detrimental effect on the health or
25 welfare on the neighbors or residents of Hackensack, I

R. Pineles - by A. Cundanmal

1 wouldn't be standing here today.

2 Q So, are you then telling me that, that
3 that increased traffic and the potential for the
4 emergency vehicles going up and down Prospect Avenue
5 and again at an increased pace, that it could not
6 possibly harm the public welfare?

7 A At what period of time are you speaking?

8 Q After your facility is up.

9 A I don't believe it does. I believe
10 there's the, the EMS forces and troops that go up
11 around this area are very professionally trained and
12 they're used to doing that. There are areas, whether
13 it be in New Jersey or elsewhere in the country, where
14 there's more congestion and where ambulances negotiate
15 the roads safely.

16 Q And, are you comparing roadways similar to
17 Prospect Avenue, that already have such traffic
18 backup, that you may not have actually even seen
19 because you haven't been there often enough?

20 A I'm just making a general statement that
21 there's many areas that are as congested as this area
22 may be or may not be and there's no problem in terms
23 of the safety there. I think, I think I stated this
24 at the last month's hearing, that there's no one in
25 this room that doesn't want the services of an

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1 ambulance and want them to be available for themselves
2 or their loved ones.

3 Q Now we just talked about the four cross
4 streets, the blocks.

5 We didn't talk about Essex and other streets.

6 Right?

7 And, Essex is another main thoroughfare, do you
8 agree?

9 A I didn't talk about any of those but maybe
10 you did.

11 But, what's your question?

12 Q I -- we did, actually. But, I'm not going
13 to argue with you.

14 But, you agreed with me, we discussed Prospect,
15 Summit, Central and Passaic.

16 Now, do you know if there's schools in the
17 neighborhood?

18 A I believe the closest school is the Nelly
19 Parker School off of Central Avenue.

20 Q Where is off Central Avenue?

21 A It's -- I'm trying to think of the cross
22 street. I think it's Anderson and --

23 MR. MALAGIERE: How did you get that idea?

24 A I know where it is. But, I just don't
25 happen to know all the street names.

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1 Q Are you aware -- I'll tell you where the
2 closest school to my knowledge is. Beech and First
3 Street. And, Beech is, is after Central the next stop
4 in the intersection with the stop signs.

5 A Okay.

6 Q I'm sorry. Yes.

7 Are you aware that school crossing guards stop
8 traffic driving northbound and southbound on Prospect
9 Avenue to let school children cross?

10 A I don't know the specific locations where
11 the crossing guards are but, I will hope that they
12 stop the traffic as it's going by, yes.

13 Q So you're not aware that that happens at
14 that intersection of --

15 A I don't know the specifics of --

16 Q -- Central.

17 Have you considered the impact of ambulances on
18 these children?

19 A I have not, personally, no.

20 Q Have you considered the impact of private
21 vehicles rushing, either trying to get to work or
22 trying to get patients to your facility, let's say,
23 for a dialysis appointment and your facility's
24 vehicles on these school children crossing at this
25 intersection?

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1 MR. MALAGIERE: Excuse me one second.

2 MR. BASRALIAN: Mr. Chairman, you know,
3 this was not part of the direct testimony of Mr.
4 Pineles. And, cross-examination is supposed to gear
5 itself only toward what he testified to.

6 We have said, on a number of occasions, that
7 there is a traffic consultant who will testify.

8 These questions are, really should be really
9 directed to a professional who will testify at a
10 subsequent hearing.

11 This is not the bailiwick of Mr. Pineles. And,
12 I ask that those questions be allayed until we have
13 our traffic consultant.

14 CHAIRMAN GUERRA: Mr. Malagiere.

15 MR. MALAGIERE: Mr. Chairman, the Rules of
16 Evidence are winked at in Zoning Board and Planning
17 Board and land use boards. So, as far as limiting the
18 scope of cross to the scope of direct, I don't
19 necessarily agree that that's something that the Chair
20 should consider.

21 However, there is a traffic expert. And, I do
22 believe that, Mr. Basralian, that you should try to
23 limit your questions with regard to specific traffic
24 concerns to that expert.

25 MS. CUNDANMAL: I'm moving on.

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1 MR. MALAGIERE: Okay.

2 Q You're aware that Hackensack is a commuter
3 town?

4 A Yeah.

5 Q Yes.

6 Did you find out how many commuters live in the
7 surrounding area of this proposed site?

8 A I don't know the specific number, no.

9 Q Are you aware that there are routes along
10 Prospect and Summit and Passaic and Central?

11 A Yes, I am.

12 Q Have you contacted New Jersey Transit to
13 find out if there's going to be any change to the bus
14 routes to these commuters working in New York?

15 A No.

16 Q Okay. Have you contacted New Jersey
17 Transit to find out if there will be any rerouting of
18 bus routes once your facility is operational?

19 A No, I have not.

20 Q Do you have your own funding in place for
21 this facility?

22 A No, not at this time.

23 Q Okay.

24 MR. MALAGIERE: I think what they're
25 asking is -- repeat what the question is.

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1 MS. CUNDANMAL: I asked if Mr. Pineles has
2 funding in place at this time, funding for the
3 facility.

4 MR. MALAGIERE: Funding.

5 MS. CUNDANMAL: Money.

6 Q So, as you stand here today, as best as
7 you can tell, purely in financial terms, what is the
8 likelihood that you will not have the finances to
9 complete this project once you start?

10 A Slim to none.

11 Q Why is that?

12 A Because I feel this is a very -- this
13 project has some very strong fundamental pluses going
14 for it and we should be able to retain financing for
15 it.

16 Q You're going to borrow the money? You
17 expect to be able to borrow it?

18 A Yes.

19 MR. MALAGIERE: We're going to have to ask
20 you, excuse me, to step outside if you're going to
21 answer any cell phones, please. Thank you very much.

22 Please proceed, ma'am.

23 MS. CUNDANMAL: Yes.

24 Q Okay. On a personal note, I have lived in
25 Hackensack for 10 years. And, I bought this, this

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1 apartment that I just, that I live in right now just
2 in September last, last year.

3 And, had I known that you were putting up this
4 facility, I would not have bought here.

5 And, I'd like to draw your attention to what
6 potentially could happen to the property values in
7 this area being there might be other people, just like
8 me, who now will not wish to buy property in
9 Hackensack.

10 Have you considered the impact of what it's
11 going to do to the surrounding property values?

12 A I haven't done a detailed analysis or
13 thought about it but, my general belief is that
14 property values will improve and increase.

15 Q What that --

16 MR. MALAGIERE: All right. Please,
17 listen, please.

18 The Chairman has been very generous with regard
19 to not imposing time frames. It's important that you
20 respect the fact that only the people at the podium
21 recognized by the Chair can speak.

22 Please be respectful. Thank you.

23 Q A final remark. While that may be true,
24 Mr. Pineles, for, for, generally, I would have to
25 disagree with you that once this type of facility

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1 comes up, the monstrosity, as some people would call
2 it, it would change the prevailing character of the
3 immediate neighborhood and it will lower the property
4 values. And, Hackensack will not be anything like it
5 is now.

6 And, for the reasons why I bought, when I could
7 have moved anywhere, and I constantly ask why
8 Hackensack and I said because I live here. I won't be
9 living here that much longer after that, I imagine.

10 Thank you.

11 MR. MALAGIERE: Thank you very much.

12 The next, the next individual who gave us his
13 name at the last meeting, I'm just going to spell your
14 name. I just have a last name, K R U S E V. It was a
15 gentleman.

16 I apologize if it was a woman. My recollection
17 was that it was a -- no? No one here by that name?

18 Okay. We're going to move on.

19 The next individual was Steve, last name is and,
20 again, I apologize, Puckridge, Puckridge. Is Mr.
21 Puckridge available?

22 Seeing no one, Mr. Chairman.

23 And, the last person was Neal last name
24 Balsanny, B A L S A N N Y. Not in the room?

25 Okay. Mr. Chairman, that concludes the people

1 who are going to cross-examine and comment on Mr.
2 Pineles's testimony, at this time.

3 CHAIRMAN GUERRA: Close to the public.

4 MR. MALAGIERE: We'll close to the public
5 on this witness.

6 And, we can ask Mr. Basralian if he would like
7 to address the comments with regard to the documents
8 which were requested at the last hearing.

9 MR. BASRALIAN: Yes. At the last hearing
10 I indicated that we would not provide the engagement
11 letter with, with Boswell Engineering. Boswell
12 Engineering is no longer involved in this project
13 whatsoever as I indicated at the last hearing as well.
14 And, the engagement letter is a privileged
15 communication between the parties in terms of the
16 dollar amounts that we paid for their engagement.

17 MR. MALAGIERE: With redaction of the
18 dollar amounts, would you produce the document?

19 MR. BASRALIAN: No.

20 MR. MALAGIERE: Okay. The gentleman is --
21 Mr. Moskowitz, do you want to put on the record the
22 basis for the request and the Chairman can rule on it
23 and Mr. Basralian can again take his position?

24 Mr. Moskowitz, I would ask you to address the
25 Chairman and explain why you believe the document to

1 be relevant and why you believe it's necessary to
2 include as part of the record of these proceedings.

3 Please identify yourself, for the record.

4 MR. MOSKOWITZ: Yes. My name is Theodore
5 Moskowitz.

6 MR. MALAGIERE: We're going to swear you
7 in because you're not representing anyone even though
8 you're an attorney. I mean no disrespect.

9 Put your left hand on the Bible, raise your
10 right hand.

11 Do you swear the testimony you're about to give
12 this Board to be the truth, the whole truth, nothing
13 but the truth, so help you God.

14 MR. MOSKOWITZ: Yes, I do.

15 MR. MALAGIERE: Thank you, Mr. Moskowitz.
16 Please proceed.

17 MR. MOSKOWITZ: First of all, I would
18 address Mr. Basralian's comments that the dollar
19 amount paid for the study is irrelevant and private in
20 any way. The fact of the matter is, is that one often
21 gets what one paid for. How much Boswell is being
22 paid goes to the credibility of Boswell and the
23 report.

24 Because, we are all entitled to know whether,
25 how much Boswell was for sale for. And, Boswell is

1 apparently not with us. I don't --

2 At this point, it hasn't been made clear whether
3 or not that report is being withdrawn, a new report is
4 being prepared or who the new parties were in town.

5 But, if, if the Board will recall, at our last
6 hearing, I asked Mr. Pineles about a number of very
7 major items having to do with traffic flow, density of
8 traffic, the traffic patterns, et cetera, all of which
9 have major impact upon the area surrounding the
10 proposed building.

11 Mr. Pineles told us that, no, he didn't know
12 about and was in a sense disregarding 300,000 square
13 feet of new retail space for busy tenants at what was
14 the Bergen Mall.

15 MR. BASRALIAN: Excuse me. I have to
16 object.

17 First of all, Mr. Moskowitz, as an attorney,
18 knows better. He is impugning the credibility of a
19 consultant saying that he could be bought. And, I
20 resent the implication that that is the case.

21 CHAIRMAN GUERRA: Yeah.

22 MR. BASRALIAN: He has now gone off on a
23 tangent with respect to the traffic report which he
24 already has because it's a public record. If he wants
25 to cross-examine our traffic witnesses when they come

1 up or traffic engineer, he's certainly welcome to do
2 so.

3 But, this line of statement is just wrong.

4 MR. MOSKOWITZ: Well, to put it more
5 succinctly, Mr. Pineles was asked about a number of
6 major elements effecting traffic. He was asked
7 whether or not his traffic consultant had considered
8 any of those things which, of course, he couldn't
9 because he did his report when he, when the conditions
10 were different.

11 He was also asked if he thought it was proper
12 that the report didn't consider those matters and it
13 was all right for the traffic consultant to disregard
14 those matters. And, his answer was, clear, one word,
15 yes.

16 We need to know, and I think the Board
17 especially needs to know, what the parameters of the
18 assignment was and if, if there is something about the
19 assignment that would prejudice the validity of the
20 report itself. Unless we know what Mr. Pineles and
21 LTACH asked the traffic consultant to do, we have no
22 idea knowing what the traffic consultant did.

23 We are not at the report now but, I, again, with
24 respect to my question, asked the Board to consider
25 the fact that the traffic report was turned in a

1 number of months after the original request for it, a
2 zoning change was put in. That the same firm
3 prepared, did the site plan work that supported the
4 application that came to this Board, where the
5 traffic, that, as did the traffic report.

6 So that when Mr. Tombalakian, I believe was his
7 name, prepared his traffic report and found, after
8 months and months of study, that what was needed for
9 the building, the parking for the building was going
10 to be needed based upon --

11 MR. BASRALIAN: Again, I object to this.

12 MR. MOSKOWITZ: Please, I didn't interrupt
13 you.

14 MR. BASRALIAN: No. I beg your pardon.
15 You are out of line. And, I have an objection I want
16 to put on the record.

17 This is a statement this has nothing to do with
18 the application. He's asking about things that are
19 outside of the scope of what you have asked.

20 He can ask any question he wishes that's
21 relevant to the traffic engineer.

22 This is a statement that's on-going. That's all
23 it is.

24 MR. MOSKOWITZ: I am saying, very simply,
25 that before we can --

1 MR. MALAGIERE: Mr. Moskowitz, I'm going
2 to have to interject.

3 MR. MOSKOWITZ: -- the report.

4 CHAIRMAN GUERRA: Hang on, Mr. Moskowitz.

5 MR. MALAGIERE: Mr. Moskowitz, you're
6 going to need to yield to me, sir.

7 Thank you. I appreciate that.

8 Mr. Moskowitz, I'm going to advise the Chairman
9 to deny your request. The traffic engineer, in my
10 estimation -- of course the Chairman is going to make
11 his ruling, is going to be available to be
12 cross-examined and examined. And, he can be asked the
13 parameters of his engagement.

14 And, I don't know how that -- and, at that point
15 in time, if you believe that you need the document to
16 somehow effectively cross-examine the traffic
17 engineer, at that point, then you can, you can
18 reassert your request that same be produced for
19 purposes of cross-examination.

20 Additionally, this gentleman, this gentleman,
21 from Birdsall Engineering has been engaged.

22 And, I apologize. I'm going to let you
23 introduce yourself.

24 Marcella, would you give him the microphone so
25 he could put it on the record.

1 MS. MISKOVICH: My name is Frank
2 Miskovich, Vice President of Transportation Services
3 for Birdsall Engineering.

4 MR. MALAGIERE: Mr. Miskovich was engaged,
5 by resolution of this Board, to analyze any traffic
6 studies produced by the applicant and to additionally
7 provide a traffic study of his own.

8 In light of that, I'm going to recommend that
9 the Chairman deny your request to compel the
10 production of the documents.

11 MR. MOSKOWITZ: Mr. Chairman, just one
12 other comment before you make your ruling.

13 I would ask, if you deny it, we would be able to
14 revisit it. But, basically all that I am suggesting
15 to the Board, on behalf of myself and a number of the
16 other objectors, is that, unless we know what the
17 traffic consultant was asked to do, we have no way to
18 evaluate his final product.

19 MR. MALAGIERE: Thank you, sir.

20 MR. MOSKOWITZ: Thank you.

21 CHAIRMAN GUERRA: Mr. Moskowitz, we have,
22 as the gentleman just stated, our traffic, we have an
23 independent traffic study which will safeguard or, or
24 check, I guess checks and balances the, the report
25 given by their traffic study. That's why we engaged

1 an independent traffic study from, from our
2 engineering firm.

3 So, I'm not, I'm not overly concerned about that
4 document being produced.

5 I was concerned. That's why, going back to the
6 first meeting, we said this is the route we wanted to
7 go just so there are, like I said, checks and balances
8 as far as the, any doubts anyone might have as to the
9 validity, if you will, of that traffic study by the
10 applicant.

11 So, I'm going to deny your request at this
12 point. I see no need for it given that we've already
13 taken the steps to safeguard that issue.

14 MR. MOSKOWITZ: Thank you.

15 CHAIRMAN GUERRA: Okay, Mr. Moskowitz.

16 MR. MALAGIERE: Okay, Mr. Moskowitz.

17 Mr. Basralian.

18 MR. BASRALIAN: Just give me a moment so
19 my next witness can get his easels up.

20 (Off the record.)

21 MR. MALAGIERE: Certainly.

22 Okay. Please. Please. We're going to proceed
23 with testimony, please. Thank you.

24 CHAIRMAN GUERRA: We're back on. Okay.

25 MR. MALAGIERE: Mr. Chairman, if I may.

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1 CHAIRMAN GUERRA: Go ahead.

2 MR. MALAGIERE: Sir, if you just please
3 identify yourself for the record. Tell us from what
4 company you are from and --

5 MR. BASRALIAN: So you want to swear him?

6 MR. MALAGIERE: Just put the information
7 on and we'll swear you in.

8 And, what capacity you will offer testimony.

9 MR. SZERBATY: Okay. My name is Michael
10 D. Szerbaty. Would you like me to spell that?

11 I'm with the -- I'm the principal in the firm of
12 MDSzerbaty & Associates. We're architects on the
13 project.

14 MR. MALAGIERE: I ask you to put your left
15 hand on the Bible.

16 Do you swear the testimony you're about to give
17 before this Board to be the truth, the whole truth and
18 nothing but the truth, so help you God.

19 MR. SZERBATY: I do.

20 MR. MALAGIERE: Thank you.

21 Mr. Basralian, do you want to qualify him?

22 DIRECT EXAMINATION BY MR. BASRALIAN:

23 Q Mr. Szerbaty, are you a licensed architect
24 in the State of New Jersey?

25 A Yes, I am.

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1 Q What is your license number?

2 A 16131.

3 Q Thank you. I think you indicated with
4 whom you're associated.

5 Would you please now state it again while you're
6 under oath?

7 A I'm the principal of the firm MDSzerbaty &
8 Associates, Architecture.

9 Q And, how long have you been practicing?

10 A Since 1981.

11 Q That's 28 years?

12 A 28.

13 Q Have you testified before planning boards
14 and boards of adjustment during the course of your
15 career as an architect?

16 A Yes, I have.

17 Q What type of facilities does your firm
18 primarily deal in?

19 A My firm deals with a wide range of
20 facilities but we do, have done a number of nursing
21 homes in the health care related area, office
22 buildings, college, university work and also public
23 city buildings.

24 MR. BASRALIAN: Mr. Chairman, Mr. Szerbaty
25 is a licensed architect in the State of New Jersey.

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1 CHAIRMAN GUERRA: Yes. We will accept.

2 MR. BASRALIAN: Thank you.

3 Q Were you asked by the architect -- by the
4 applicant to prepare the architectural plans that
5 culminated in what was submitted in connection with
6 this application?

7 A Yes, I was.

8 Q And, how long have you been working with
9 the applicant on this particular project?

10 A It will be going on three years now.

11 Q And, during that three year period, did
12 you undertake studies, of the three medical
13 disciplines that are to be contained in the facility?

14 A Yes.

15 Q Did you have meetings with the applicant
16 and his professionals with respect to the disciplines
17 that will be contained in the building?

18 A Yes.

19 Q Are you also familiar with the property
20 and surrounding area in connection with the work you
21 did as the architect for the project?

22 A Yes.

23 Q Would it be fair to say then you are, you
24 developed a good or excellent familiarity with the
25 site and surrounding area?

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1 A Yes, we have -- I have.

2 Q And, in conjunction with your work, did
3 you review the applicable codes with respect to the
4 type of building proposed?

5 A Yes.

6 MR. BASRALIAN: And the plan which I have
7 had marked and I have already submitted an exhibit
8 list, Mr. Chairman.

9 CHAIRMAN GUERRA: I would just -- I just
10 want to make sure that we're all looking at the same
11 plan and there's no revisions we don't have.

12 MR. BASRALIAN: There have been no
13 revisions to the architectural plans, Exhibits A-2
14 through A-12.

15 VICE CHAIRMAN DiMINNO: The December 7th,
16 2008.

17 MR. BASRALIAN: That's correct.

18 Q As I, as I was starting to say, the
19 exhibits, the exhibits that have been marked A-2
20 through A-12 were prepared by you or under your
21 direction?

22 A Yes.

23 Q All right. If we would, please going
24 first to Exhibit A-2 which has been marked and is
25 known as the context plan or context plan, would you

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1 please describe the plan?

2 A This drawing, A-2 --

3 FEMALE SPEAKER: Would you turn the
4 drawing so that the audience can see it, please.

5 MR. MALAGIERE: Please, if you're not
6 recognized by the Chair, you can't speak. If you
7 refuse to follow that direction, the Chair can have
8 you removed.

9 CHAIRMAN GUERRA: You know, we're -- Mr.
10 Malagiere, we're okay with that. You can turn it. We
11 all have a copy up here.

12 So, if you want to do that, that will be fine,
13 so the audience could see.

14 A That's fine. What you'll need to do and
15 I'll make, have you follow along because the plans are
16 not being presented necessarily in the same order you
17 have them in the book.

18 CHAIRMAN GUERRA: Just call out the pages
19 and we'll adjust.

20 THE WITNESS: Okay.

21 MR. MALAGIERE: Mr. Chairman, someone
22 wants to be recognized from the audience.

23 Would you like to recognize her?

24 CHAIRMAN GUERRA: No.

25 MR. MALAGIERE: The Chair has refused to

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1 recognize the person who spoke up.

2 CHAIRMAN GUERRA: I want to hear some
3 testimony.

4 THE WITNESS: Better?

5 CHAIRMAN GUERRA: Okay.

6 Q Mr. Szerbaty, would you please describe
7 Exhibit A-2?

8 A Okay. The drawing that's in front of you,
9 being presented to you here, is a general context plan
10 of the local neighborhood area of the site for which
11 we're proposing the project to be located at.

12 It is bounded by Prospect Avenue on the East
13 Side, Summit Avenue on the west side, which are wide
14 streets, going north and south, and Berry Street and
15 Golf Place. It is a mid block site that the project
16 is being proposed.

17 Before we, before I go in and focus in on the
18 site, I wanted -- one of the reasons why we have this
19 plan is to give a characterization of the, of the
20 neighborhood of where the project is proposed to be.

21 The neighborhood is, as most are aware, and our
22 property has a split down the middle between two
23 distinct zones, an R3 high-rise zone, building zone
24 and an R75 residential zone.

25 And, the area along Prospect, flanking both

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1 sides of Prospect, is, is characterized by a number, a
2 large number of mid-rise and high-rise structures that
3 flank either side of the, of the street that goes
4 north and south and these structures --

5 MR. MELLONE: Unless he gets on a wired
6 mike, that's going to happen. Interfering cell
7 phones. You have a million cell phones in room. It's
8 going to interfere.

9 CHAIRMAN GUERRA: You want to give him a
10 wired mike? He can move down below. You want to move
11 down below? We'll give you a wired mike.

12 A From here?

13 So, Prospect Avenue is characterized, again, by,
14 by a series of a mid and high-rise structures that run
15 north and south, you know, for quite a long distance
16 up and down and those structures vary anywhere from,
17 you know, 11 to 18, even a 21 story building.

18 And, so, the project that, that where we are
19 proposing for the building to be is on Prospect
20 Avenue, you know, to go into, to blend in with the
21 character of those structures.

22 So, on the other side of the, of Summit Avenue,
23 on the other street, that is characterized by a series
24 of, you know, single family residential structures --

25 And, as you'll see, when I move into the site

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1 plan for the next drawing, you'll see how we've, you
2 know, dealt with that by, you know, placing a park
3 that has no, no buildings at all in it.

4 Q If you would, please, referring to Exhibit
5 A-3, the site plan rendered as Sheet 2, Mr. Chairman,
6 would you please describe the site plan?

7 A A --

8 VICE CHAIRMAN DiMINNO: Did you say Page
9 Number 2?

10 MR. BASRALIAN: It's Sheet 2.

11 VICE CHAIRMAN DiMINNO: It says site plan
12 on it?

13 MR. BASRALIAN: Yes. It's a rendered site
14 plan, colorized site plan. Yes, that's it.

15 A Yes, this happens to be the, the --
16 focusing in on our exact property which, again, runs
17 the depth of the site from Prospect Avenue to Summit
18 Avenue which is 400 feet and the site is divided by
19 zoning into two 200 foot deep sections. And, the
20 front property on, facing Prospect is 100 feet wide
21 and the rear property facing Summit happens to be 150
22 feet wide because of the jog in the, you know, in the
23 lot lines.

24 So, we have an overall site of about 50,000
25 square feet and which equates to 1.15 acres.

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1 For this project, following the context of, you
2 know, and how we kind, how we conceptualize the
3 location of the building and what would go from one
4 side to the other, we placed the tower and its main
5 entry and arrival portion on, facing on Prospect
6 Avenue. And, that building is nestled in between, you
7 know, a series of other structures going up and down
8 the street on our side and then, of course, flanked on
9 the other side by, by similar scaled buildings.

10 On the, the western portion, which is facing
11 Summit Avenue, we are proposing that a park that would
12 be open to the public is, occupied that entire space.

13 Now the site is bound -- what you're seeing here
14 in this rendered site plan is, is effectively a
15 landscape drawing which shows a lot of amenities which
16 you'll see on later sheets for when we do, when we
17 show renderings of how the area will look.

18 You're seeing a lot of landscaping and, and site
19 development that we propose to have.

20 On the, starting with the Prospect side, along
21 the street and the sidewalk, there is a small green
22 area there for, that's developed with trees and
23 plants. It's a sitting area that occupies the space
24 that is required by the setback for the zoning, the 40
25 foot dimension.

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1 The building starts at that point and extends
2 back to the edge of the, of the R3 zone which happens
3 to be the 200 foot line at the, you know, off between
4 the two, between Prospect and Summit.

5 The building occupies that space and it extends
6 up as a tower element to, you know, 24 stories that we
7 all know about which I'll explain how that works with
8 setbacks and the program and everything on subsequent
9 sheets.

10 And, so, the tower occupies that, that side of
11 the site.

12 On the Summit Avenue site is a complete green
13 space which is, again, a park that's open, would be
14 open to the public and it contains a lot of lawn
15 areas, gardens, a lot of shaded areas, sitting areas,
16 private and semi private and a lot of areas for the
17 public to wander and sit and, you know, occupy.

18 And, also, there are some, some features for
19 the, for this area, one including, you know, a rose
20 garden, a large rose garden and then a water wall
21 feature as well.

22 What you also see --

23 CHAIRMAN GUERRA: Rich.

24 A -- now, on this site.

25 MR. BASRALIAN: One second.

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1 MR. MALAGIERE: Please, while the witness
2 is testifying, not only is it rude to speak but it
3 makes it very difficult for our court reporter to deal
4 with the transcript which is very necessary as this
5 goes on.

6 So, please refrain from talking to one another
7 and speaking out loud.

8 If you'd like to do that, please leave the
9 chamber.

10 Thank you.

11 A Okay. The -- there are two other -- there
12 are a number of issues relative to egress and arriving
13 at the building that I wanted to speak about now
14 referring to this plan.

15 One is that off of Prospect Avenue is the main
16 access to the garage, the parking garage that's down
17 below. And you'll see that later on in other
18 drawings, in sections, when I explain what happens
19 down there.

20 But, this main ramp, ramp that, you know, that
21 goes down into the lower level is for access for the
22 ambulances, that is access for delivery vans, it is
23 access for passenger vans, and passenger cars as well.

24 So, this has really been developed as the main
25 arrival point to get into the building which is off of

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1 Prospect Avenue.

2 This ramp is, you'll note in this plan, the ramp
3 is fairly long in and cuts far into the, into the,
4 into the western portion of the site because it is
5 deliberately designed so that, that it has a 12 foot 6
6 clearance at the, when it goes down into the garage to
7 allow for delivery vans, delivery trucks, passenger
8 vans and ambulances to go in and out of the building
9 from that entrance and that entrance alone.

10 Let me move over to the, to the other garage
11 ramp for a second before I go back to describe other
12 things on Prospect.

13 You'll note, on the left side, there is a ramp
14 down to the garage below and it's distinct in the fact
15 that it's much shorter than the ramp that you see
16 that's set up for delivery trucks and everything.
17 And, that ramp is meant to be designed as very, very
18 discreet, hidden away, tucked into the landscape and
19 just, you know, barely visible and it is for passenger
20 cars only. It only has a 6 foot 8 head clearance.

21 So, these two entrances are very clear in how
22 one is meant for a, luxurious vehicles, oversize
23 vehicles and the like versus one as just away in and
24 out for passenger cars down into the garage.

25 Back the -- on Prospect Avenue, there is also a

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1 service drive that extends back into the, the rear,
2 you know -- well, the north portion of the building.

3 And, again, this whole north side and all of the
4 perimeters of the building is well-shielded with trees
5 and large, large plantings and shrubs to, you know,
6 you know, hide, you know, really make it a part of the
7 overall landscape.

8 And, that service drive is for access to where
9 we propose to have the oxygen tanks which are filled,
10 I believe, one time a month a truck comes to do that,
11 the trash compactor which makes a delivery of once
12 every two weeks, I believe. And then, also, there is
13 the loading, there, there -- the one major food
14 delivery comes once per week, I believe, you know, and
15 they pull in and back into that area. And, then they
16 off load and there is a loading dock there that, from
17 there they make their deliveries and it's taken into
18 the building.

19 Now on the -- so, that's, that's really what
20 we're striving to do here is to have the building on
21 Prospect be facing Prospect, be part of Prospect
22 Street and also the, the -- and any ambulance,
23 delivery van, passenger van entry to only be able to
24 have access off of Prospect.

25 There is also, as part of the park, we're

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1 providing a drive, a U-shaped circular, you know,
2 vehicular drive that is for an occasional drop off of
3 a passenger for dialysis, as an example, and it also
4 is designed, and this came as part, as part of some of
5 our discussion with local officials, designed for a
6 fire truck access to be able to get to the back side
7 of the site.

8 Q Just the entry, the entry for security
9 purposes?

10 A Yes. You'll also see, on this plan, the,
11 the entry to the building which is at the at grade
12 entry for the building exists right about two thirds
13 back from the face of the building off of Prospect
14 Street. The entry is on the south side of the
15 building and only on the south side.

16 And, what the entry really is here is more of a
17 security point because, as I'll explain later,
18 relative to how the garage operates and how people
19 come and arrive at the building, that's where, that's
20 a point where people come up from below and people
21 come down from above and that's their security point
22 where everyone has to kind of stop and pass through
23 there.

24 This area also really gives an access out to the
25 outside to get out into the park for people that, you

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1 know, from the facility that, you know, are using
2 that.

3 Q Thank you. Would you please refer to
4 Exhibit A-4 which is the south elevation rendering.
5 That's Sheet 17R.

6 CHAIRMAN GUERRA: What --

7 MR. BASRALIAN: 17R. Right.

8 Q Would you please describe Exhibit A-4 and
9 what it entails?

10 A This exhibit represents the elevation of
11 the building from the south side which focuses on the
12 entry that I just described in the plan and it is
13 representative of the basic volume and massing of the
14 building and also depicts levels, materials and things
15 that I'll talk about in a moment.

16 What you see here is to the very right and then,
17 which is the nose of the building as we like to call
18 it. That faces Prospect Avenue and it is, you know,
19 following the 40 foot setback requirement before you
20 get to that very first vertical piece.

21 And, the building is -- the very -- considered,
22 we considered very carefully the character up and down
23 Prospect Avenue of the volume and massing of adjacent
24 buildings and their, their material qualities and
25 those kinds of things. And, what you're seeing here

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1 is, is a depiction of how we're taking that, the
2 building and breaking it up into pieces so that lends
3 it a scale, particularly at the lower level, to, to
4 lend it a pedestrian scale. And, then the setbacks
5 follow the setback requirements going from the front
6 yard going up the building.

7 And, so, that's the reason why the building
8 steps back as it does, follows that line. And, it
9 became actually a very convenient place for us and a
10 good way, a good place for us to be able to make the
11 building kind of break up and not be such a solid,
12 massive structure.

13 You know, what you're seeing here again is the
14 south elevation of the building. And the, and the
15 north elevation is similar but the, the big point to
16 be made here is that, as you go up and down Prospect,
17 your perception of this part of the building, facing
18 you like this, is probably pretty much non-existent
19 because you're always, the building is oriented east
20 west so only the narrow portion of the building, which
21 is 60 feet wide at the tower portion, is what is
22 directly facing you along, you know, along Prospect
23 Avenue. So, this building, a short distance away, is
24 another residential building to the south and
25 similarly another one to the north. So, your ability,

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1 your perspective of this will probably never really
2 occur.

3 But, it's important to point out that what we're
4 trying to do by articulating the building in this
5 manner is to blend in with the residential character
6 and feel of the, of the adjacent structures to make
7 ours a good, contextual fit.

8 Materially, the building is high quality and,
9 you know, well detailed. And, we're looking at the
10 use of the precast concrete panel system for the, the
11 majority of the envelope. And, in addition to that,
12 there is a system of what we're proposing to be, to be
13 of terra cotta panels that, again, kind of articulate
14 and make reference to the other residential buildings
15 that go up and down the street and how it all, it
16 implies balconies and projections and things.

17 And, there is also, at the very low portion of
18 the building, a wood and glass curtain wall type
19 system, an entry system.

20 At the very nose of the building, which is
21 facing Prospect Avenue, as you'll notice in the plan
22 that you'll see later, there is a general curve to
23 that, that is the entire glass facade which is
24 comprised of a series of what you might, everyone
25 might know as fritted glass or clear glass. So, we're

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1 playing with panels and visibilities and degrees of
2 transparency there. But, the entire nose of the,
3 probably the first two-thirds of the height of the
4 building is sheathed in glass material.

5 And, what you're seeing below, in the drawing
6 R-5 are five levels of the parking garage, parking
7 structure. And, there are 405 cars that can be parked
8 down there. And, the ramp that you see is going in
9 shadow here, starting at the right on Prospect Avenue,
10 down is the ramp dipping down is the ramp that I was
11 describing a few minutes ago on the overall site plan
12 and that ramp is the one that has the 12 foot 6
13 clearance that allows for vans and delivery trucks and
14 ambulances to go down. And, you can see it goes down
15 fairly deep down into the, to get the, to access the
16 first level of the tower.

17 And, at this level down here, the four, the five
18 levels of the, of the parking structure, there is an
19 elevator bank and an elevator core that takes, takes
20 you up and from each of those levels up to the main
21 lobby of the building on-grade.

22 The area to the, the open area to the left
23 following the lot line, you know, the zoning line is
24 representative diagrammatically of the park that, that
25 we, that I was pointing out in the previous drawing

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1 there. You can see that the garage extends
2 underground and the park is planted is on, on top of
3 that garage throughout. In fact, everything, the
4 building, the tower and the park is all over top of
5 the garage structure that's down below.

6 Q Now, with respect to the building a couple
7 of questions.

8 I don't see any, any utility towers or air
9 conditioning towers. Are those all self-contained in
10 the building or hidden from view?

11 A Yes. They're either under ground at the
12 first level, down below grade or there are towers
13 that -- there's a mechanical level which is the fourth
14 level where that's all hidden completely behind the
15 precast concrete facade.

16 Q And is --

17 MR. MALAGIERE: Joe, just use your
18 microphone.

19 Q Is it the intention of the applicant to
20 seek a Leeds Certification for the building?

21 A Yes, it is. Yes, we will pursue a Leeds
22 Certification. And, at what level, we're not sure at
23 this time. And, there are things going on with Leed
24 relative to Leed health care packages as well so we're
25 in the early stages right now of that.

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1 Q Thank you. Would you please move on to
2 Exhibit A-5 which is Sheet 21 in the booklet. The
3 Board has it. It's referred to as the south elevation
4 building program distribution.

5 A Sheet 21 is a drawing that is basically
6 the elevation of the building. And, I'm leaving the
7 previous sheet up for the audience with reference so
8 they can understand the relationship of how the
9 building is set up programmatically.

10 What you're seeing here, the areas that are
11 color coded represent various programatic components,
12 you know, areas of the project.

13 The ground level area that's on grade, of
14 course, is an entry area. And, that's more just
15 general access and public access. And, and the other,
16 you know, open space is a community room at those
17 levels. There is a promenade level that's up above
18 that that is also open through, you know, the lobby,
19 you know, to the, for access.

20 The next two levels up, that you see, are
21 labeled, they're adult day care. There are two levels
22 of adult day care that was talked about in previous
23 testimony. And, so, those two levels of adult day
24 care exist there.

25 Then the next level, which is more or less pink

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1 in tone, are patient services which would include
2 pharmacy area, doctor's offices, X-ray, lab and, you
3 know, those types of, you know, some administrative
4 areas.

5 The next 12 areas are, next 12 floors, the, are
6 teal color in the rendering, are the patient rooms.
7 There are 12 levels of patient -- there are 12 floors
8 of patient rooms. There are 12 rooms on a floor. 12
9 times 12 is 144 number of patient rooms that we, that
10 has been spoken about previously. All the rooms are
11 individual rooms because that's what's required by
12 code.

13 At the, also on each of those levels are nurse
14 stations, nurse facilities, a few offices and some
15 general office area. And, a general office area,
16 you'll see in the floor plans, is out on the nose of
17 the building where there are a lot of views and
18 things.

19 And, so that, those are basically repetitive
20 except for when you get up to the, what's labeled the
21 13th floor, because of the setback requirement, you
22 can see that on this drawing, you can see the diagonal
23 line that comes back from the street which is
24 following the one to four -- four to one height ratio
25 and at that point the building sets back. But,

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1 programmatically, each of these floors are the same.
2 Those upper three or four floors are just a little
3 smaller. They have the same number of patient rooms.
4 What is smaller are the administrative offices.

5 Then the next level up, which is yellow, is
6 therapy an rehab.. And that, that floor contains
7 physical therapy, occupational therapy, aqua therapy
8 facilities and offices and some, you know, nurse areas
9 and things, people that, you know, run that aspect of
10 the facility.

11 The next level up is another level, is a level
12 of administrative services which has to do with the
13 people, people that are, you know, overall
14 organization, overall running the facility, all of the
15 clerical staff and, and those types of workers.

16 The next four levels are the dialysis floors.
17 Those floors contain 21 dialysis patients, you know --

18 Q I think the correct terminology is seats?

19 A Seats, exactly. Exactly.

20 You know, on each level and then they go up for
21 those four floors.

22 And, then, the very, very top level of the
23 building are the mechanical services that was
24 camouflaged behind the building there. And there are
25 also some dialysis mechanical areas that are required

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1 at that point.

2 Q Before you move on from that exhibit,
3 would you please describe the floor sizes for each of
4 the three disciplines that you have described?

5 A Yes. The -- that's distinguished also
6 with regard to the setbacks that I spoke about as the
7 building goes up and it steps back in response to the
8 zoning requirements. The lower levels are roughly
9 about 9,500 square feet each. These last three or
10 four floors of the patient rooms then reduces down to
11 about 9,000 square feet and then the very upper levels
12 are roughly around 7,500 square feet.

13 So, the footprint is very, very small, quite
14 frankly. You know, given the site constraints, what
15 we have to work with, getting this structure in, it's
16 a very narrow, slender, you know, building.

17 Q Could you tell the Board the aggregate
18 square footage of the building?

19 A The total square footage of the building
20 is 220,000 and change.

21 Q And, if you're able to, are you familiar
22 and tell us, are you familiar with the other
23 structures on Prospect Avenue in the immediate
24 vicinity of this building?

25 A There are -- the size of this building is

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1 pretty -- there are not a couple, number of buildings
2 that are significantly larger. I think there are
3 about nine buildings up and down Prospect that are
4 larger than the building, the 220,000 square foot
5 building that we propose. There are a couple
6 buildings that are in the neighborhood of half a
7 million square feet.

8 You know, our facility, combined with its
9 footprint, are, are relative, you know, very, very
10 modest, you know, in terms of how it, how it sets in
11 the site and how it occupies the overall character,
12 you know, defines the character up and down Prospect
13 Avenue.

14 MR. BASRALIAN: Thank you. Before I move
15 on to my next exhibit, do you want to --

16 MR. MALAGIERE: The Chairman has indicated
17 he wanted to take a break.

18 And, during that break, if I may, Mr. Chairman,
19 suggest, do you have duplicates of each exhibit as
20 you're referring with you tonight?

21 MR. BASRALIAN: No, we didn't bring
22 duplicates. We provided duplicates.

23 MR. MALAGIERE: No, I'm not suggesting
24 that you didn't provide everything that you provided.
25 I'm suggesting that you could set up an easel so you

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1 could talk to the Board, during the --

2 CHAIRMAN GUERRA: We'll work something
3 out. I think maybe we want to change the angle so
4 maybe the audience can see and we'll see what you're
5 pointing out as well.

6 So, why don't we take five minutes at this
7 point?

8 MR. MALAGIERE: Thank you.

9 (A recess is taken.)

10 CHAIRMAN GUERRA: Please be seated. I
11 would like to begin.

12 MR. MALAGIERE: All right. The Chairman
13 has reconvened the meeting. We would ask that
14 everybody please take your seat.

15 We're going to move forward with testimony,
16 please.

17 Thank you.

18 CHAIRMAN GUERRA: Okay.

19 MR. MALAGIERE: Thank you very much.
20 Please be seated.

21 MR. BASRALIAN: Okay. We're back on the
22 record.

23 Q Mr. Szerbaty, let's move on, if you would,
24 to Exhibit A-6, Sheet 14 for the Board, basic grading
25 plans.

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1 CHAIRMAN GUERRA: 14.

2 MR. MALAGIERE: Give him the mike.

3 Q Would you please describe what's depicted
4 on this exhibit?

5 A This Exhibit A-6, which is sheet Number
6 14, are, there are two floor plans on this drawing,
7 one being the ground level which is at grade floor
8 plan and the, the one underneath of that is the lower
9 level plan.

10 That's not the parking level. This is the lower
11 level immediately below the grade level.

12 I have left up, for purposes of being able to
13 kind of communicate where these plans are with respect
14 to the building since we have a tower, the Drawing
15 Number 21 which is the one I just spoke about
16 depicting the various program elements and aspects of
17 project.

18 I'll start with the lower level plan.

19 That plan is actually something that I did not
20 point out on the, on Sheet 21. That is the -- this is
21 the lower level plan which has mechanical space, that
22 has the laundry, it has the kitchen, it has those
23 types of facilities that support the operation of the
24 LTACH facility. And, that plan is actually right just
25 below grade. And, it, it has a lot of different ins

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1 and outs because of its configuration. The
2 configurations has a lot of ins and out because the,
3 the garage ramps are coming in, going through it and
4 then we run into issues about how far down we can go
5 relative to the garden up above and all of those
6 things. But, that's what is on this plan.

7 The next plan up is the ground level plan which
8 is the at grade level.

9 I wanted to point out that this, this site, the,
10 where, how the building is situated, facing Prospect
11 Avenue and going back to the center of the site, there
12 is approximately an 8 to 10 foot elevation change from
13 Summit Avenue from the curb and Summit Avenue up to
14 the midpoint, you know, of the site and another three
15 to four foot elevation change back down, you know,
16 onto Prospect Avenue. So, our main entry is really up
17 at the, you know, near the center of the site for the
18 building.

19 But, again, I'll point out that this is really
20 the main security control point because, what we have
21 are two elevator banks and a stair that come up from
22 the garage levels and, and this basement level below
23 and then, from that point, they, they, those elevator,
24 that core ends and you have to get off there and go
25 past in front of the, you know, you know, and be

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1 observed at the security desk. And, then, from there
2 you go up the passenger elevator bank that takes you
3 up into the tower.

4 There is also, near the loading area, the
5 loading dock at the, at this north side of the
6 building, there are two freight elevators that go up
7 and down and, in addition to the, to the mandatory
8 stair cores that we have for egress.

9 Q Thank you. Can we move on to Exhibit A-7
10 which is Sheet 15. It is the building floor plans for
11 Floors 2 through 14.

12 A Okay. At this point, the first plan going
13 up further into the building, above the ground level,
14 is the promenade level plan which is in the lower
15 right corner of your, of this drawing. And, that
16 drawing over, is basically a continuation of the
17 double height entry lobby space that's down below
18 where the security desk is and, you know, the main
19 arrival point is. And, you can see the passenger core
20 elevators that go up and down the building in the
21 northwest corner and the freight elevators that are on
22 the other side.

23 This, this portion of the -- this floor is
24 actually very open and it's, again, open to a double
25 height space down into the lobby area and this is

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1 really set up for community facilities, multipurpose
2 room and there's also a chapel area.

3 And, outside of the, the building, there is a
4 terrace, an elevated terrace promenade that, again, if
5 I point back to Sheet Number 21, you can kind of see
6 it, you know, elevated up above the main grade level.

7 The next two levels up, going to the left, is
8 adult day care which is the third level and then the
9 then there's an adult day care, the medical adult day
10 care actually at the third and fourth levels of the
11 building and that, again, corresponds with the reddish
12 tone on the, the program section drawing, the building
13 program diagram.

14 Going to the left, we begin with the single
15 floor. We have the single patient services plan which
16 is at the, you know, the fifth level which contains
17 pharmacy and that X-ray lab and a small surgical suite
18 and doctors offices and things which I spoke about
19 earlier. And that, again is that pink band which is
20 in the program diagram.

21 Then we start the next two plans, up at the top
22 of the page, are basically the same except for the
23 setback. They are the patient room floors.

24 And, we have, again, 12 floors, you know, of
25 those and there are, in a set of individual patient

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1 rooms, 12 per floor with an individual bathroom and
2 all of these follow strict code requirements as to,
3 you know, their size and how they work and what's
4 provided to them, you know, in them.

5 And, also, there is a nurse station area and, at
6 the nose of the building, which I spoke earlier about,
7 the glass surface, there is a main lounge space for
8 the, at each patient floor and also some small offices
9 and things for support staff. And, that occurs, you
10 know, for the next 12 levels.

11 What you see at the one point in the setback is
12 the plan is identical for the most part except at the
13 very, at the nose because of the zoning issues we set
14 back and so the, the area of the space at the nose
15 becomes a little bit smaller.

16 Q Thank you. Let's move on to run through
17 Exhibit A-8 which is Sheet 16 and the of the booklet.

18 A Sheet, that's Exhibit A-8, Sheet 16.
19 Sure.

20 This drawing continues the floor plans for the
21 project. And, what you're seeing at the lower right
22 are the three more floors, the remaining of the 12
23 floors of the patient rooms. And, they're, again, are
24 identical to all the floors below with the exception
25 that they're a little bit smaller at the nose. And,

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1 then, just above that is the therapy suite. And, that
2 is, on this program diagram elevation drawing a, the
3 yellow band. So, there's a single floor of all the
4 therapy areas which included occupational therapy and
5 aqua therapy, physical therapy and support staff
6 spaces.

7 Then we have a level of patient services which
8 are all administrative offices and conference rooms
9 and meeting rooms. And, finally, well, not finally
10 but, programmatically, we have the levels, the
11 dialysis floors, the four floors of those. And, those
12 are all dialysis seats again with nurse stations that
13 support those functions.

14 And, up above that is the top level that's
15 enclosed which is the mechanical floor which includes
16 not only building mechanical systems, but overall
17 building mechanical systems but also the mechanical
18 system necessary for the dialysis levels which are
19 quite extensive. So, all of that finds its way up to
20 the top floor.

21 And, the roof plan that you see there is
22 basically, it was mentioned earlier that there is no
23 visible mechanical equipment of any kind from the
24 building. There probably are, there are air intakes
25 that might be visible but this is an area that has a

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1 roof over it with the exception of where the cooling
2 towers are going to find themselves.

3 Q Thank you. Let's go over to Exhibit A-9
4 which is Sheet P-1 on the plans, parking floor plans.
5 And, please just briefly describe those?

6 CHAIRMAN GUERRA: What page?

7 MR. BASRALIAN: It's Sheet P-1.

8 CHAIRMAN GUERRA: P-1.

9 A Okay. This plan, the top plan on Sheet
10 P-1 is probably one of the more critical plans that I
11 have, that we have here because it is the plan that
12 describes, in detail, how the access works for
13 ambulances and delivery trucks and passenger vans and,
14 also, the beginnings of the parking level for the
15 public, worker, employee and staff parking and also
16 public parking.

17 This, what you're seeing here, in reference to
18 the building program diagram, is the end of the ramp,
19 as it comes down and arrives at that first garage
20 level and, again, that has the 12 foot 6 clearance
21 which allows two way, 12 foot 6 and then, I think, you
22 know, the wide driveway for two-way access for all of
23 those types of vehicles.

24 And, on the right side of the plan you see
25 dedicated areas for the parking of ambulances of which

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1 there are six spaces and passenger vans that would,
2 you know, park there and when they arrive and come
3 down to the facility and unload or load patients, they
4 either have access into the, the service elevator core
5 or the, this elevator core.

6 At the very far right you see a, a, spaces which
7 there are four for the delivery trucks. And, again,
8 the garage is designed by its width and also the
9 overhead clearance height for delivery trucks to come
10 off of Prospect Avenue to go down and drop off at
11 their, you know, deliveries or pickups or whatever
12 they may be to a loading dock area here and go up the
13 service elevators.

14 The, the lower drawing represents what is
15 basically typical of the next four floors. There are
16 five floors of parking. And this plan is typical of
17 only passenger cars. You know, it is only accessible
18 for passenger cars. And, this plan was one of four
19 that contain approximately 100 spaces of parking per;
20 you know, it goes down each of the four levels, the
21 last level is two thirds of the floor because, dealing
22 with the ramp above and everything.

23 The parking is very, very generous. All the
24 spaces are 9 by 18 in size and, effectively, they're
25 actually more than that because we're working with,

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1 with the column grid of the building, you know, up
2 above. So, the spaces are literally 9 by 18 and then
3 only interrupted by the columns, you know, off to the
4 sides which, if it weren't for those the spaces would
5 be 10 by 18.

6 And, they're all on the left side.

7 What you see is the, is standard pull in parking
8 on a two-way drive. And, on the right side is a
9 one-way system. They meet in the middle.

10 This is, again, where the ramps go up and down,
11 in this middle section here.

12 On this section, it's a one-way, it's a one-way
13 drive. You see angle parking.

14 But, again, those spaces are, you know, 15 by 18
15 and all of the travel widths and everything are very,
16 very well-thought out and generous.

17 Q Would you just point out the elevator
18 vestibules?

19 A The, at each of these levels, including
20 the first level of the parking and down the lower
21 levels below, you have the elevator core that people
22 would take and there's also, of course, the stair that
23 goes up.

24 And, this is the elevator core that people take
25 up to the first floor to get to the main lobby where

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1 the security area is. And, then, if they're going
2 into the building, they would have to transfer over to
3 another series of elevators.

4 You can notice that this is where the elevators
5 cut off, the passenger elevators above. So, they
6 don't exist, you know, down below. And, actually,
7 this is the overrun or the pit for the elevators so
8 you have no access to those elevators at this level.

9 At the parking level, you only have access to
10 these two passenger elevators.

11 Q Thank you. Let's move on to Exhibit A-10
12 which is Sheet 05. It's a perspective.

13 Would you describe from the perspective where
14 you're looking from and to.

15 A This, this is a rendering which is a view
16 point looking from the main entry level at the main
17 entry terrace on the very south side of the tower
18 looking directly to the west, well to the, kind of a
19 little bit towards the northwest to give you a view of
20 the public, of the parking that is available for
21 public use.

22 What you're seeing here is, you know, again the
23 plaza, you know, some paving and this is meant to
24 really be nicely done, you know, concrete, colored
25 concrete, textured paving. And, you're seeing a

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1 series of amenities from the garden which include the
2 water wall that I made mention of earlier when I was
3 talking about the plan.

4 You're seeing a trellis which will have vines
5 and, you know, growing wisteria growing over the top
6 of it and there are benches and sitting areas there,
7 the rose garden. Down at the very end you see a
8 variety of trees, river birch trees, honey locust
9 trees, elm trees and extensive plantings of all types.

10 CHAIRMAN GUERRA: Please.

11 A The trees that you see here are scheduled,
12 they're as you see them, they're as planted. They're,
13 they're specified will be, you know, as trees that are
14 about four, four and a half inch in caliper and as
15 planted will be 14, 16, 18 feet tall depending upon
16 the species of the tree.

17 Q Thank you. Let's move on to Exhibit A-11
18 which is Sheet 04 in the booklet.

19 A This is, this is the view that is taken
20 right -- you're on Summit Avenue. You're on the
21 southwest corner of Summit Avenue, right at the point
22 where there's a pedestrian path into the park area.
23 And, it happens to be pretty much on access with the
24 edge of the building, way beyond, which is 200 feet
25 away at this point. And, so that's, your really kind

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1 of main walkway. This walkway goes from one end of
2 the site on summit Avenue and you can find your way
3 all the way across to Prospect, on the other side, 400
4 feet away.

5 The park itself, you know, occupies the entire
6 side of the Summit Avenue site which is about 30,000,
7 30,000 square feet to be exact, almost three quarters
8 of an acre is dedicated to park area and walking,
9 sitting and extensive amounts of landscaping.

10 Q Thank you.

11 Let's move through to exhibit sheet A-12 which
12 is Sheet 3 in the booklet.

13 A This perspective is of, again, at the very
14 south, right at the drive. It's the very southwest
15 corner of Summit and you're actually looking right at
16 the street, from the street curb looking diagonally
17 across the park area of the, you know, of the project.

18 The previous rendering that I just showed you
19 was taken from this entry walk that's right in this
20 section, in between the two hedge rows there. This
21 happens to be a portion of the drive that comes off of
22 Summit. It goes up and in and around the, you know,
23 the park.

24 You can see the water feature, the water wall in
25 the background and, again, the building way back, 200

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1 feet back off of the property line. And, again, and,
2 also, the, you have a variety of trees. There's the
3 trellis area that I mentioned earlier and, you know,
4 all of the other trees and plantings.

5 The site is, the perimeter of the site, the
6 property of the site is typically bound by a hedge
7 row, you know, as it is here. This, this hedge row is
8 probably a little bit shorter than the ones that are
9 on the property side. These are walk through,
10 probably 3 feet high versus the others might be 3 foot
11 6 to 4 feet, to again, just kind of -- there's no
12 fencing around the property at all.

13 MR. BASRALIAN: Thank you.

14 Mr. Chairman, I don't have any further questions
15 of this witness at this time although I reserve the
16 right to bring him back.

17 CHAIRMAN GUERRA: One of the things we
18 normally ask for are, I mentioned this earlier in the
19 testimony, was the building materials and so forth.

20 We request samples of that.

21 MR. SZERBATY: They're available, not
22 tonight.

23 CHAIRMAN GUERRA: Next meeting we would
24 like to see them.

25 MR. SZERBATY: Okay.

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1 CHAIRMAN GUERRA: Any questions from the
2 Board?

3 CAPTAIN CARROLL: I have a question. You
4 testified earlier about the service driveway. Are you
5 going to explain that or should I wait for the
6 engineer, about the in and out of the service
7 vehicles, the 10 foot driveway.

8 MR. BASRALIAN: The actual -- you're
9 talking about the turning radius, how they access it.
10 It's probably better addressed to the engineer, he
11 designed -- but, he can answer those questions
12 specifically.

13 CAPTAIN CARROLL: The engineer.

14 MR. BASRALIAN: Mr. Szerbaty is the
15 architect.

16 CAPTAIN CARROLL: I'll wait for the
17 engineer.

18 CHAIRMAN GUERRA: Anybody else from the
19 Board?

20 MR. RODRIGUEZ: I have a question about
21 the patient level floors. You have 12 rooms per floor
22 and all the, all the rooms are single occupancy rooms.
23 So, you know, most nursing homes or facilities,
24 hospital facilities have been to -- generally, you
25 know, there are private rooms but most of the rooms,

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1 you know, have more than one patient in it, you know,
2 they have a roommate.

3 MR. BASRALIAN: As the law has changed,
4 all hospital patient rooms, that are built new, must
5 be single occupancy.

6 MR. RODRIGUEZ: I see. So, that's by
7 regulation?

8 MR. BASRALIAN: Yes.

9 MR. RODRIGUEZ: And, that's how it has to
10 be.

11 MR. BASRALIAN: Yes.

12 MR. RODRIGUEZ: There's no possibility of
13 having roommates and doubling up.

14 MR. BASRALIAN: It's single occupancy. We
15 Band-Aid it.

16 MR. RODRIGUEZ: And, by the way -- well,
17 I'll ask the question now. You tell me if you know,
18 if the architect can answer this or not.

19 But, of the patient rooms, are any of them going
20 to be like ventilator rooms for ventilator patients.

21 MR. SZERBATY: Yes, oh, yes.

22 MR. RODRIGUEZ: How many?

23 MR. SZERBATY: All of them, all 144.

24 MR. RODRIGUEZ: I got you. Thank you.

25 VICE CHAIRMAN DiMINNO: Mr. Szerbaty, Page

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1 Number 17R.

2 MR. SZERBATY: Which drawing?

3 VICE CHAIRMAN DiMINNO: This one.

4 MR. BASRALIAN: 17.

5 MR. SZERBATY: Oh, the last one. This
6 one.

7 VICE CHAIRMAN DiMINNO: Can you help me
8 understand, on this drawing, and the Board, this is a
9 south elevation view.

10 Right?

11 MR. SZERBATY: Correct.

12 VICE CHAIRMAN DiMINNO: Okay. You had
13 mentioned, initially, some glass work but we couldn't
14 see where you were pointing.

15 Can you point out, to start, where this glass
16 work is that you were talking that faced, I believe,
17 Prospect?

18 MR. SZERBATY: Prospect, that's correct,
19 yes. It occurs here.

20 But, again, what you're seeing is the south
21 elevation.

22 VICE CHAIRMAN DiMINNO: Right.

23 MR. SZERBATY: But, this glass and this is
24 gently curved, the bottom piece of it.

25 VICE CHAIRMAN DiMINNO: Okay.

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1 MR. SZERBATY: This material curves around
2 and goes across the Prospect side, the Prospect
3 elevation.

4 VICE CHAIRMAN DiMINNO: Okay.

5 MR. SZERBATY: In the same -- it's exactly
6 as you see it here. It continues around and covers
7 the face of the Prospect elevation.

8 VICE CHAIRMAN DiMINNO: So is it kind of
9 an artistic feature?

10 MR. SZERBATY: Yes, absolutely.

11 VICE CHAIRMAN DiMINNO: How high up does
12 it go? To what floor?

13 MR. SZERBATY: Just a second.

14 VICE CHAIRMAN DiMINNO: Take your time.

15 MR. SZERBATY: 17, about the 17th floor
16 altogether. But, that includes this, this, from here
17 down to, down to this level. But, it doesn't exist at
18 the first two levels.

19 VICE CHAIRMAN DiMINNO: Okay. So it
20 starts around the third level?

21 MR. SZERBATY: Yes. Exactly.

22 VICE CHAIRMAN DiMINNO: And goes upwards
23 of the 17th level?

24 MR. SZERBATY: Exactly.

25 VICE CHAIRMAN DiMINNO: That's the art

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1 structure that spans that?

2 MR. SZERBATY: Yes.

3 VICE CHAIRMAN DiMINNO: And, to the left,
4 which I believe is west, you've got some vertical
5 lines. Maybe you could approach the drawing and I'll
6 try to direct you but there's a blue one that comes
7 out --

8 Yes. Can you describe -- and, it extends out
9 westerly.

10 MR. SZERBATY: That's the entry canopy,
11 the main entry where the revolving doors are going up
12 from grade is underneath of that. So, this is a
13 protective canopy.

14 VICE CHAIRMAN DiMINNO: Okay.

15 MR. SZERBATY: That's -- that would be
16 made out of metal.

17 VICE CHAIRMAN DiMINNO: That metal canopy
18 that comes down, how far off the building, roughly.

19 MR. SZERBATY: I would say 20 feet.

20 VICE CHAIRMAN DiMINNO: Continuing
21 westerly, there are three more rectangle boxes to the
22 left. We'll just go --

23 Left is west. Right?

24 MR. SZERBATY: Yes.

25 VICE CHAIRMAN DiMINNO: Okay. Go left.

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1 Keep going. There you go.

2 MR. SZERBATY: These are the trellises.

3 VICE CHAIRMAN DiMINNO: What are those?

4 MR. SZERBATY: Those are the trellises
5 that I spoke about. You see the trellises that I
6 spoke about in the landscape rendering.

7 VICE CHAIRMAN DiMINNO: Yes.

8 MR. SZERBATY: That is a graphic depiction
9 of those trellises.

10 VICE CHAIRMAN DiMINNO: Those boxes, I did
11 not get them.

12 MR. SZERBATY: They're not boxes. Okay.

13 VICE CHAIRMAN DiMINNO: Do those have
14 anything to do with mechanical and venting?

15 MR. SZERBATY: No. They're overhead
16 trellises that you kind of sat under and you have
17 wisteria vines growing all throughout them.

18 VICE CHAIRMAN DiMINNO: Just decorative?

19 MR. SZERBATY: Okay. Yeah.

20 VICE CHAIRMAN DiMINNO: Are they
21 decorative?

22 MR. SZERBATY: It's a feature. It's a
23 place to sit under, protect yourself from the sun.

24 VICE CHAIRMAN DiMINNO: Let me finish the
25 question.

1 Are they simply just decorative or are they
2 disguising some mechanical or venting?

3 MR. SZERBATY: They're purely decorative,
4 just structures.

5 VICE CHAIRMAN DiMINNO: And, that's all I
6 had on that. That's fine. Thanks.

7 CHAIRMAN GUERRA: Anyone else from the
8 Board?

9 Open it up to the public.

10 MR. BASRALIAN: Before you do, Mr.
11 Chairman, I have some housecleaning.

12 CHAIRMAN GUERRA: Let's do that.

13 MR. BASRALIAN: Yeah. Please.

14 When it was determined that Boswell would no
15 longer be our engineer, we interviewed other engineers
16 and one of the engineers we did interview was, was
17 Neglia Engineering Associates and, in particular, Greg
18 Polyniak. We had a meeting with him, a determination
19 was made that we would not be utilizing his services
20 and that was the intent of the meeting.

21 But, I wanted to disclose it to the Board so you
22 know exactly what occurred.

23 We did not get into details of what the plans
24 were. It was one meeting that I attended with Mr.
25 Polyniak as well. And, we never had no further.

1 CHAIRMAN GUERRA: Do you feel there's some
2 kind of conflict?

3 MR. BASRALIAN: No, I don't. But, I would
4 like to put it on the record so that everybody knows.
5 I do not see a conflict. We did not discuss the
6 plans, only interviewing him about taking over as our
7 engineer.

8 Within 24 hours that determination had been made
9 not to go forward with Neglia Engineering.

10 CHAIRMAN GUERRA: Okay. Greg, do you want
11 to comment on that?

12 MR. MALAGIERE: I want to swear you first.
13 Identify yourself for the record.

14 MR. POLYNIAK: Sure. Gregory Polyniak,
15 Neglia Engineering Associates.

16 MR. MALAGIERE: Do you swear the testimony
17 you're about to give, before this Board, to be the
18 truth, the whole truth and nothing but the truth, so
19 help you God.

20 MR. POLYNIAK: Yes, I do.

21 MR. MALAGIERE: Please respond to the
22 Chairman's question.

23 MR. POLYNIAK: Basically what Mr.
24 Basralian had just stated is fact and I feel there's
25 no conflict whatsoever.

1 MR. MALAGIERE: More importantly than
2 that, do you feel the you are infirmed from sitting on
3 this application?

4 MR. POLYNIAK: I believe I can.

5 MR. MALAGIERE: You believe that you can
6 impartially sit on this application and be the Board's
7 planner and engineer and then no information that you
8 received incident to that consultation would prohibit
9 you from doing that?

10 MR. POLYNIAK: Correct.

11 MR. MALAGIERE: Mr. Basralian, are you
12 okay with that?

13 MR. BASRALIAN: Yes, I am.

14 MR. MALAGIERE: Thank you.

15 MR. POLYNIAK: Thank you.

16 CHAIRMAN GUERRA: Okay.

17 CAPTAIN CARROLL: The next meeting, would
18 you advise us about the releasing or changing
19 engineers, Mr. Boswell's engineering firm and traffic
20 study.

21 The last traffic study we had was dated December
22 23rd, 2008.

23 That's the one I've been working with.

24 Are you still going to be using the same Boswell
25 Engineering traffic study or are you submitting a new

1 version or new engineer's report?

2 MR. BASRALIAN: No. We have submitted the
3 plans that have been redone by our, our engineer, the
4 same for our other submissions with respect to the
5 plans. There will be a substituted traffic plan,
6 traffic report as well since we will not be using the
7 Boswell report itself. But, a lot of the data that
8 was collected and additional data your consultant
9 thought was appropriate.

10 CHAIRMAN GUERRA: When are we going to see
11 that?

12 MR. BASRALIAN: Well, we, we are, we are
13 some distance away, I suspect, from seeing that,
14 having that, that consultant appear. And, I will
15 submit it in due course, well in advance of the time.

16 CHAIRMAN GUERRA: Well in advance?

17 MR. BASRALIAN: At least 30 days in
18 advance.

19 CHAIRMAN GUERRA: At least a meeting or
20 more.

21 Yeah. We're going to require that for our
22 traffic study and the Board members.

23 MR. BASRALIAN: We welcome your consultant
24 to review that. It doesn't change the substance of it
25 but it's a different engineer so he's got to put his

1 imperatore on it.

2 CHAIRMAN GUERRA: Okay.

3 MR. MALAGIERE: Mr. Basralian, you don't
4 anticipate your new traffic study will have new data.
5 It will rely upon the data included in the Boswell
6 report?

7 MR. BASRALIAN: I don't know. We don't
8 tell them what to do. We tell them this is our plan.
9 You have to make a decision as to what's good or not.
10 So, if they require new data, it will be in it
11 and we will have it at least 30 days before the
12 hearing.

13 MR. MALAGIERE: Have you asked them to do
14 new traffic counts?

15 MR. BASRALIAN: I asked them to do what
16 they deem appropriate to respond to the plans as they
17 see it. I have not directed them to do one thing or
18 another but to do what they believe is necessary.

19 I think the consultant the will testify on the
20 record under oath.

21 MR. MALAGIERE: So you don't, you're kind
22 of on the fence as to whether you advised them to do a
23 new traffic study?

24 MR. BASRALIAN: No. I haven't told them
25 what to do. It's their job. They're the consultants.

1 I'm not the engineer.

2 MR. MALAGIERE: Has the applicant asked
3 them to do a new traffic count?

4 MR. BASRALIAN: I don't recall if they
5 discussed it.

6 CHAIRMAN GUERRA: It may not have been in
7 my presence.

8 MR. MALAGIERE: Yes, sir.

9 Mr. Chairman, Counsel for an objector wishes to,
10 wishes to address the Board.

11 Mr. Chairman.

12 CHAIRMAN GUERRA: Before we do that, would
13 you --

14 I mean, we just want to keep everything directed
15 to the architect. The testimony the architect has
16 given.

17 The question, the questions will be directed to
18 his testimony, not to traffic or anything else. I
19 just want the --

20 MR. MALAGIERE: The Chairman has indicated
21 that, as we've, as we do consistently with every
22 application and every witness in every application, we
23 ask that the questions and comments be limited to that
24 witness's testimony.

25 So, we're going to try and enforce that within

1 reason. We understand that members of the public are
2 not necessarily lawyers nor land use professionals,
3 engineers, architects and the like. But, please be
4 mindful of that and please try to limit your questions
5 to this witness's expertise, this witness's testimony
6 and comments upon the architectural elements of the
7 building.

8 With that, Mr. Chairman, I would respectfully
9 request that the Chair recognize objector counsel in
10 this public portion prior to recognizing members of
11 the public.

12 CHAIRMAN GUERRA: Yes.

13 MR. MALAGIERE: With that, is there
14 objector counsel who wished to come forward and
15 cross-examine this witness?

16 MR. MOREJON: Yes. May I approach?

17 MR. MALAGIERE: Of course.

18 MR. MOREJON: Good evening, Mr. Malagiere
19 and the Chairman.

20 My name is Julio Morejon. I'm a partner now
21 with Diktas, Shandler, Gillman & Morejon, representing
22 objector Anastasia Burlyuk, B U R L Y U K.

23 And, what I would like to do, at this time, is
24 allow us to go at the end and allow members of the
25 public to raise their objections because, Number 1,

1 our client is not here. She's out of the country.
2 And, I suspect that questions that will be asked of
3 the architect will go beyond this evening.

4 So, if we, if we could, I would like to
5 respectfully request that we be allowed to
6 cross-examine the architect at the next meeting.

7 MR. MALAGIERE: It's very gracious of
8 counsel to offer to bat cleanup, as it were, with
9 regard to the witness as opposed to taking up time
10 from the public. And, I would respectfully request
11 that the Chair allow counsel to defer to cross-examine
12 at the end.

13 CHAIRMAN GUERRA: Yeah. I have no
14 problem.

15 MR. MALAGIERE: Thank you, Counsel. Very
16 gracious of you.

17 MR. MOREJON: Just one question, if I may,
18 one point, that I wished to address to the Board.
19 And, you can answer this, if you can.

20 It's my understanding that, at the time the
21 application is submitted to the Board, pursuant to
22 Section 175.46 and I believe as amended by 175.14.4
23 regarding the procedures for submission of the site
24 plan, that had to have been done within 21 days of the
25 application being submitted.

1 Is that correct, Mr. Malagiere?

2 MR. MALAGIERE: Is your objection that
3 counsel has not produced or is anticipating production
4 during the hearings of the traffic report?

5 MR. MOREJON: Well, I haven't made an
6 objection. I just asked you a question, was that
7 done.

8 MR. MALAGIERE: It appears that counsel is
9 going to supplement their application and it appears
10 you're objecting to that.

11 MR. MOREJON: Oh, I haven't gotten that
12 far. I only asked you a question because today is my
13 first night here.

14 Mr. Diktas, as you know, has been appearing. My
15 engineer wished to ask questions.

16 So, my question to you, Mr. Malagiere, as the
17 Board's attorney, is that, at the time of the
18 application, I apologize for the echo, at the time the
19 application was made, a site plan was submitted, is
20 that fair to say, within the 21 days?

21 MR. MALAGIERE: That is fair to say, to my
22 knowledge.

23 MR. MOREJON: And, that is now -- I
24 address the question to you, Counsel, is that being
25 amended or have you withdrawn the site plan

1 application?

2 MR. BASRALIAN: No. I -- the, the
3 original site plan application was submitted. There
4 were comments from the then planners and engineers as
5 to the plan. We responded to that plan.

6 The plans were amended and resubmitted and the
7 application was deemed complete. So we did it within
8 the time frame allotted to us and we responded to the
9 request from H2M.

10 MR. MOREJON: So that it's fair to say the
11 Board, as part of this application, is considering
12 amended site plans.

13 Is that true, Counsel?

14 MR. MALAGIERE: I don't know that I will
15 characterize it that way. Mr. Basralian has indicated
16 that he wants to submit a supplemental or different
17 traffic report. I'm not quite sure what that means.

18 We have a situation where the, the application
19 is submitted and deemed complete and then, during the
20 hearings, there has been a representation that there's
21 been a switch of engineers and there's going to be a
22 report submitted which is going to either be different
23 or supplemental to the report that was submitted with
24 the application. The Municipal Land Use Law does
25 provide that an applicant can modify minimally an

1 application during testimony.

2 I don't know that, what Mr. Basralian is
3 proposing qualifies as that.

4 What do you think, Counsel?

5 MR. MOREJON: I don't know. I'm not the
6 expert. You are.

7 MR. MALAGIERE: I'm a lot of things but an
8 expert not among them.

9 MR. MOREJON: My point is, just for the
10 record, we wish to raise the objection, as you
11 mentioned earlier, on behalf of our client.

12 We believe, based on what I'm hearing, what I'm
13 being told, that the application is defective.

14 MR. MALAGIERE: Mr. Basralian, would you
15 address that, sir?

16 What's the basis you believe that you have to
17 submit an engineering report midstream.

18 MR. BASRALIAN: I am not submitting an
19 engineer report. It's a traffic report which has to
20 be redated and certified to by our engineers today.

21 The switch was made from, from Boswell
22 Engineering by their choice, not ours. And, as a
23 result, our engineers were brought back in. They
24 recertified the plans.

25 The plans that were submitted as a result of the

1 application being deemed complete, are the identical
2 plans which have been presented to the Board. The
3 only difference --

4 MR. MALAGIERE: Not the plans, it's the
5 traffic report.

6 MR. BASRALIAN: He talked about the site
7 plan. He's talking about site plan.

8 MR. MALAGIERE: But, the issue is, is the
9 issue not traffic reports?

10 MR. MOREJON: No. The issue is the site
11 plan because I'm being told by my engineer --

12 MR. MALAGIERE: To the microphone.

13 MR. MOREJON: I'm sorry. The issue is,
14 and Mr. Basralian is correct, are the actual site plan
15 because I'm advised, by my engineer, those site plans
16 that were apparently submitted originally were -- have
17 they been withdrawn.

18 MR. BASRALIAN: I don't govern what
19 happens with the City of Hackensack with the plan.
20 The procedure in the City of Hackensack is to submit
21 six copies of the plan for review by the various
22 professionals. That was done in the appropriate
23 fashion.

24 After the various professionals have reviewed
25 the plans, we received a detailed report from H2M

1 about the issues which they raised. As a result, they
2 deemed the application incomplete. As a result of
3 that report, our engineers went back, reviewed the
4 plans, reviewed their comments, modified their plans,
5 resubmitted them to H2M again.

6 It was only when H2M, in November of 2008, I
7 believe it was, November, December, 2008, deemed the
8 application complete that we then submit the requisite
9 18 copies and everything else that we were supposed to
10 do in conformance with the application.

11 Mr. Mellone can speak to the procedure better
12 than I.

13 As part of that package, we submitted an
14 engineering report. We had our soils report. We
15 submitted our groundwater, whatever was necessary to
16 deem the application complete.

17 The only thing I said is that we may modify or
18 supplement the traffic report. I don't know what it
19 is. So, I can't respond to you. It may not be. But,
20 our engineer will deal with that and I will have it in
21 at least 30 days before the hearing.

22 MR. MALAGIERE: Let me ask this. For
23 purposes, we'll just hold Counselor's comment in
24 abeyance, if I may, Mr. Chairman, for a second.

25 What is the authority by which you can submit a

1 new traffic report in the Municipal Land Use Law in
2 midstream? Because, that's what you're purporting to
3 do.

4 MR. BASRALIAN: Yes, because the Municipal
5 Land Use Law allows you, permits you to supplement an
6 application at any time provided the modifications are
7 submitted enough in advance in accordance with the
8 rules and the body of which you're appearing. That's
9 what we intend t do.

10 If the Board tells me I can't do it, I won't.
11 But, that's not the issue and, under the Municipal
12 Land Use Law, we can do all those things.

13 I want to split one thing to -- we did not
14 change the plans. The plans that were brought in, and
15 you can ask Mr. Mellone as to the accuracy of that,
16 are exactly what is before the Board today.

17 That's all.

18 The, the traffic report, which is not a
19 condition precedent, by the way, of an application for
20 completeness was submitted by us. I did not
21 anticipate it would change, we would change engineers.
22 So, we had to resubmit it.

23 If our engineer elects to supplement it or
24 redact something from it, that's his prerogative.

25 But, there is ample authority in the Municipal

1 Land Use Law for on-going applications from this
2 Board, as has happened many times, where an applicant,
3 by virtue of questions from the Board or from the
4 public, may modify his plan or its plan.

5 MR. MALAGIERE: Would you mind submitting
6 a letter to me in support of your authority to
7 supplement the traffic report?

8 MR. BASRALIAN: I would be delighted to.

9 MR. MALAGIERE: I appreciate that.

10 Now, Counsel --

11 MR. BASRALIAN: I assume that's the same
12 letter that everyone else submits when they have a
13 modification of the plans.

14 MR. MALAGIERE: What's that?

15 MR. BASRALIAN: I assume it's the same
16 letter everyone else submits when it's a modification
17 of a plan. I would be happy to Fax you a copy so you
18 can assume the arguments therein.

19 MR. MALAGIERE: Counsel, would you provide
20 the basis for your argument? What's your engineer
21 telling you?

22 MR. MOREJON: I'll tell you exactly why,
23 because he's whispering in my ear the basis for the
24 objection is that the engineering plans submitted or
25 the site plans submitted are those of Boswell.

1 Correct?

2 MR. MALAGIERE: Counsel, please just lay
3 it out for me.

4 MR. MOREJON: I'm asking because, if
5 that's the case --

6 MR. MALAGIERE: Your engineer has
7 indicated to you that he is looking or not --

8 MR. MOREJON: I'm not going to argue, Mr.
9 Malagiere.

10 MR. MALAGIERE: I'm not looking to argue
11 with you, Counsel. Just lay it out.

12 MR. MOREJON: I'll lay it out.

13 The point is this, the site plan that's
14 submitted initially is with Boswell Engineering. Now
15 I hear that there is, that engineer's report is being
16 withdrawn.

17 So, if that's the case, then the application is
18 defective.

19 MR. BASRALIAN: We're mixing apples and
20 oranges.

21 A site plan was submitted. Boswell was,
22 withdrew as the engineer. The plans were resubmitted,
23 the identical plans resubmitted under the, under the
24 seal of our subsequent engineer. That is the only
25 change in the plans, a resealing of the same plans

1 which they, in their consultation, told me they would
2 deem appropriate and they sealed them.

3 CHAIRMAN GUERRA: Prior to H2M's review?

4 MR. BASRALIAN: Beg your pardon?

5 CHAIRMAN GUERRA: Prior to H2M --

6 MR. MALAGIERE: No.

7 CHAIRMAN GUERRA: -- reviewing it for
8 completeness?

9 MR. BASRALIAN: No. Let me lay it out.

10 CHAIRMAN GUERRA: Chronologically for the
11 Board.

12 MR. BASRALIAN: I'll lay it out.

13 Boswell Engineering was our engineer.
14 Subsequent to having submitted the application,
15 submitted all of the, the revised plans as required by
16 H2M and, after the start of the first hearing, Boswell
17 was asked to withdraw by the City of Hackensack. It
18 withdrew. That left us with having to put in a
19 substitute, find a substitute engineer.

20 We interviewed Mr. Polyniak, as I indicated.
21 They elected, within 24 hours, to advise us that they
22 were not going forward.

23 Subsequently, we retained a substitute engineer.
24 That engineer resubmitted the identical plans without
25 any change except their name and their seal on them.

1 There are no differences between the plans that
2 were submitted because of the change in engineer and
3 the plans that Boswell submitted.

4 MR. MALAGIERE: That's Omland Engineering.

5 MR. BASRALIAN: Omland Engineering.

6 CHAIRMAN GUERRA: What does the law state
7 for changing an engineer, Mr. Malagiere?

8 Does that constitute a change in site plan?

9 MR. MALAGIERE: I can't answer that.

10 MR. BASRALIAN: I'll answer it.

11 CHAIRMAN GUERRA: I can't either.

12 MR. BASRALIAN: I can. Absolutely,
13 unequivocally, no. It was not -- it was not we who
14 elected to change. It was the City of Hackensack that
15 told Boswell that it had to withdraw. It did.

16 MR. MALAGIERE: Counsel.

17 MR. MELLONE: Do you want to explain why?

18 MR. BASRALIAN: Yeah. I'll explain it.

19 MR. MALAGIERE: Counsel is objecting.

20 MR. MOREJON: I'll tell you what, I've
21 been basically placing my objection on the record
22 because I have my engineer here.

23 MR. MALAGIERE: Of course.

24 MR. MOREJON: Would you like to swear him
25 in and raise the point?

1 CHAIRMAN GUERRA: I want to hear what
2 these changes are.

3 I have a concern now, Counsel.

4 MR. BASRALIAN: Excuse me. Mr. Guerra,
5 there are no changes in the plan except where it said
6 Boswell it now says Omland. And, they sealed it.
7 Which means they certify that they believe those plans
8 are their plans.

9 CHAIRMAN GUERRA: And, in your opinion,
10 does that constitute any change in -- I mean from the
11 Municipal Land Use Law, does that constitute a change
12 in site plan? Even though they didn't change, they're
13 changing the engineer, restamping the plans.

14 MR. BASRALIAN: Absolutely not.

15 CHAIRMAN GUERRA: Mr. Malagiere, you can't
16 agree or disagree with that?

17 MR. MALAGIERE: I would agree with Mr.
18 Basralian. I don't see how taking the exact same
19 drawings and submitting them under a new engineer's
20 seal would effect a change in the site plan
21 application without any substantive changes.

22 Now --

23 CHAIRMAN GUERRA: I'm good with that.

24 MR. MALAGIERE: I say that anecdotally
25 with a tinge of common sense and some ability to

1 understand the Municipal Land Use Law. By no means am
2 I an expert.

3 Mr. Polyniak, do you have a position on this?

4 Would you like to weigh in on this or would you
5 just kind of not like to talk about it?

6 MR. POLYNIK: I mean, my only issue
7 concerning it would be that there be some sort of
8 certification that nothing has changed from the
9 Boswell submitted plans to the Omland submitted plans.
10 If that's the case, then I see no issue.

11 But, if something is changed materially on the
12 plans, then I think it is.

13 MR. MALAGIERE: That can ultimately be
14 dealt with when there is testimony from the engineer.

15 MR. BASRALIAN: I'll submit a
16 certification before the next hearing.

17 MR. MALAGIERE: Mr. Basralian, we don't
18 want to put upon you, sir. But, these are issues of
19 weight.

20 I understand that it's been a long evening.
21 But, don't do us any favors. The reality is, this is
22 an inquiry that we're going to explore on the record
23 and we appreciate your cooperation.

24 MR. BASRALIAN: It wasn't meant as any
25 sarcasm. I'll be glad to submit the certification.

1 If anything was put upon you, it was the
2 applicant who was, you know, was told by its then
3 engineer that it had to withdraw because of a conflict
4 that was then, subsequent to our retaining them, that
5 was created by the applicant, between Boswell and the
6 City of Hackensack. It wasn't the applicant's doing
7 and to be penalized in any way, shape or form for that
8 is just wrong.

9 MR. MALAGIERE: Well, I mean, engineers
10 and the vagaries of their engagement are not the City
11 of Hackensack 's issue.

12 Counsel.

13 MR. MOREJON: Mr. Malagiere, just to
14 compete my objection, please, of course --

15 CHAIRMAN GUERRA: To the microphone,
16 Counsel.

17 MR. MOREJON: Are we going to hear from
18 the engineer that says there was some change in these
19 plans?

20 May I, may I just --

21 MR. MALAGIERE: Mr. Chairman, that's up to
22 you whether or not you're willing to allow this
23 engineer to testify at this juncture of the hearing.

24 MR. MOREJON: As to -- excuse me, Mr.
25 Basralian. If you don't mind, as to the objection

1 raised --

2 CHAIRMAN GUERRA: I do want to hear if
3 there was any change in these plans with the change in
4 engineer.

5 I do want to hear that.

6 Anyone else?

7 MR. MALAGIERE: Any objection, Mr.
8 Basralian?

9 MR. BASRALIAN: Yeah. I think -- I don't
10 have my engineer's plans here because I knew I
11 wouldn't reach him tonight. If there are, if there
12 are, if there are -- if there is belief by, by your
13 engineer, the engineer for the objector, there is a
14 change, let him submit a letter as to what they are
15 and we'll deal with it as well. And, I will have my
16 engineer review and send a certification.

17 I don't know what they are. And, I'm not
18 prepared to ask him the questions without my plans
19 here to look at.

20 VICE CHAIRMAN DIMINNO: I know, initially,
21 Mr. Basralian, we had a role had, like an easel size
22 drawing. It was some large plan. And, then we
23 received the smaller set.

24 Was there any change?

25 MR. BASRALIAN: Yes -- no. Let's

Robert L. Costa -

1 understand. That's, at one of the earlier meetings
2 Mr. Diane said or maybe it was Mr. Carroll, Captain
3 Carroll said these plans are so big, they're very hard
4 to deal with, do you mind putting together a smaller
5 booklet form. I said, fine, we'll accommodate it.
6 That's what we did.

7 VICE CHAIRMAN DiMINNO: Just a reprinting
8 of the --

9 MR. BASRALIAN: It's a reprinting of that
10 big role, that's very heavy to carry around. And, we
11 put it in booklet form for convenience for you while
12 you're sitting up there.

13 VICE CHAIRMAN DiMINNO: But, it is all the
14 same drawings and not any other pages?

15 MR. BASRALIAN: The same drawings. They
16 were submitted to the Board subsequent to the first
17 hearing on this application.

18 There are no changes.

19 MR. MALAGIERE: Mr. Chairman, do you want
20 to hear from Mr. Costa?

21 CHAIRMAN GUERRA: Yeah, I do.

22 MR. MALAGIERE: Objection noted, Mr.
23 Basralian.

24 Mr. Costa, if you will please identify yourself.

25 MR. COSTA: Absolutely, Mr. Malagiere.

Robert L. Costa -

1 Chairman, for the record, my name is Robert
2 Louis Costa, C O S T A.

3 MR. MALAGIERE: And, you're --

4 MR. COSTA: License number --

5 MR. MALAGIERE: -- you offer testimony in
6 what capacity.

7 MR. COSTA: I'm a licensed engineer.
8 License -- I don't know if you want to swear me in.

9 MR. MALAGIERE: I'm going to swear you in.

10 MR. COSTA: License Number 34702, licensed
11 in the State of New Jersey as a professional engineer,
12 professional planner 4639.

13 MR. MALAGIERE: Give us your business
14 address.

15 MR. COSTA: 325 South River Street in
16 Hackensack, New Jersey.

17 MR. MALAGIERE: Figuring you didn't lie
18 about any of that --

19 MR. COSTA: I don't believe so.

20 MR. MALAGIERE: Place your left hand on
21 the Bible.

22 Do you swear the testimony you're about to give
23 before this Board to be the truth, the whole truth and
24 nothing but the truth, so help you God.

25 MR. COSTA: I do.

Robert L. Costa -

1 MR. MALAGIERE: Counsel, please.

2 DIRECT EXAMINATION BY MR. MOREJON:

3 Q Mr. Costa, would you please --

4 MR. MALAGIERE: We are going to need to
5 share a microphone here, if you would, please.

6 Thank you.

7 MS. SBARARO: Here you go.

8 MR. MOREJON: Who's on first?

9 Q Mr. Costa, would you please bring your
10 concerns to the Board.

11 A Absolutely. I'll try to do it --

12 Q And the citation --

13 A -- as quickly as possible.

14 Mr. Chairman, members of the Board, members of
15 the public, the applicant, basically it's a very
16 simple situation.

17 Mr. Basralian is 100 percent correct. His
18 client filled out an application for a zoning permit
19 and a site plan sheet, a site plan checklist that the
20 Board does not have copies. I can certainly provide
21 them to the Board and to the public.

22 What that is, it checks off for completeness
23 under your site plan ordinance.

24 That particular site plan was prepared by
25 Boswell Engineering. The day that my firm was engaged

Robert L. Costa -

1 to come to you this evening and listen to all of the
2 testimony of the prior meeting with the owner, I went
3 to the recalls to find out what plan was on file that
4 evening for the site plan.

5 Obviously, in order to have a hearing, to have a
6 site plan hearing, which is required, you need a site
7 plan. There was none. That night I believe a plan
8 was handed to this Board to proceed with the different
9 engineer.

10 Under your ordinance, that the attorney stated
11 earlier, you have to have that particular plan on file
12 21 days prior to a hearing. It was not.

13 CHAIRMAN GUERRA: Mr. Mellone --

14 MR. MALAGIERE: I think we can -- I'm
15 sorry. Finish.

16 A Okay. As a member of the public, they
17 have the right, certainly, by notice, to inspect those
18 plans and to go forward.

19 CHAIRMAN GUERRA: I understand your point.

20 Now, I would like to hear from John Mellone.

21 MR. MALAGIERE: Could you just identify
22 yourself, for the record, Mr. Mellone?

23 MR. MELLONE: Joseph Mellone, Land Use
24 Administrator, for the City of Hackensack.

25 MR. MALAGIERE: Do you swear the testimony

Robert L. Costa -

1 you're about to give before this Board to be the
2 truth, the whole truth, nothing but the truth, so help
3 you God?

4 MR. MELLONE: I do.

5 MR. MALAGIERE: Could you please address
6 the comments?

7 MR. MELLONE: The plan was submitted in
8 ample time because the site plan that was submitted to
9 the Board in action to the professionals, H2M, to
10 review and then subsequently revised prior to the
11 application being deemed complete, is the same plan
12 that the Board has in their possession.

13 The change or whatever modification was made,
14 title block wise, may have been added to the board at
15 a subsequent meeting. However, those plans, and it
16 could be testified to by the current engineer, aren't
17 any different from the plans that were reviewed by the
18 professionals.

19 So, we would not have deemed the application
20 complete if the site plan was not in our possession.

21 So, I guess the question is, and I am not sure
22 what the question is, there were no subsequent plans
23 submitted to the Building Department or to this Board
24 that our Board doesn't have in their possession right
25 now except for the change in the title block.

Robert L. Costa -

1 MR. COSTA: That's not what I'm saying.

2 What I'm saying, there was an application
3 submitted to this Board and that the public has the
4 right to review. We went there that day, the Boswell
5 drawings, for whatever reason, conflict of interest,
6 whatever, whatever the case may be, Boswell has
7 elected to remove themselves as the engineer of
8 record, and substituted with the new plan with a new
9 engineer.

10 Whether or not that's the same exact drawing or
11 not, which you heard my opinion testimony from the,
12 from the attorney --

13 CHAIRMAN GUERRA: And from --

14 MR. COSTA: But, it's a different plan.
15 It has not been re-reviewed under your --

16 MR. MALAGIERE: That's okay. I got the
17 point. The point is that it wasn't reviewed by the
18 engineers. It was assumed to be the same.

19 MR. COSTA: Correct.

20 MR. MALAGIERE: If I may, Mr. Chairman.

21 Mr. Polyniak, have you reviewed, in anticipation
22 of testimony on this application, the Omland
23 Engineering plans.

24 MR. POLYNIK: Yes, I have.

25 MR. MALAGIERE: Okay. And, have you

Robert L. Costa -

1 reviewed the H2M review memorandum in connection with
2 the Boswell plans which are now the Omland plans?

3 MR. POLYNIAK: Yes, I have.

4 MR. MALAGIERE: And, do you anticipate an
5 addendum or supplement to that review?

6 MR. POLYNIAK: Based on the plans that
7 Omland has, Omland Engineering has provided, no. But,
8 I would like to ask additional questions that aren't
9 included within the H2M letter.

10 MR. MALAGIERE: Thank you.

11 Mr. Chairman, I understand Counsel's objection
12 and the record is clear as to what their objection is.
13 And, I would ask, you know, what, what remedy would
14 you offer or suggest, Counsel, in connection with,
15 with what you believe to be a violation of the City
16 ordinances and/or the Municipal Land Use Law?

17 MR. MOREJON: Mr. Costa, I allow you to
18 answer the question.

19 MR. COSTA: I think the previous, the
20 previous meeting -- certainly you have a new engineer
21 representing this Board who was not here at the
22 previous meeting.

23 MR. MALAGIERE: Right.

24 MR. COSTA: Those plans were not reviewed
25 by any public officials. In my opinion, that meeting

1 could not take place.

2 MR. MALAGIERE: So you're saying the two
3 prior meetings we should redo?

4 MR. COSTA: Absolutely.

5 MR. MALAGIERE: Okay. Mr. Chairman, I am
6 going to suggest that that suggestion not be complied
7 with. But, the record is clear, the objection is
8 tendered.

9 And, I suggest we move forward with the public
10 session.

11 CHAIRMAN GUERRA: Yes.

12 MR. MALAGIERE: Thank you, Counsel.

13 Mr. Basralian, did you wish to make any comments
14 or arguments before we open to the public?

15 MR. BASRALIAN: Pardon me. The only thing
16 I would ask if the Board wants it or you can wait for
17 the certification from my engineer, if I would put my
18 engineer on the stand, have him sworn right now and
19 ask him one question.

20 Have any changes -- are there any changes in the
21 plan, other than the title block.

22 If that would suffice, I would do that now and
23 put this to an end because there's much more to do.

24 MR. MALAGIERE: I don't see -- I'm sorry,
25 Mr. Basralian, I don't see the need for it.

1 Mr. Chairman, when the engineer testifies, that
2 testimony can be elicited.

3 CHAIRMAN GUERRA: We'll address it then.
4 Let's go to the public.

5 MR. MALAGIERE: At this point. Thank you,
6 Mr. Basralian, and thank you, Counsel and Mr. Costa.

7 Does anyone from the public wish to --

8 Please listen to what I'm saying because I'm
9 saying it very deliberately.

10 Does anyone from the public wish to comment on
11 this witness's testimony or ask questions relating to
12 this witness's testimony?

13 If so, please come forward.

14 Please come forward, ma'am. Yes.

15 If you would, please just identify yourself for
16 the record, spell your last name and give us your
17 address.

18 MR. WEBER: Jerry Weber, W E B E R, 245
19 Prospect Avenue.

20 MR. MALAGIERE: Mr. Weber, would you
21 please put your left hand on the Bible, raise your
22 right hand.

23 Do you swear the testimony you're about to give
24 before this Board to be the truth, the whole truth and
25 nothing but the truth so help you God.

M. D. Szerbaty - The Public

1 MR. WEBER: I do.

2 MR. MALAGIERE: Please proceed, sir.

3 M I C H A E L D . S Z E R B A T Y,
4 having been previously sworn, continues to
5 testify as follows.

6 EXAMINATION BY MR. WEBER:

7 Q You had mentioned that --

8 MR. MALAGIERE: Speak into the microphone
9 sir. Thank you.

10 Q You had mentioned you had walked up and
11 down Prospect and Summit, looking at the other
12 buildings and found it would help you in the
13 architecture of this building.

14 Is that correct?

15 A That's correct.

16 Q I was wondering how you feel your building
17 fits in, which is a commercial building, fits in with
18 the residential nature of the building and make
19 comments about that.

20 A Okay. Well, you're looking at -- I'm
21 trying to get people, to get you, to answer this
22 question, looking at the building, how it's modeled,
23 how it's, you know, the massing of it, the volume, the
24 materials that we're proposing to use, how it's
25 articulated, the windows and all the traffic

M. D. Szerbaty - The Public

1 features --

2 Q Traffic and noise, also.

3 A Okay. Well, your question is, how I see
4 this building, the building fitting into the
5 neighborhood.

6 And, that's -- I'm trying to respond to that.

7 And, the, as, as we, in our studies, you know,
8 developing the design of the building and it's, you
9 know, how it's made and how it's defined and all, you
10 know, all the parts and the pieces, we strive very
11 carefully to have it have a, one, a kind of scale to
12 it, a pedestrian scale which you, you know, which I've
13 spoken about relative to the park area and the entry
14 and the lower levels of the building and then also to
15 have a residential character and relative to how we
16 articulated the facade and, you know, with the windows
17 and, and the features that are like apartments.

18 Q You don't think this would drastically
19 radically and permanently change the nature of the
20 neighborhood?

21 A I think that, that those terms are a
22 little bit too much to put a label on this building.

23 I think any, any building any project, anything
24 that is done is going to, is going to alter a
25 neighborhood. And, what we're -- or a block or a

M. D. Szerbaty - The Public

1 corner or wherever it is.

2 The challenge here, which we've tried to deal
3 with is to have it be as close of a, of an element
4 that works with, and is contextually blended with the
5 surrounding area as possible.

6 Q You must know what the feelings of the
7 audience representing the community is, their feeling
8 is this will permanently change the nature of what is
9 a jewel of a neighborhood. And, you will change it
10 drastically and permanently. And, many of the people
11 feel they would never have moved into this
12 neighborhood if they would have known who would be
13 coming in, possibly.

14 MR. MALAGIERE: That's a statement, sir.
15 And, I appreciate it. But, it's not a question.

16 Q Okay. Do you have any comments about
17 that? Drastically?

18 A I have disagreement with that opinion.

19 MR. WEBER: Okay. All right. Thank you
20 very much.

21 MR. MALAGIERE: Thank you very much, sir.
22 Please come forward, sir.

23 If you just could identify yourself and give us
24 the spelling of your last name and address, sir.

25 MR. BINDER: Frederick Binder, B I N D E

M. D. Szerbaty - The Public

1 R, 245 Prospect Avenue.

2 MR. MALAGIERE: Mr. Binder, do you affirm
3 the testimony you're about to give before this Board
4 to be the truth, the whole truth and nothing but the
5 truth, so help you God?

6 MR. BINDER: I do.

7 MR. MALAGIERE: Thank you.

8 EXAMINATION BY MR. BINDER:

9 Q At the outset of your presentation, you
10 did try to set the new proposed building in the
11 context of the neighborhood. And, you spoke of Summit
12 Avenue as being single family residential.

13 Then you talked about Prospect Avenue. And, you
14 said within the character the buildings were similar
15 to the ones you're proposing. But, you didn't mention
16 they were residential.

17 And, you, I just want to call that to your
18 attention that it is residential.

19 And, throughout your discussion, particularly of
20 the garage, you talk about the trucks, the ambulances,
21 the vans. This is one characteristic that is not --
22 it's actually a residential building, I might point
23 out.

24 But, the garage is going to hold what, 405
25 parking spaces?

1 A Yes, that's correct.

2 Q I understand that there will be a total of
3 about 500 employees of this building plus visitors,
4 plus the trucks and vans and so forth.

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5      Where are they all going to fit if you only have
6      405 spaces?
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7 A Well, I believe the 500 employees are not
8 there at the same time, all the time. And relative to
9 how the traffic is going to flow and function, it
10 would allow the traffic consultant to completely
11 explain how that works.

12 I mean, I could talk about the inner workings of
13 the building and how all of those things --

14 Q The 144 people in those beds, they have
15 144 visitors at one time as well.

16 Isn't that possible?

17 A Highly unlikely, I would imagine.

18 Q Well, I put it to you that Sylvan Paradise
19 might ultimately become a parking space.

20 That's possible, too.

21 MR. BINDER: Thank you.

22 MR. MALAGIERE: Thank you, sir.

23 Did you want to interject on that now, with the
24 meeting date, Mr. Chairman?

25 CHAIRMAN GUERRA: Yeah. Let's do it now.

1 MR. MALAGIERE: The Chairman has indicated
2 that the meeting will adjourn at 10:30, just so
3 everyone is aware of that.

4 I would, I would invite the next member of the
5 public --

6 CHAIRMAN GUERRA: Do you want to say when
7 the next meeting is?

8 MR. MALAGIERE: You want to do the next
9 meeting?

10 MR. MELLONE: Marcella, that's the 22nd of
11 July?

12 MS. SBARARO: Is the, July 22nd is the
13 next meeting.

14 MR. MALAGIERE: Mr. Basralian, is that
15 acceptable?

16 MR. BASRALIAN: Yes.

17 MR. MALAGIERE: Yes. Okay. The next
18 meeting for these proceedings, special meeting will be
19 July 22nd, 2009, 7:00 in these chambers.

20 Thank you.

21 CHAIRMAN GUERRA: Keep going.

22 MR. MALAGIERE: Yes, ma'am.

23 MR. BASRALIAN: Please just announce there
24 will be no further notice.

25 MR. MALAGIERE: Sure. There will be no

M. D. Szerbaty - The Public

1 further notices required and all automatic approvals
2 are waived.

3 Is that correct, Mr. Basralian?

4 MR. BASRALIAN: That's correct, till the
5 next meeting.

6 MR. MALAGIERE: As per further notice.

7 Yes, ma'am.

8 If you could please give us your name, spell
9 your last name, provide us with your address.

10 MRS. BINDER: Teris Binder.

11 MR. MALAGIERE: Put your left hand on the
12 Bible. Raise your right hand.

13 MRS. BINDER: 245 Prospect.

14 MR. MALAGIERE: Ms. Binder, do you swear
15 the testimony you're about to give before this Board,
16 to be the truth, the whole truth, nothing but the
17 truth, so help you God?

18 MRS. BINDER: Yes, I do.

19 MR. MALAGIERE: Please. You're going to
20 need the microphone.

21 MRS. BINDER: I need some clarification on
22 Drawing 2 and I think P-1 was the other one.

23 CHAIRMAN GUERRA: What page in the books
24 is that?

25 MR. SZERBATY: Exhibit A-3 is Drawing 2.

M. D. Szerbaty - The Public

1 MRS. BINDER: P-1, I think it was. It had
2 the driveways.

3 MR. SZERBATY: Yes. This one.

4 MR. DIANA: What page is that in our
5 books?

6 MR. SZERBATY: Drawing P-1. It's Exhibit
7 A-9.

8 EXAMINATION BY MRS. BINDER:

9 Q So, this is my question. On the north --
10 on the Prospect Avenue side of the building, there are
11 driveways on the north and the south.

12 Is that correct?

13 A That's correct.

14 Q And, there were buildings, residential
15 buildings to the north and the south of your building?

16 A That's correct.

17 Q Okay. How, how far are the driveways from
18 the property line adjacent to the residential
19 buildings?

20 A For our site? For our project?

21 Q Yes.

22 A I believe that it is 6 feet on one side
23 and 6 feet on the other.

24 Q So --

25 A From the property line.

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1 Q In from the property line?

2 A Inside the property line, yes, yes.

3 Q On the north side, you said that there
4 would be ambulets and there would be a loading dock
5 and parking for the ambulets.

6 Is that correct?

7 A No. On the north side, which is this,
8 this service drive, that you're talking about, that
9 provides access to the oxygen storage tank which is, I
10 believe, filled once a month, that provides access to
11 the trash compactor which comes once every two weeks,
12 I believe, and it also provides access for one truck
13 delivery, trailer truck delivery of food per week.

14 Q And, will those functions be done in open
15 space?

16 In other words, will the residential building,
17 that's next to it, overlook that area of this facility
18 where those functions are, the unloading of the
19 grocery truck?

20 A They do have a perspective of that but
21 we're required, by zoning ordinance, to screen those
22 like, as an example, the, where the trash compactor is
23 and the oxygen storage tank would have to provide a
24 visual screen on those.

25 Q So, for people who are living on upper

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1 floors, they would be looking right down onto -- I
2 mean, unless you have enormous trees, they would be
3 looking right down onto those functions.

4 Is that correct?

5 A Yeah. Yes.

6 Q Now, on the south side, that's where the
7 access is to the garage?

8 A Correct.

9 Q And, so there would be traffic at a pretty
10 constant flow, going in and out of that.

11 It's a two-way driveway?

12 A Yes, it is.

13 Q And, so, the people, who are residential
14 in the building adjacent, would also be seeing all
15 this traffic back and forth all day?

16 A Yes.

17 Q On that long driveway?

18 A Yes.

19 When you're going down the ramp, you disappear
20 pretty quickly out of view from the south side,
21 surely.

22 But, as you can see in this drawing, that you
23 can make out an out line of that residential building,
24 that's there.

25 Q Yes?

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1 A You're actually seeing the shadow of it
2 because it's an aerial photograph. So, that's where
3 the adjacent building is and driveway.

4 And, this is asphalt paved, you know, to get
5 back to the parking area behind that building.

6 Q And, where is the building on the north
7 side?

8 A You see it right here. That's the base of
9 it. And, that's, that's the building there.

10 MRS. BINDER: Okay. Thank you.

11 MR. MALAGIERE: Hi. How are you? Give us
12 your name, last name, provide us with your address,
13 please.

14 MS. CANESTRINO: Cathleen Canestrino, C A
15 N E S T R I N O, 37 Brook Street.

16 MR. MALAGIERE: Thank you.

17 Can I swear you in, please.

18 MS. CANESTRINO: Sure.

19 MR. MALAGIERE: Do you swear the testimony
20 you're about to give before this Board to be the
21 truth, the whole truth, nothing but the truth, so help
22 you God.

23 MS. CANESTRINO: I do.

24 MR. MALAGIERE: Please proceed.

25 EXAMINATION BY MS. CANESTRINO:

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1 Q Yes. It disturbs me, your reference to
2 this proposed building being a characterization of
3 those others that are representative here in
4 Hackensack, on Prospect Avenue, just by the mere fact
5 that it's a 24 story building. I don't believe that
6 any of the other buildings on Prospect Avenue are 24
7 stories high. So, that, in itself, makes it out of
8 character with the other buildings there.

9 I do think the characterization character is
10 very, very important when you are describing the
11 architectural design of this building and how it fits
12 into our community.

13 My real immediate concern is where is the
14 discussion about population density?

15 You've talked about square footage and you
16 talked about size. We're talking about -- we have
17 residential, population density and we have transient
18 population density.

19 Now we look at the residential population
20 density of this building. The residents there will
21 live in one room. The residents in the rest of the
22 community, on Prospect Avenue, have four to five room
23 apartments. So, we're looking at residential
24 population density increasing by a magnitude of at
25 least four to five. And, that's saying that each of

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1 these apartment owners have rooms that are all the
2 size of a hospital room. And, I think it's fair to
3 say that they're probably even larger than that.

4 Then we get into the transient population. I
5 mean, in our condos and apartments, on a daily basis,
6 who is coming and going. Maybe our, our door man
7 doesn't live there, some of our maintenance people.

8 The plan that I see here, you have plans for
9 administrative offices. So, these are transient
10 workers, transient people that don't live there. We
11 have the nursing staff. And, we have dialysis and the
12 adult day care.

13 I think it's only fair, when you present this
14 case to the Board, that, in all fairness, we need to
15 be presenting the population density numbers that go
16 along with this building when we are attempting to
17 characterize it as part of the community here on
18 Prospect.

19 Have you presented that information and will you
20 be presenting that information to the Board?

21 A No, we have not presented any data
22 relative to comparison between what this facility
23 holds and its occupancy versus say another facility.

24 Q Can you agree with me that this is an
25 important way of characterizing a building?

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1 A Yes and no.

2 Q I'll take it. Thank you for your time.

3 MR. MALAGIERE: Thank you.

4 Please identify yourself for the record.

5 MR. MULLARKEY: Jeff Mullarkey, M U L L A
6 R K E Y, 245 Prospect Avenue.

7 MR. MALAGIERE: I'm going to swear you in,
8 sir.

9 Do you swear the testimony you're about to give
10 before this Board to be the truth, the whole truth,
11 nothing but the truth, so help you God?

12 MR. MULLARKEY: I do.

13 MR. MALAGIERE: Thank you, sir.

14 EXAMINATION BY MR. MULLARKEY:

15 Q Okay. You're going to be building a 24
16 story complex. You're also going to go down more than
17 four stories into the ground.

18 Have any geological studies been done or
19 presented that are going to detail the impact of the
20 surrounding properties?

21 A You're kind, I think you're kind of asking
22 two questions, one having to do with --

23 Q Take them one at a time.

24 A -- the geo technical study for this
25 specific site and, to date, no, none, study has not

M. D. Szerbaty - The Public

1 been produced to confirm the exact character of the
2 area below.

3 We do have information on an adjacent property
4 that has been referred to get an understanding of what
5 we expect.

6 Q Because, you are at the apex of, you know,
7 of the hill of this proposed --

8 A Yes, that's correct.

9 Q And, that's why I'm just concerned. And,
10 I'm sure everybody in the surrounding buildings are
11 concerned relative to what that impact is as you go
12 down four and a half, five stories?

13 A Correct. Yes. And, obviously, that will
14 be a significant study that will take place when that
15 geo technical evaluation is done to determine our
16 foundation systems and how we need to go about
17 building the building on this property and, also, with
18 respect to assuring that adjacent sites are
19 undisturbed.

20 Q So, so nothing has been considered as of
21 yet -- no?

22 A There has been no technical study produced
23 yet.

24 Q Okay. Very good. Secondly, the LTACH
25 facility has already been qualified as a hospital, I

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1 think, by various people in various meetings. And,
2 the architectural plans and the go forward for such a
3 designated facility are only permitted in HCS
4 designated districts in the, in the R75 or the R3
5 districts.

6 The dialysis and the adult day care center are
7 also not permitted in the R3 district.

8 The architectural planning for such a building
9 of this magnitude, how is that justified for this type
10 of area?

11 A Well, I'll have to defer the specific
12 answer to that question to, to later testimony, the
13 planning consultant that will deal with the issue of
14 this building in that zoning area that you're talking
15 about.

16 But, in terms of the, the aspects of it, the
17 technical aspects of it as a facility being long term
18 acute care hospital, all of the design currently takes
19 in, you know, a wealth of information and deals with
20 requirements and code issues to no end resulting in
21 the plans that you see in front of you.

22 Q Um-hum. But, there, also, the plans that
23 are also being, you know, are set forth are also
24 looking to supersede or compromise 14 variances that
25 are currently in place?

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1 A Yes.

2 We'll, a number of variances. I don't know, I
3 don't know that, whether quite the 14 is the exact
4 number.

5 Q I think that's what has been placed on the
6 record.

7 MR. MULLARKEY: All right. I look forward
8 to the details on that. No further questions.

9 MR. MALAGIERE: Thank you.

10 MS. RUBIN: Barbara Rubin, R U B I N.

11 MR. MALAGIERE: And your address, please.

12 MS. RUBIN: 326 Prospect Avenue right
13 across the street from what you are proposing.

14 MR. MALAGIERE: Do you swear the testimony
15 you're about to give, before this Board, to be the
16 truth, the whole truth and nothing but the truth so
17 help you God.

18 MS. RUBIN: Yes. You, obviously --

19 MR. MALAGIERE: Ma'am, I'm sorry. Use the
20 microphone.

21 EXAMINATION BY MS. RUBIN:

22 Q You are, obviously, a very talented
23 architect. And, what you have proposed is a very
24 wonderful hospital.

25 But, are you aware that this is being requested

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1 to be put into a residentially zoned area?

2 A Yes. Of course.

3 Q Well, what do you feel that you can do --

4 How can you ignore 14 ordinances that you are
5 not meeting?

6 As far as space is concerned, I'm sure you know
7 the 14 ordinances have -- I'll get them and I'll show
8 them to you.

9 A Well, the ordinances that are cited, that
10 we are requesting variances for are a wide variety of
11 things from as simple as a sign to more serious
12 significant issues of use. And, so, there's, there's
13 a great diversity in the number of variances. And,
14 that's the reason that we're here, before the Board,
15 is to present our case as to why we feel that what
16 we're proposing to do here deserves consideration to,
17 to accept as variance requests.

18 Q Everyone who has spoken has spoken that
19 this is a residential -- the high-rise on Prospect,
20 they're residential.

21 You are building a hospital. Not a -- you can't
22 compare what you're doing to what we live in. And, I
23 live right across from what you're proposing. And, I
24 have big windows. And, I can see everything that's
25 going on.

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1 And, you put wisteria there. I couldn't care
2 less if you have wisteria. I want you to put on that
3 plan all those cars and medical vans and everything on
4 the driveway. When you put this in, wisteria means
5 nothing to me because that is just window dressing.

6 And, as far as the people on Summit Avenue, as
7 far as people on Summit Avenue, you are proposing, you
8 are giving them a park. They have homes. They have
9 backyards. What do they need your park for?

10 From prior questions about this park, someone
11 who lives on Summit Avenue asked if this park would be
12 open 24 hours. And, the answer was yes.

13 That's correct?

14 A No. That's not open 24 hours to the
15 public.

16 Q How can you close it off?

17 You're not putting a fence around it, are you?

18 A No. There is no fence or gate around it
19 as I mentioned earlier.

20 Q So there is nothing to stop kids from
21 hibernating.

22 I know that in the building next to me, there's
23 an open space. It's not designated a park. And,
24 young people, from Hackensack, come and smoke pot
25 there. And, you can't get rid of them.

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1 What's to stop them from coming to your
2 wonderful park and having them sit around and smoke
3 pot?

4 You're going to have to police this.

5 A I believe that question, as posed earlier
6 to Richard Pineles and the, there will be operational
7 issues that will be addressed to be able to monitor
8 and control or secure the park.

9 Q No matter how you secure this park, you
10 are putting a hospital there. And, this is a
11 residential neighborhood. And, we live there. And,
12 we don't want you there, even though you built a
13 beautiful hospital.

14 Thank you.

15 MR. MALAGIERE: Hi. Could we have your
16 name, spell your last name.

17 MR. SASLAW: Irving Saslaw, 245 Prospect
18 Avenue.

19 MR. MALAGIERE: Could you please spell
20 your last name.

21 MR. SASLAW: S A S L A W.

22 MR. MALAGIERE: Thank you.

23 Do you swear the testimony you're about to give
24 before this Board to be the truth, the whole truth and
25 nothing but the truth, so help you God?

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1 MR. SASLAW: I do.

2 MR. MALAGIERE: Please proceed, sir.

3 EXAMINATION BY MR. SASLAW:

4 Q The -- I notice you don't have a rendering
5 of the Prospect Avenue side, it's as attractive as the
6 rendering the you have for Summit Avenue.

7 Is there a reason for that?

8 A No, there is no reason. We do -- there is
9 a rendering. This is just a series of the drawings
10 but it wasn't quite --

11 Q Because, it wasn't very pretty?

12 MR. BASRALIAN: Excuse me. Let me
13 interject.

14 MR. SASLAW: I'm the one asking the
15 question.

16 MR. BASRALIAN: Just let me interject. I
17 have a right to do this as well.

18 CHAIRMAN GUERRA: Go ahead, Counsel.

19 MR. BASRALIAN: The complete plans that we
20 submitted included a rendering of the east elevation
21 as well. It's in the books that you have before you.

22 It was not one of the exhibits for tonight's
23 hearing but it is part of what's on record with the
24 City and there is a complete rendering of that as
25 well.

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1 We did not have it here to present but, it is
2 there as part of the package that's in the -- you can
3 go look at it there.

4 MR. MALAGIERE: Do you have it to present
5 now?

6 FEMALE SPEAKER: We want to see it.

7 MR. SZERBATY: No. No. We don't have it
8 mounted on a board.

9 MR. MALAGIERE: You don't have it mounted
10 on a board?

11 MR. SZERBATY: Not here, not here.

12 MR. BASRALIAN: You can use the booklet.

13 MR. MALAGIERE: Would you want to use the
14 booklet and show it to this gentleman?

15 MR. SASLAW: I don't, I don't need it.

16 MR. MALAGIERE: You don't need it?

17 MR. SASLAW: No. I wanted to --

18 MR. MALAGIERE: Excuse me. You have a
19 cell phone in your pocket?

20 MR. SASLAW: It's off.

21 VICE CHAIRMAN DiMINNO: I think, if you
22 move maybe a foot forward, stay there. Try that.

23 Q What I'm asking really is, in this
24 rendering that you may have here, does it show all the
25 trucks that are loaded up on Prospect Avenue while

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1 they're unloading, even though there's a street?

2 Does it show that there are trucks sitting out
3 there waiting to get unloaded?

4 A No, it doesn't. But, there are no
5 trucks --

6 Q -- just like to show beautiful trees and,
7 and what not in the Summit side, shouldn't you, for
8 accuracy show, realistically that there will be trucks
9 unloading things visible to, to people walking by or
10 driving by?

11 A Well, the area where the trucks, the
12 service drives --

13 Q On the --

14 A -- exist is off of Prospect Avenue. So,
15 they are not on the street.

16 Q They will be in the driveway, they will be
17 in the driveway where they're unloading, where there's
18 a dock there, unloading --

19 A At least --

20 Q -- propane tanks, whatever it is, tanks.
21 There will be food, whatever trucks pulling in and out
22 on that loading things so it will be almost constantly
23 trucks there --

24 A No. I think I spoke --

25 Q -- different kinds of trucks.

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1 MR. MELLONE: Take the --

2 MR. MALAGIERE: Use that other one.

3 A I think I testified earlier that that
4 service drive is for access to basic, the functions in
5 three ways. It is for access on the oxygen tanks
6 which are filled and the delivery truck comes in and
7 fills those once per month.

8 Q Yeah.

9 A It is access for the trash compactor.

10 Q Right.

11 A Which comes at, again, backs up, picks up
12 the compactor and brings it back once every two weeks
13 and then, then it is access for the food delivery
14 truck that comes once a week.

15 Q That's a lot of trucks coming by there,
16 aren't there, don't you think, because is that, is
17 that something that's in keeping with what the, what
18 the residential look of Prospect Avenue is today, to
19 see these trucks coming there and unloading?

20 Do you think that's in keeping with the
21 residential area?

22 A Well, I would compare it to any of the
23 residential buildings which I assume have a trash
24 delivery and pickup. There are moving trucks that
25 come and go, delivery trucks that come and go.

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1 Q That deliver food?

2 A And, I think they're as, probably as
3 discreet, more discreet than most of those conditions.

4 Q Don't you -- do you think you would like
5 to live next to a building that has trucks going in
6 and out all the time, unloading things in an area of
7 that type?

8 A Well, I think once a month, once every two
9 weeks, once a week is not really a great.

10 Q That's a lot of stuff.

11 And, I notice you don't have a rendering of it.
12 And, that's because it doesn't look very nice. It's
13 not as pretty as what you tried to draw on Summit
14 Avenue.

15 MR. MALAGIERE: Do you have any further
16 questions, sir?

17 MR. SASLAW: No, no further questions.

18 MR. MALAGIERE: Thank you very much.

19 MR. JOHNSON: Mark Johnson, 339 Summit
20 Avenue.

21 MR. MALAGIERE: Thank you, Mr. Johnson.

22 Would you please place your left hand on the
23 Bible.

24 Do you swear the testimony you're about to give
25 this Board to be the truth, the whole truth, nothing

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1 but the truth, so help you God.

2 MR. JOHNSON: I do.

3 MR. MALAGIERE: Please.

4 EXAMINATION BY MR. JOHNSON:

5 Q Your job, as an architect, is to
6 essentially create a structure that meets the criteria
7 of the, of the applicant.

8 Is that correct?

9 Is that how you were hired?

10 We have this plot -- in other words, we have
11 this plot of land and we would like to put XYZ here.
12 Can you design this?

13 Is that, essentially --

14 A We looked at the site. We're presented
15 with a program. The client will typically come with a
16 program and we take that program and make it work.
17 We, you know, deal with number -- in this case number
18 of beds, how many dialysis seats, all the other
19 administrative area and all those things and make it
20 work in, in totality as a functioning building.

21 Q Trying to make as few, I guess, you know,
22 breaks in variances and problems with laws and try to
23 make as few problems?

24 A Yes. Sure. Sure. Yeah.

25 So, you know, it's typically a marrying together

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1 of, you know, a programatic intent. How I want the
2 building to function, what I want it to contain, all
3 of that with, you know, the parameters and
4 requirements dictated by the site which could be
5 technical in nature, as an example, with zoning issues
6 that we're looking at and setback rules and all of
7 those kind of things.

8 And, then, in addition, there is the esthetic
9 quality of it, how it works with the neighborhood and
10 how the circulation works, how the, what the materials
11 are, you know, what, and those kind of things and the
12 volume of it.

13 Q So, ideally, if you were putting up
14 something like this, it would be ideal to build it on
15 a, you know, a three acre plot of land with nothing to
16 sort of interfere where you could sort of have carte
17 blanche in design and in, in efficiency and efficacy
18 of the building.

19 Is that correct?

20 A Not necessarily. In fact, I tend to
21 disagree with that.

22 Q Okay.

23 A I mean, there's a program and other
24 restrictions and dealing with rules and regulations
25 make you smarter.

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1 Q Okay.

2 A Make you be able to put together a more
3 efficient cost effective building and all the
4 challenges involved with that.

5 Q Did you have to provide renderings to the
6 Board of how your building would look behind the park
7 on Summit Avenue as well as how it would look next to
8 the adjacent buildings on Prospect and on Summit
9 Avenue?

10 Did you have to provide renderings of that?

11 In other words, I notice that your renderings of
12 the park, for example, don't have the building behind
13 it. They don't have a picture of the building.

14 A The renderings of the park actually do,
15 that you saw. Again, the building is 200 feet back
16 from Summit Avenue which is quite a long way. If you
17 go down, walk down the street, you look over there,
18 you barely can make out the, the buildings that are,
19 you know, there, the north, south and up and down
20 Prospect Avenue.

21 But, we did not prepare drawings that literally
22 depict our building, you know, related, you know, in
23 terms of adjacent buildings fenestration and color and
24 all of that, that wasn't provided.

25 Q One more question. You mentioned that the

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1 parking spaces in the garage area -- well, actually,
2 two more questions. I'm sorry -- were very generous.

3 If they're generous, how come there's ordinances
4 that are being broken with respect to the distance of
5 the spots from one another and, and those kinds of
6 things?

7 A That's a little bit of a technical answer.

8 When we set out with the design of the building,
9 it had its own restrictions relative to how the
10 structure could work, meaning the column, bays and so
11 on and so forth and the spacing of those.

12 And, as we started working with the building,
13 we, of course, had to drop, take that down through
14 the, the basement levels and the parking levels in the
15 same rhythmic way so that the structural module will
16 remain the same.

17 And, what we ended up with was a situation where
18 we had the required, like I tried to explain but it's
19 a little bit difficult, the 9 by 18 typical spaces.
20 But, if you really look at the plan and you see how
21 the column grid works, the spaces, the space around
22 the cars and things are actually more generous than
23 that.

24 It's nothing that, that we're, that, that anyone
25 else is not, is violating so on and so forth. It just

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1 is how the, the project is kind of is, the structural
2 aspects of it work out.

3 Q Okay. Last question, just if you can
4 because I am sort of a novice.

5 If, if you were going to build a story that had,
6 you know, had five underground parking levels,
7 wouldn't this geo technical kind of survey or at least
8 some sort of a model be necessary before you propose
9 that you're going to do this rather than after the,
10 the sort of proposal has been decided upon and then
11 you decide, well, we really can't building something
12 five stories below because it's going to effect water,
13 it's going to effect the environment and it's going to
14 be not good for --

15 There's no building that has five levels of
16 underground parking in Hackensack.

17 A When, when we were addressing this issue,
18 we are coming at it from an experience level of what
19 we did across the street. We were the architects for
20 the Prospect Heights across the street.

21 And, all of the geo technical information and
22 borings and everything were available to us.

23 And, we learned lessons as we built that
24 building there. And, we -- that, that was
25 extrapolated further to the west, into our neighboring

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1 site. And, and, yes, we have -- ultimately, complete,
2 you know, geo tech survey would have to be done. But,
3 at this time, we're pretty educated on what is
4 happening below that ground.

5 MR. JOHNSON: Thank you.

6 MR. MALAGIERE: Thank you.

7 Sir.

8 MR. LENDER: David Lender, L E N D E R,
9 565 Summit Avenue.

10 MR. MALAGIERE: Do you swear the testimony
11 you're about to give before this Board, to be the
12 truth, the whole truth, nothing but the truth, so help
13 you God?

14 MR. LENDER: I do.

15 MR. MALAGIERE: Thank you.

16 EXAMINATION BY MR. LENDER:

17 Q I have some questions primarily on the
18 exhibit that you currently got up there. I think you
19 called it A-3. And, I wanted to ask about the
20 driveways first on the Summit Avenue side and the
21 U-shape driveway.

22 There are no little security booths or anything?

23 A No.

24 Q So --

25 A No.

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1 Q So anybody who wants to can drive in and
2 out of that driveway?

3 A Yes, sir.

4 Q And, and you used the example of a drop
5 off for dialysis as maybe one use of that driveway.

6 A Yes.

7 Q So, theoretically, somebody, who was an
8 employee, could have a family member drop them off,
9 somebody who has an LTACH patient and had wanted to
10 visit somebody, another family member, could drop them
11 off. Somebody who is in adult day care can be dropped
12 off and, by the same token, get picked up.

13 So you can have pretty much anybody who did not
14 need access to the garage going into and out of there.

15 Right?

16 A I'm not sure that, that there is a very
17 clear simple answer to your question. But, there is
18 the possibility that there would be the person, that
19 occasional person, aside from a dialysis person being
20 dropped off, you know, to use that drive.

21 But, the complete, the real intention of the
22 facility is that the people that are coming to it and
23 using it and probably at some point being repetitive
24 users in the case of adult day care or the dialysis
25 would be, you know, taken, you would go down to the

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1 lower level of the garage.

2 The -- actually, with the case of the adult day
3 care, I think it's been testified to that the majority
4 of those people come by van which, in that case, they
5 would absolutely go down to the garage.

6 Q Yeah. But, also, in the traffic study,
7 which someone will testify as to the traffic engineer,
8 at that time didn't say the numbers of people would
9 probably get dropped off by family members as well.
10 So that not 100 percent of everybody who comes to use
11 that facility is going to go in the van. So, they
12 would be able to go to the Summit Avenue side.

13 And, and you said there was no restriction on
14 who can or cannot go in and out of there. So, no one
15 is going to be able to police that. Someone on staff,
16 LTACH, are you a dialysis patient, are you an adult
17 day care patient. You're just going to be able to go
18 in there?

19 A Yeah. I can't really commit to any
20 testimony on that because that starts to get into
21 being an operational issue as to how it's policed as
22 you're talking.

23 So, I really can't answer that.

24 Q But, the physical reality is that's a
25 driveway that has no restrictions on who goes in and

M. D. Szerbaty - The Public

1 out of there.

2 And, if someone could be a dialysis patient and
3 get dropped off there, anybody else could drive in as
4 well.

5 Correct?

6 I mean, physically, there's no restriction,
7 there's no machine that's going to pop you up and
8 throw you out?

9 A No.

10 Q -- the dialysis patient?

11 A No, there's not.

12 Q And, how wide is that driveway?

13 Is that a two-way driveway?

14 A No. It's a one-way.

15 Q One-way?

16 A Right. It's 12 feet wide.

17 Q And, some questions on the other driveways
18 for a second.

19 On the top one, the, that's the north side on
20 the Prospect Avenue side.

21 A There.

22 Q That's the one for the trucks for the
23 garbage and food deliveries and oxygen.

24 Correct?

25 A Correct.

M. D. Szerbaty - The Public

1 Q So, does that driveway go all the way
2 around the building or it stops?

3 A It stops. It stopped. That box, the
4 rectangle there is the trash compactor and behind it
5 is the oxygen tank. So, you have no possibility of
6 going any further back.

7 Q So when a garbage truck, for example, goes
8 in there, does it have room to turn around?

9 A Are they going to drive in and back out?

10 A They would back out.

11 Q Back out?

12 A Back out -- no, back in.

13 Q Back in.

14 So, you go into Prospect Avenue, you stop, back
15 into the facility and then drive out?

16 A Yes.

17 Q So, at some point, whatever kind of trucks
18 are going to go in there, a semi trailer for food
19 deliveries, I presume or is it going to be --

20 A Yes, I believe it is.

21 Q -- semi trailers, you have to stop on
22 Prospect Avenue, back up, go in there and then pull
23 out there on Summit Avenue or onto Prospect Avenue.

24 Right?

25 A Yes.

M. D. Szerbaty - The Public

1 Q So, physically, that's the only way it
2 could happen? There's no way to turn around?

3 You're not going to be able to go around the
4 building?

5 A No, you cannot turnaround. It's one-way.

6 Q And, on the other driveway, the one that's
7 on the south side, that's the one, that's a ramp that
8 goes down underneath. That doesn't go around the
9 building either.

10 Right?

11 A No. No, not at all. It immediately dives
12 down into the parking level.

13 Q And, that's where the vans with patients
14 would go in?

15 A Yes.

16 Q Right?

17 A Yeah. Yes, ambulances, vans for adult day
18 care patients, those and, also, it's an ingress and
19 egress for employees, staff and visitors.

20 Q Okay. And, how wide is that?

21 A I believe it's 22 feet. That's the, the
22 Code requirement for a two-way drive.

23 Q So, that's wide enough for the vans to
24 come in or a car or van can go out?

25 A Absolutely, yes, and delivery trucks.

1 Q What about inside the garage, when you get
2 down where say a van would come to drop someone off,
3 how would that van turnaround?

4 So, if there are other vans behind it, for
5 example, would the vans be, the vans be backed up, up
6 that driveway? Would it be backed up onto Prospect or
7 is there room?

8 A There is room. They would not -- when
9 they come down, they immediately -- this is the bottom
10 of the ramp. Basically, at this point, you're in a
11 flat area and they continue around and park here. So,
12 they're out of the -- there is no one that stops in
13 this area where the cars are coming and going in and
14 out.

15 MR. LENDER: Okay. All right. That's it.
16 Thanks.

17 MR. MALAGIERE: The Chairman has decided
18 to halt questions of this witness at this time.

19 I would like everyone on line to put their name
20 in the record so that when we reconvene in July, we
21 can, we can have you up.

22 So, if you would please come forward and give us
23 your name so we can preserve your right to question
24 this witness. But, you have to speak right into the
25 microphone.

1 Please, the hearing has not been adjourned.

2 Please.

3 Hold on, ma'am.

4 The hearing has not been adjourned. Please. If
5 you're going to speak, speak outside. The hearing has
6 not been adjourned.

7 Thank you.

8 Yes.

9 MS. JANKOWSKI: My name is Annette
10 Jankowski. I live at 344 Prospect Avenue.

11 MR. WARREN: Charles Warren, Prospect
12 Avenue, 245.

13 MR. MALAGIERE: Thank you.

14 MS. HULL: Karen Hull, 245 Prospect
15 Avenue.

16 MS. CUNDANMAL: Anita Cundanmal, 277
17 Prospect Avenue.

18 MR. MALAGIERE: Say it again, slowly,
19 please.

20 MS. CUNDANMAL: Nita Cundanmal, C U N D A
21 N M A L, 277 Prospect Avenue.

22 MR. MALAGIERE: Thank you.

23 MR. HIPPIE: My name is Gary Hipp, H I P P.

24 I'm at 355 Summit Avenue.

25 MS. PALINKAS: Alexis Palinkas, P A L I N

1 K A S, 235 Prospect Avenue.

2 MR. HURWITZ: Howard Hurwitz, H U R W I T
3 Z, 326 Prospect Avenue.

4 MS. JOHNSON: Udi (phonetic) Johnson, 339
5 Summit.

6 MR. GORDON: Paul Gordon, G O R D O N, 245
7 Prospect Avenue.

8 MR. ROBINSON: William Robinson, R O B I N
9 S O N, 245 Prospect Avenue.

10 MR. MALAGIERE: Mr. Chairman, if I may, I
11 would like to have Mr. Pineles back up for a moment.
12 I would like to ask him a question.

13 CHAIRMAN GUERRA: Mr. --

14 MR. MALAGIERE: I'm sorry. There's no
15 people -- I didn't see that, Mr. Pineles.

16 Please come forward.

17 Is there anyone else who wishes to put their
18 name in? No? Thank you.

19 Mr. Pineles, please. Mr. Basralian, I was
20 handed a note by a member of the public asking if
21 your, the applicant would bring a large rendering of
22 the Prospect Avenue view of the building for the next
23 meeting. And, I would ask that you do that.

24 MR. BASRALIAN: We will bring the large
25 size of what's part of the package that's before the

1 Board and is submitted in the Board offices.

2 MR. MALAGIERE: Thank you.

3 Mr. Pineles, could I please ask you to come
4 back, sir.

5 Mr. Pineles, you're still under oath, sir.

6 MR. PINELES: Yes.

7 MR. MALAGIERE: I asked your attorney if
8 he had requested your new traffic consultant to
9 perform new traffic counts. And, he indicated that he
10 did not and he didn't know if you had. So, I pose
11 this question to you, sir.

12 Did you direct your new traffic consultant to
13 perform new traffic counts?

14 MR. PINELES: Yes. And, just by way of
15 explanation, at last month's hearing, on May 14th, a
16 member of the audience had questioned me about whether
17 I was familiar with the dates that the original
18 traffic -- the original traffic counts were done in
19 the original traffic report.

20 Those took place somewhere around the end of
21 April, beginning of May of 2008. And, the witness
22 mentioned that there were several factors in the
23 surrounding area and, including the Essex Street
24 bridge, the Bergen Town Center construction, and maybe
25 one other event or circumstance in the area.

1 So, I had a discussion with our current traffic
2 engineer. I mention those issues to him. He
3 suggested that we could do additional traffic counts
4 which were conducted in the last two or three weeks
5 since last, the last month's hearing. And, I think
6 the traffic engineer will present those results as
7 well as the original traffic counts which were
8 contained in the original report.

9 MR. MALAGIERE: Thank you, Mr. Pineles.
10 Mr. Chairman.

11 CHAIRMAN GUERRA: Okay. All right. I
12 would like to make a motion to adjourn the meeting.

13 MR. MALAGIERE: Hold on one second, Mr.
14 Chairman. There is a member of the public, Mr. Hipp,
15 who wanted to make a request.

16 Do you recognize Mr. Hipp?

17 CHAIRMAN GUERRA: Go ahead, Mr. Hipp.

18 MR. HIPPI: One thing. Do you have --

19 MR. MALAGIERE: Step to the microphone.

20 MR. HIPPI: Do you have a rendering that
21 shows the park on Summit Avenue with the houses
22 adjacent to it, just showing the homes?

23 Do we have, some kind of rendering like that?
24 Because, you show the park but you don't show the
25 homes on each side of it.

1 MR. SZERBATY: That's correct.

2 MR. HIPPI: Is there any kind of drawing
3 like that?

4 MR. SZERBATY: No. No.

5 MR. HIPPI: This is a residential area that
6 we're, that you're changing. And, we just want to get
7 a good look at what that looks like.

8 I think your heights are wrong is the reason why
9 I'm saying it.

10 MR. MALAGIERE: Understood, Mr. Hipp.
11 It's on the record. The applicant has got it
12 accordingly.

13 Mr. Basralian, anything further?

14 MR. BASRALIAN: Happy 4th of July. See
15 you on the 22nd.

16 CHAIRMAN GUERRA: The 22nd.

17 I would like to make a motion to adjourn the
18 meeting.

19 MR. RODRIGUEZ: Second.

20 CHAIRMAN GUERRA: We're done.

21 (The meeting is adjourned at 10:33 p.m..)

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24

25

1 C E R T I F I C A T E

2 I CERTIFY that the foregoing is a true and
3 accurate transcript of the testimony and proceedings
4 as reported stenographically by me at the time, place
5 and on the date herein before set forth.

6 I DO FURTHER CERTIFY that I am neither a
7 relative nor employee nor attorney or counsel of any
8 of the parties to this action, and that I am neither a
9 relative nor employee of such attorney or counsel, and
10 that I am not financially interested in this action.

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