

1 CITY OF HACKENSACK
ZONING BOARD OF ADJUSTMENT

2 WEDNESDAY, APRIL 15, 2009

3 APPLICATION V23-08 SP21-08
320 SUMMIT AVENUE

4 BLOCK 344 LOTS 3, 4, 5, 14
R-75 & R-3

5 BERGEN PASSAIC LONG TERM
ACUTE CARE HOSPITAL,LLC

6 -----

7 BEFORE: The HACKENSACK ZONING BOARD

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9 CHAIRMAN MICHAEL GUERRA

10 VICE CHAIRMAN WILLIAM DiMINNO

11 JOHN CARROLL

12 HOWARD HURWITZ

13 GEORGE DIANA

14 GOEZ HUMBERTO

15 DANIEL GILMORE

16

17 APPEARANCES:

18 LAW OFFICE OF

19 RICHARD MALAGIERE, ESQ.,

20 ATTORNEY TO THE BOARD

21

22 WINNE, BANTA, HETHERINGTON,

23 BASRALIAN & KAHN, PC

24 Joseph L. BASRALIAN, ESQ.,

25 ATTORNEY TO THE APPLICANT

1

2 ALSO PRESENT:

3 DIKTAS, SCHANDLER, GILLEN, PC

4 CHRISTINE GILLEN, ESQ.,

5 ROBERT A. SCHANDLER, ESQ.,

6 ATTORNEYS FOR OBJECTOR

7

8 JOSEPH MELLONE, CONSTRUCTION

9 OFFICIAL & LAND USE ADMINISTRATOR

10 MICHAEL PESSOLANO, BOARD PLANNER

11 MARCELLA SBARBARO, LAND US SECRETARY

12 CYNTHIA WOOD-DAISLEY, ASSISTANT

13

14 BETH CALDERONE, CCR

15 CERTIFIED COURT REPORTER

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17

18

19 INDEX

20

21 MAYOR MICHAEL MELFI PAGE 12

22 COUNCILWOMAN KAREN SASSO

23 COUNCILMAN JORGE MENNESES

24

25

1 INDEX

2

3 WITNESS: RICHARD PINELES

4 BY MR. BASRALIAN Page 18

5 BY THE BOARD Page 49

6

7 QUESTIONS BY THE PUBLIC

8 -----

9 BEGINNING @ PAGE 74

10 ALEX PALINKAS

BARBARA RUBIN

11 TERRIS BINDER

	DAVID LENDER
12	FREDERICK BINDER
	MARK JOHNSON
13	AL PAGAN
	SUZANNE SZNAJDERMAN
14	JERRY WEBER
	DOROTHY MONPOLI
15	ROBERT GARTNER
	MAURY GEORGIO
16	
17	EXHIBIT LIST

18	EXHIBIT A-1 Certificate of Need
	Dated July 17, 2008 NJDHSS
19	EXHIBIT A-2 Context Plan
	Dated December 11, 2008 MPFP
20	EXHIBIT A-3 Site plan (colored)
	Dated December 11, 2008 MPFP
21	EXHIBIT A-4 South elevation
	Dated December 11, 2008 MPFP
22	EXHIBIT A-5 Building Program Diagram
	Dated December 11, 2008 MPFP
23	EXHIBIT A-6 Building floor plan
	(Ground)

24 Dated December 11, 2008 MPFP

EXHIBIT A-7 Building floor plan

25 (Second through fourteen floor)

Dated December 11, 2008 MPFP

- 1 EXHIBIT LIST

- 2 EXHIBIT A-8 Building floor plan
(Fifteen floor through roof)
- 3 Dated December 11, 2008

- EXHIBIT A-9 Parking floor plan
- 4 Dated December 11,2008 sheet P1

- EXHIBIT A-10 Landscape 3
- 5 Sheet 5 Dated December 11, 2008

- EXHIBIT A-11 Landscape 2
- 6 Sheet 4 Dated December 11, 2008

- EXHIBIT A-12 Landscape 1
- 7 Sheet 3 Dated December 11, 2008

- EXHIBIT A-13 Existing conditions
- 8 Lots 3, 4, 5, 14 Boswell dated
June 6, 2008 rev. September 18, 2008

- 9 EXHIBIT A-14 Site Plan Boswell dated
June 6, 2008 rev. December 12, 2008

- 10 EXHIBIT A-15 Grading and Utility
dated June 6, 2008 rev. 12/12/2008

- 11 EXHIBIT A-16 Vehicles Turning Path

Boswell dated December 6, 2008

12 EXHIBIT A-17 Stormwater Management

Boswell dated May 2008

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1 Date: APRIL 15, 2009

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3 THE CHAIRMAN: Application 23-08,

4 SP-21-08. Address 320 Summit Avenue, Hackensack,

5 New Jersey. Block 344, Lots 3,4,5,14. Zone R-75 &

6 R-3. BERGEN PASSAIC LONG TERM ACUTE CARE HOSPITAL,

7 LLC.

8 Applicant requests to demolish

9 existing one family structure and construct a

10 24-story medical office building. The following

11 were found to be deficient.

- 12 1. Use variance required.
- 13 2. Insufficient lot area, required
- 14 30, 000 square feet. Proposed 20,200 square feet.
- 15 3. Insufficient lot width, required
- 16 125 feet, proposed 100 feet.
- 17 4. Insufficient rear yard setback,
- 18 required 40 feet. Proposed 0 feet to edge of R-3
- 19 district.
- 20 5. Exceeds maximum lot coverage,
- 21 required 30 percent. Proposed 40.5 percent for
- 22 R-3.
- 23 6. Exceeds maximum height ratio.

24 Side yard allowed 4:1. Proposed 19.1

25 7. Insufficient buffer zone required

1 6 feet. Proposed 0 feet to edge of R-3 district.

2 8. Insufficient parking spaces.

3 Required 562. Proposed 402.

4 9. Insufficient driveway width.

5 Required 18-22 feet for two-way. Proposed 10 feet

6 for two-way.

7 10. No paving in side yard.

8 11. Insufficient area for back up

9 aisle spaces.

10 12. Exceeds maximum sign area,

11 allowed 12 square feet. Proposed 96 square feet.

12 13. Insufficient sign setback

13 required 20 feet. Proposed 0 feet.

14 14. Any other variance or waivers

15 that may be required.

16 Counsel.

17 MR. BASRALIAN: Good evening, Mr.

18 Chairman, members of the board --

19 MR. CARROLL: Excuse me. I know you

20 said before in the beginning it is a single family

21 residence being taken down --

22 THE CHAIRMAN: One family structure

23 and it is four lots.

24 MR. CARROLL: It is four lots.

25 MR. MALAGIERE: Four lots.

1 MR. BASRALIAN: I'll correct it.

2 THE CHAIRMAN: Four houses.

3 MR. BASRALIAN: Thank you.

4 Good evening Mr. Chairman and

5 members of the board. My name is Joseph Basralian

6 from the firm of Winne, Banta, Hetherington,

7 Basralian & Kahn here in Hackensack, New Jersey.

8 We're the attorneys for the applicant.

9 Just for some clarification, as you

10 indicated Mr. Chairman, the proposal is for lots 3,

11 4, 5 and 14 in Block 344. That includes four

12 residential lots, four structures, all of which are

13 proposed to be demolished.

14 The entire site, not just the site

15 which is 392 Prospect Avenue which represents the

16 front of the building, fronted on Prospect is

17 50,000 square feet or 1.15 acres. And so the issue

18 of coverage is really not an issue if the entire

19 application is approved, because then the coverage,

20 and ultimately likewise with the setback within the

21 rear yard, is really not an issue because we

22 included all of the properties.

23 As you indicated -- and by the way,

24 the parking is 405 vehicles, not 402. There is an

25 error somewhere, but the actual count is 405.

1 The proposal as you indicated is to
2 construct a 24-story medical facility consisting of
3 144 LTACH beds, long term acute hospital beds. In
4 addition, it includes an 84 seat or chair, if you
5 will, dialysis center. Plus a 250 person adult
6 medical daycare center. The parking --

7 AUDIENCE MEMBER: Counsel, can you
8 please speak up clearly? We can't hear.

9 MR. BASRALIAN: The parking is 405
10 parking spaces, all below grade. There is no
11 surface parking whatsoever in connection with the

12 application.

13 As the Chairman read the

14 application, this does require a use variance for

15 the LTACH, the dialysis center, and the acute

16 medical daycare. Although the daycare center,

17 although they're permitted in the R-3 zone as

18 nursing homes, as a conditional permitted use.

19 The applicant is also seeking a

20 number of bulk variances as were enumerated in the

21 application. LTACH is a long term acute care

22 hospital where the average stay for a patient is 25

23 days, and for a person that requires acute care,

24 but not in a hospital where the average stay is

25 about five and a half to seven days.

1 LTACH is fully staffed with doctors,
2 registered nurses 24-hours a day. However, an
3 LTACH is significantly different than an acute care
4 hospital in that, it does not have an emergency
5 room. It doesn't have a maternity ward or
6 postnatal department. It doesn't have a pediatrics
7 ward, it doesn't do CAT scans, MRIs or tomography.
8 There's no OBGYN department. It doesn't have a
9 radiology department or neurological department. It
10 doesn't have coronary care or an oncology
11 department and it does not have the intensive care

12 facility or a family medicine department. The most
13 important, it doesn't have any out-patient same-day
14 surgery center, except for a small unit in
15 connection with the dialysis center for insertion
16 of ports for the dialysis patient.

17 The dialysis portion of the facility
18 is extremely important because 30 percent -- 30 to
19 33 percent or so of the patients in an acute care
20 hospital, long term acute care hospital, require
21 dialysis three days a week. And each session runs
22 three to four hours and that continues well after
23 they're discharged. When one starts dialysis, it

24 is rarely terminated.

25 The adult medical daycare center is

1 for people who require medical supervision as part
2 of the program. And it differs significantly from
3 a conventional adult daycare center that focusses
4 on socialization. LTACH like any hospital requires
5 a Certificate of Need from the Department of Health
6 and Senior Services which the applicant, in this
7 case, does in fact have. The dialysis unit and
8 adult medical daycare center do not require
9 Certificate of Need, but they are required to be
10 licensed by the same department, the Department of
11 Health and Senior Services. And like the LTACH,

12 they are deemed to be an inherently beneficial use.

13 The issuance of the Certificate of Need for LTACH

14 in of itself means the State has determined that

15 the LTACH is necessary.

16 It is as my custom to provide you

17 with an exhibit list so we don't have to mark the

18 exhibits as we go forward. All of them are marked

19 in great detail on these, as to the dates of each

20 plan, the revision date and by whom it was

21 prepared. So when I refer to the exhibits A-2, A-3

22 A-4, all of that is listed on that exhibit list.

23 I also provided one to Beth, and I

24 have copies for the board (indicating).

25 MR. MALAGIERE: Mr. Basralian, would

1 the applicant consent to supplying the board with a
2 verbatim transcript of the proceeding?

3 MR. BASRALIAN: Yes. I also spoke to
4 your reporter, and I will provide them.

5 MR. MALAGIERE: At the cost of the
6 applicant and the City will be provided with a copy
7 of the transcript.

8 MR. BASRALIAN: Yes.

9 VICE CHAIRMAN DiMINNO: I also
10 brought this up before. I know this counsel
11 represents the Hekemian Buildings, I just want to

12 make sure there is no conflict.

13 MR. BASRALIAN: I don't see a

14 conflict.

15 MR. MALAGIERE: Mr. Basralian, I am

16 going to open the meeting to, the Chairman

17 indicated to me his desire, to allow or to

18 recognize the Mayor and Council who are in the

19 chambers. And he's directed me to offer the

20 microphone to the Mayor and whatever Council

21 members would like to make any preliminary

22 statement in connection with this application.

23 So with that direction,

24 Mr. Basralian, I'm going to invite the Mayor and

25 Council members to make any comment.

1 MR. BASRALIAN: I'll defer to the

2 board Chairman.

3 MR. MALAGIERE: Mayor?

4 MAYOR MICHAEL MELFI: Thank you, Mr.

5 Chairman, members of the board. I appreciate the

6 opportunity you're giving me right now, and I

7 promise to make it very brief.

8 What I would ask of the board to

9 please take the consideration of these residents

10 that are here seriously. We had an opportunity to

11 share some thoughts with them and hear their

12 concerns, and they have some very serious concerns.

13 When considering this application, we need to

14 insure we consider the impact that a facility like

15 this and a building like this will have on the

16 quality of life, not only in that specific

17 neighborhood, but in the overall City and it's

18 affect it will have on the people traveling through

19 the City.

20 So, I ask you to please consider

21 their concerns and make sure you hear as many of

22 them, and get full testimony from all of the

23 witnesses. Thank you very much.

24 COUNCILWOMAN KAREN SASSO: Thank you,

25 Mayor. Mr.Chairman, good evening. And good

1 evening to everyone else on the board. Karen Sasso,

2 288 Maple Hill Drive. It is a pleasure to see all

3 of you this evening. I would like to reiterate,

4 three and a half years we worked very hard to

5 address responsible development in the City of

6 Hackensack. And I never thought I would be

7 standing here before you, but then again, I never

8 thought we would have to worry about a 24-foot

9 story tower on Prospect Avenue.

10 I also urge you to pay close

11 attention to our residents, as well as extract as

12 much testimony as possible from the witnesses and
13 push for the best outcome that we can hope for from
14 you. Thank you.

15 MR. MALAGIERE: Thank you.

16 VICE CHAIRMAN DiMINNO: Thank you.

17 COUNCILMAN JORGE MENNESES: Good

18 evening Chairman, and members of the board. Jorge

19 Menneses, 140 Spring Valley Avenue.

20 Everyday I have to go through Summit

21 Avenue to go to my office in Secaucus. It takes me

22 20 minutes to a half an hour to cross that section

23 the way it is now. Spring Valley to Essex Street.

24 Just bear in mind what can happen when we get a

25 24-story building with all of the traffic that it

1 is going to bring. So, again, we want you to
2 consider all of the testimony and all of the
3 comments from the residents of Hackensack because
4 this is something that shouldn't happen here. Thank
5 you.

6 MR. MALAGIERE: Thank you.

7 THE CHAIRMAN: Thank you.

8 MR. DIMINNO: Thank you.

9 MR. MALAGIERE: I wanted to point
10 out the Chairman directed me to recognize the Mayor
11 and Council. I feel it is appropriate that that

12 was done, but we're not going to recognize anyone
13 from the public at this time. It is the Chairman's
14 decision, and I think it's an appropriate decision
15 to open up witnesses to the public for questioning
16 and comments after the witnesses are presented in
17 order to move this application forward.

18 Having said that, with the
19 Chairman's permission, I would ask that any
20 objector's counsel who are in the audience, come
21 forward and identify themselves for the record, and
22 put on the record whom they represent. I think
23 they're have been some calls made to my office.

24 Apparently no one is here at this time. Having

25 said that, I would ask the Chairman's indulgence --

1 MS. GILLEN: If I may?

2 MR. MALAGIERE: Only if you're

3 representing a group of objectors.

4 MS. GILLEN: Thank you, Counsel.

5 Mr. Chairman, members of the board, Christine

6 Gillen. I'm here with Robert Schandler of the law

7 firm of Diktas, Schandler & Gillen. We represent

8 objector Anastasia Burlyuk.

9 MR. MALAGIERE: What building is that

10 person in?

11 MS. GILLEN: I apologize --

12 AUDIENCE MEMBER: 326 Prospect Avenue.

13 MR. MALAGIERE: Okay. Any one else?

14 NO RESPONSE

15 MR. MALAGIERE: Seeing no one, seeing

16 no other objector's counsel, may I inquire of the

17 secretary about the public notice?

18 THE CHAIRMAN: Yes.

19 MR. MALAGIERE: Marcella, you have

20 already been sworn in, and I want to ask you the

21 usual questions.

22

23 MARCELLA SBARBARO, Land Use Secretary, previously

24 sworn.

25 QUESTIONS BY MR. MALAGIERE:

1 Q. Did you review the notice that was
2 published -- or was notice published in the
3 newspaper, pursuant to the Municipal Land Use Law
4 regarding this application?

5 A. Yes.

6 Q. Did you review the notice that was
7 published?

8 A. I did.

9 Q. Does it conform with the listed items
10 on the agenda?

11 A. Yes, it does.

12 Q. And you received a certification of

13 publication?

14 A. Yes.

15 Q. Did you review the notice that was

16 provided or purportedly provided to the property

17 owners within 200 feet?

18 A. Yes, I did.

19 Q. Was the notice sufficient?

20 A. Yes, it is sufficient.

21 Q. And did you compare the list of

22 property owners within 200 feet of this application

23 with proof of service upon those proper owners?

24 A. Yes, I did.

25 Q. Were all the properties owners served

1 with the appropriate notice?

2 A. Yes.

3 MR. MALAGIERE: Thank you. Mr.

4 Chairman.

5 THE CHAIRMAN: Mr. Basralian, you

6 could start your application.

7 MR. BASRALIAN: Just as a general

8 comment Mr. Chairman, and members of the board, and

9 for the people in the public, I have appeared

10 before this board many times over the last 40

11 years, although not before all of you. And I have

12 always found the board to be objective and listened
13 to the witnesses, and always asked the appropriate
14 questions to gather the information necessary to
15 render an opinion. Irrespective of what is said,
16 pro or con here, the board will render its opinion
17 in accordance with the law, which is objective and
18 based upon the facts of law, and that is what the
19 board will exercise.

20 VICE CHAIRMAN DiMINNO: Of
21 course.

22 MR. BASRALIAN: With that, I would
23 like to call my first witness, if I may,

24 Mr. Pineles, principal with Bergen Passaic LTACH

25 LLC, the applicant before you tonight.

1 RICHARD PINELES, PRINCIPAL OF BERGEN

2 PASSAIC LTACH, LLC, SWORN BY MR. MALAGIERE:

3

4 DIRECT EXAMINATION BY MR.

5 BASRALIAN:

6 Q. Mr. Pineles, you indicated

7 you're the principal with the Bergen Passaic Long

8 Term Acute Care Hospital. Is that correct?

9 A. Yes.

10 Q. Are you a principal in any other

11 health care facilities in New Jersey?

12 A. Yes. I am one of the owners and operators
13 of two nursing homes in Hackensack. Regent Care
14 Center on Polifly Road, and Prospect Heights Care
15 Center on Prospect Avenue. Across from the
16 proposed site.

17 Q. And are you a principal in any other
18 nursing home facilities?

19 A. Yes. Three other nursing homes in the State
20 of New Jersey.

21 Q. And how long have you been involved
22 in the health care field?

23 A. I've been in this business for over 25

24 years.

25 Q. Mr. Pineles, if you would, would you

1 please give the board and members of the public a
2 general description of the proposed facility?
3 A. Yes. If I can give you a little background
4 as to what motivated us to propose this facility,
5 back in early 2002, 2003 the New Jersey Department
6 of Health and Senior Services, which governs all
7 health care facilities in the State of New Jersey,
8 authorized development of LTACH. I'm going to use
9 that term a lot. LTACH is an acronym that stands
10 for long term acute care hospital. In 2003, LTACHs
11 were authorized by the State.

12 An LTACH, which I'll go into a little
13 later, are a different level of care, continuum of
14 care, different from an acute care hospital such as
15 Hackensack University Medical Center, different
16 from nursing homes that currently operate. And so
17 that was sort of the initial motivation for
18 development.

19 What we put together was a full blown
20 health care facility with three major services,
21 health care services. Firstly, the LTACH component
22 which is 144 beds of long term acute care hospital
23 beds. Secondly, a dialysis unit with 84 seats or

24 stations, primarily for dialysis. And thirdly, a

25 medical adult daycare facility with room for 250

1 participants or clients.

2 Q. You indicated that in 2002, 2003 the

3 Department of Health and Senior Services determined

4 that there was a need for LTACH beds.

5 Could you please describe the genesis and

6 where that proposal from the State has arrived at

7 this point in time?

8 A. Yes. LTACH known as a type of health care

9 provider existed for many, many years in many parts

10 of the Country. New Jersey did a study with the

11 hospital association and others, I think they

12 organized the blue ribbon committee, and they
13 determined there was a need for this type of care,
14 of health care in New Jersey. And they established
15 a need for roughly 900 LTACH beds throughout the
16 State of New Jersey.

17 Q. And at this point in time, how many
18 of those LTACH beds have been developed?

19 A. Currently there are 251 LTACH beds operating
20 throughout New Jersey.

21 Q. Now, in conjunction with your
22 determination to review and seek out a proposal for
23 LTACH beds, did you undertake any studies for

24 review in consultation with health care

25 professionals, including an application to the

1 Department of Health and Senior Services for
2 Certificate of Need?
3 A. Yes. Myself, as well as other people in my
4 organization, met with the acute care hospitals in
5 the area. It was those hospitals who had
6 originally obtained these LTACH beds from
7 Department of Health and Senior Services and we had
8 to seek the assignment of their beds and their, I
9 guess, their blessing to develop an LTACH.
10 To date, no hospital in the State of New Jersey has
11 operated their own LTACH. They assigned their beds

12 to other entities to operate within their premises

13 or elsewhere.

14 Q. So the proposal that you put forth,

15 this LTACH is not associated or affiliated with any

16 hospital or medical center?

17 A. No, no. They are an independent operator as

18 LTACH. Our proposal is for what's known in the

19 industry as a free-standing facility. It is not on

20 the campus or premises of an acute care hospital,

21 or other types of health care providers. And we're

22 not owned or directed or affiliated with the acute

23 care hospitals in the area.

24 Q. Now, I think you indicated there are

25 three components to this facility. The LTACH, the

1 dialysis and the adult medical daycare center.

2 Is there a trend in the health care that

3 provides levels of health care services in a

4 particular campus or facility?

5 A. In recent years, not unlike any other areas

6 of endeavor, there has been a trend for multiple

7 care in one facility, or one building or even on

8 one campus.

9 An example of that, the retirement

10 communities. There are several levels of care

11 beginning with independent living moving towards

12 assisted living, and fine skilled nursing
13 facilities on one campus. Another example actually
14 is nursing homes. And our nursing homes are good
15 examples as any. We provide for long term skilled
16 nursing care. We provide for subacute or short
17 term rehabilitation and provide for hospice care in
18 one building or one premise.

19 Q. As part of this development of your
20 facility -- proposed facility, in addition to the
21 studies that you undertook and the review of what
22 was necessary, did you take into consideration or
23 was it a consideration, the demographics of the

24 area in which you're proposing to locate?

25 A. Absolutely. And the demographics are really

1 one of the driving forces behind this project. And
2 I believe this project will serve the needs of what
3 is expected in the near future and mid term future.
4 Everybody knows this Country is ageing rapidly.
5 There's over 300 million people in this Country and
6 of all 50 states, New Jersey is the most densely
7 populated of all states. There are roughly 1,135
8 people per square mile in the State of New Jersey,
9 far above any other state in the country.
10 In New Jersey alone, the most
11 populated county of all 21 counties is Bergen

12 County. And Bergen County has more than three
13 times the density of average in which there are
14 3,600 people per square mile in Bergen County, and
15 a good portion of those people are located in the
16 southern part of the County and the Hackensack
17 area. The current population of Bergen County
18 alone, roughly 905 thousand people, and of those
19 905 thousand people today, roughly 13 and a half
20 percent of the people in Bergen County are age 65
21 and older. It is expected that in the year 2014,
22 less than five years from now, that percentage of
23 people over the age of 65 will rise to 16 percent

24 which translates to 150,000 people over the age of

25 65.

1 Q. Now, in conjunction with the study

2 you undertook, did the design for the facility

3 evolve over a period of time? Or did it follow a

4 particular model and that is the model you follow?

5 A. No. We've been working on this project, our

6 proposal, for a couple of years. We assembled a

7 group of design professionals to put together the

8 plans, specifications and programs for the proposed

9 facility. We had numerous meetings with city

10 representatives, we made numerous submissions to

11 the City's Zoning board and received comments back

12 from the police department, fire department and the
13 city engineer and city planner. And the design
14 evolved over that period of time, two years. And
15 we made many changes which incorporated many of the
16 comments, criticism and deficiencies identified by
17 the various city representatives.

18 Q. Let's get a little more specific.

19 Could you please give a description and explain
20 what an LTACH is? I think I mentioned in my
21 opening statement briefly and I alluded to it, what
22 specific services and how it provides to the
23 patient that would occupy it. Go through that

24 description. I think that would be helpful.

25 A. LTACH by no means, the term is not a

1 household word. It is not that well-known in New

2 Jersey. They only existed for several years.

3 Other parts of the Country, they're better known.

4 But still not a household name in New Jersey.

5 LTACH provides a level of care which

6 is distinctly different than that provided by an

7 acute hospital. LTACH is different from a nursing

8 home or subacute facility, an in-patient

9 rehabilitation facility such as Kessler over in

10 Saddle Brook. By definition, and this is the

11 definition by both the New Jersey Department of

12 Health and Senior Services, as well as the Center
13 for Medicare and Medicaid Services, also known as
14 CMS, which is the Federal Health Care Agency that
15 governs LTACH and most health care in this country.

16 The definition of an LTACH is that the average
17 length of stay for all patients for any given
18 period of time, must be at least 25 days or
19 greater. That doesn't mean that a patient admitted
20 to an LTACH stays for 25 days. They could be there
21 as short as two weeks and as long as 12 weeks but
22 the overall average of a patient in the facility
23 must be at least 25 days.

24 Now, that in contrast to what takes

25 place at an acute care hospital today, obviously

1 hospitals have changed vastly. Everybody in this
2 town is a witness to what's evolved in Hackensack
3 over the years, but the average length of stay in
4 hospitals throughout the Country is roughly five
5 days today. Everybody heard stories, read stories,
6 experienced it themselves, that you've gone into a
7 hospital and you either get diagnosed, a procedure
8 done and you get discharged, whether you like it or
9 not. And that's part of the reality of economics
10 of health care in our country today. The average
11 length of stay at hospitals in New Jersey is a

12 little higher than the national average by five and
13 a half to a six day length of stay, LOS, what's
14 known in the business as LOS. People go to acute
15 care hospitals, not for maintenance, not for rehab,
16 not for being kept stable so much, but for
17 procedure and diagnosis. Hackensack University
18 Hospital, it is hard to keep away from referring to
19 that since it is so close and part of the community
20 here, but they perform a tremendous amount of
21 out-patient and same-day surgeries. And that's
22 typical of Hackensack, but typical of many other
23 hospitals as well.

24 Patients that go to an LTACH in

25 contrast to an acute care, they already had

1 procedures done, already been diagnosed. They are
2 just not stable enough to be discharged from where
3 they came, whether it be home, a nursing home, an
4 assisted living facility, an independent living
5 facility. They need constant monitoring or
6 constant care by round-the-clock physician
7 attention, and nursing attention and other
8 services. These are the kinds of things that don't
9 typically take place at an acute care hospital.

10 Q. You said something very interesting.

11 You said the State of New Jersey earlier on in your

12 testimony determined that there was a need for
13 LTACH, but you didn't explain why they determined
14 the need, as to why they should exist, versus
15 patients remaining in an acute care hospital for
16 that duration of up to 12 weeks as you indicated.

17 A. Well, there were several reasons. The State
18 was identified for initiating the development of
19 LTACH in New Jersey. First and foremost, whether
20 we like it or not, it has to do with the economics.
21 Hospitals and acute care facilities are not really
22 efficient in rendering long term maintenance and
23 stability for these types of LTACH patients. Their

24 reimbursement is geared to short term stays. As I

25 said several times, they do surgical procedures and

1 diagnoses, and after that, there is a very
2 expensive setting within which to render long term
3 acute care. So the State did a study and identified
4 that it would be better for economics of both the
5 hospitals in the State as well as the general State
6 budget to place these types of patients, who do not
7 require more procedures or diagnosis, to go to a
8 less expensive setting that would cost the State
9 less money. Often times many of the patients stay
10 in the hospital for great lengths of time, and
11 costs the State a great amount of money.

12 The other aspect that the State
13 recognizes is that a tremendous amount of
14 reimbursement for LTACH is provided by the Medicare
15 system the federally funded health care system and
16 the State will be able to draw any funds from
17 Washington, as opposed from the tax payers of New
18 Jersey directly. And thirdly, the state identified
19 that three types of patients who need long term,
20 again it is unfortunate the use of terminology,
21 long term is a relevant thing in the context of
22 LTACH, long term, again it's somewhere from two
23 weeks to 12 weeks. But patients that need that

24 type of care could best be served in a different

25 setting, other than an acute care setting.

1 And so those are the three main
2 reasons the State identified these bed needs of 900
3 beds.

4 Q. You identified the differences in
5 some respect to the duration of stays from acute
6 care hospitals and LTACH. You might also explain
7 the differences as to the procedures that an LTACH
8 does not provide, versus what an acute care
9 hospital would?

10 A. It is probably easier to start out
11 explaining what LTACH does not have that an acute

12 care hospital has. Most of the acute care hospitals
13 around have emergency departments which is
14 generally one of the busier departments in the
15 hospital. LTACH does not have any same-day
16 surgery. LTACH does not have a maternity ward or
17 pediatrics. No postnatal ward, no MRIs, CAT scans,
18 tomography. No tomography lab, no cystology lab,
19 no intensive care unit, no coronary care unit, no
20 oncology department, no family practice performed
21 at an LTACH. And there are many, many other
22 services probably too long to enumerate tonight
23 that are performed at a general acute care

24 hospital, that do not take place at an LTACH.

25 Q. I think you indicated that the acute

1 care hospital has an emergency room, but you didn't

2 say specifically that LTACH does not?

3 A. LTACH does not have an emergency room. They

4 don't treat trauma patients and the like.

5 Q. Why don't you tell us what the

6 typical patient profile will be?

7 A. Most LTACH patients arrive from a hospital.

8 Again they have a procedure or diagnoses performed.

9 They have a course of health outlined by the

10 physician by the hospital. There are probably four

11 major main diagnoses that LTACH patients have.

12 Roughly 50 percent of LTACH patients have some sort
13 of cardio pulmonary condition. Coronary pulmonary,
14 which requires intensive respiratory, many LTACH
15 patients require ventilative care. Many have
16 tracheotomies.

17 AUDIENCE MEMBER: (Sounds).

18 MR. MALAGIERE: When someone is
19 testifying, you plainly cannot speak. There will
20 be testimony from you when the Chairman opens it to
21 the public. These are the rules. This is how we
22 have to do it, so, please cooperate. Please
23 respect this gentleman's testimony and don't speak

24 amongst yourselves while he is testifying. Thank

25 you.

1 MR. BASRALIAN: Thank you.

2 Q. Please continue.

3 A. As I said roughly 50 percent of the patients

4 admitted to an LTACH have cardio pulmonary

5 conditions and those patients are seen by a

6 pulmonologist that's on staff of LTACH full-time,

7 and by a respiratory therapist on the premises

8 full-time. The objective would be for a patient

9 who has a tracheotomy, to wean them of the trachea

10 as soon as possible.

11 The second class or category of LTACH

12 patients typically have multiple medical
13 complications and compromise, typically bedbound,
14 and these are types of patients that cannot be
15 necessarily handled in other health care centers.
16 They could be handled in acute care, however, they
17 really need monitoring, stabilization,
18 rehabilitation. They do not need a surgical
19 procedure or a diagnosis. That has already taken
20 place in the acute care setting.

21 Thirdly, there are patients admitted
22 to LTACH that have neurological disorders or
23 musculature disorders that require multiple

24 rehabilitation. And thirdly, there are LTACH

25 patients who have severe beds sores or wounds who

1 would require intensive wound therapy. Again, not
2 performed or not best performed in other settings.

3 Q. Do a number of patients require
4 dialysis as you provided for that type of unit in
5 the proposed facility?

6 A. Yes. Roughly one third of the LTACH patients
7 are expected to need dialysis services.

8 Q. And the dialysis services are for
9 what duration with each group setting, and how
10 often is it required for a dialysis patient?

11 A. For most people that have kidney failure and

12 are on dialysis, they require dialysis treatments
13 three times a week. Those treatments typically
14 last between three and four hours and typically,
15 unless they're lucky enough to be afforded a kidney
16 transplant, they're undergoing dialysis treatment
17 for the rest of their life.

18 Q. In your study and in the industry,
19 generally, did the industry see an increase of
20 number of dialysis patients over what existed 20
21 years ago? And if so, is there a result or basis
22 upon which that may have occurred.

23 A. Yes. There are two major causes of kidney

24 failure or renal failure. The two major causes are

25 diabetes and hypertension. And those typically

1 grow and proliferate with age. And I should say
2 that the incidences of renal failure is roughly
3 equal between men and women and there is renal
4 failure among all ages. But the prevalence of
5 renal failure, as people age, certainly the people
6 over the age of 65 the incidence is much higher.

7 Q. Is there a typical population -- age
8 population that are more likely to be an LTACH
9 patient than over any other population?

10 A. LTACH always admitted and treated patients
11 of all ages. Unfortunately young people have many

12 disorders, disabilities or accidents and accident

13 victims, etc. But the majority of patients

14 admitted to LTACH are elderly people.

15 Q. You also indicated the LTACH requires

16 a Certificate of Need. You did in fact secure the

17 Certificate of Need and I have marked as Exhibit

18 A-1 a letter dated July 17, 2008 from the

19 Department of Health and Senior Services, addressed

20 to Bergen/Passaic LTACH LLC, setting forth the fact

21 that the Certificate of Need has in fact been

22 issued in conjunction with your application.

23 A. Yes, we did obtain that.

24 Q. Is this that letter (indicating)?

25 A. Yes, this is the letter.

1 MR. BASRALIAN: That's been marked as

2 Exhibit A-1 and noted on our exhibit list.

3 Q. Would you please describe for us the

4 description of the dialysis unit, how it operates

5 and the integral part of care you indicated already

6 for dialysis?

7 A. In our proposed facility, we located a

8 dialysis unit towards the upper part of the

9 building. The patients, LTACH patients in the

10 building will be transported to the dialysis unit

11 via elevator. They're medically compromised or

12 stable to be transported to a remote dialysis
13 facility for their health, to be dialyzed on
14 site which is what we provide for. Our proposal is
15 very similar to most dialysis facilities, either in
16 this area or the State or the Country. We would
17 operate six days a week and three treatment times
18 per day, which begin at 6 O'clock in the morning
19 and end at 5:30 in the afternoon. And as I
20 mentioned the typical treatment time for most
21 dialysis patients is three or four hours.

22 Q. Is the incidence or the need for
23 dialysis for a patient increase year-to-year?

24 Is there a general statistic that's

25 applicable to a dialysis need throughout the

1 Country?

2 A. Yes. For the last ten years, the incidence

3 of dialysis has been increasing at least five

4 percent every year. And the projections are, they

5 will continue to increase at that same rate in the

6 foreseeable future. As I mentioned, unlike many

7 other illnesses there is a tremendous amount of

8 research performed on whether it's cancer, heart

9 condition, cardiac condition and there really have

10 not been any tremendous advancements made in

11 dialysis, which would enable people to avoid or

12 forgo dialysis if they want to live. There is no
13 such thing as an artificial kidney that anybody has
14 been able to develop up-to-date and as I said, most
15 people that begin dialysis, are on dialysis for the
16 rest of their life.

17 Q. Now, as part of the dialysis center,
18 will there be an oncologist on site during the
19 appropriate procedure, and appropriate staff,
20 technicians and staff?

21 A. Yes. We propose to have several
22 nephrologists on site to see the LTACH patients as
23 well as out-patients.

24 Q. And out-patients as you indicated

25 will be treated on an out-patient basis. For this

1 particular procedure, dialysis again, how would

2 they in all likelihood appear at the facility to be

3 treated?

4 A. Most patients coming on an out-patient basis

5 would arrive via passenger van. Some may be

6 dropped off by a family members.

7 Q. How long is that stay? Again, if

8 they come in three sessions a day.

9 A. Again the treatment times are run anywhere

10 from three to four hours going to and from. They

11 involve an extra hour to get to and from the unit

12 itself.

13 Q. And are there any other dialysis

14 centers in Bergen County?

15 A. Yes. There are a total of six dialysis

16 centers in New Jersey -- excuse me, in Bergen

17 County. Four of which are located in area

18 hospitals, Hackensack, Holy Name, Englewood and

19 Valley hospital, all have dialysis units. And then

20 there are two other free-standing units in the

21 County. I should note that all of those facilities

22 are at, or near capacity today without any room to

23 grow in the foreseeable future.

24 Q. And perhaps accommodate that

25 additional five percent growth per year you

1 indicated earlier.

2 A. If you look at the five percent growth, even

3 over the next five years, that translates to

4 roughly 30 percent increase over the number of

5 patients undergoing dialysis treatment today.

6 Q. The third consequently component in

7 the facility, the adult medical daycare center,

8 would you describe the facility, what is provided

9 and the type of people who would populate such a

10 center?

11 A. The type of adult daycare facility we're

12 proposing is what's known as the medical model,
13 which is different from other daycare centers which
14 focus on the socialization model, where people go
15 for socialization, play cards, eat, drink a beer.
16 Ours is focussing -- our proposal is focussing on
17 and providing medical care to senior citizens, who
18 would otherwise have to go into an institution, but
19 an adult daycare allows them and their caregivers
20 to reside in the community, at their homes, it
21 allows their caregivers to work in today's society
22 where we have many adults husband and wife working,
23 and they're unable to take care of their parents or

24 other senior citizen relatives. So that's the

25 motivation behind the medical model of an adult

1 daycare.

2 The State of New Jersey basically

3 authorizes, approves and licenses adult daycare

4 facilities and they have a minimum eligibility

5 criteria for a senior citizen to be eligible to

6 participate in the adult daycare program and for it

7 to be reimbursed by the State medicaid system and

8 what that criteria basically is, the senior citizen

9 must need help with two activities of daily living,

10 which are just what you commonly think they are.

11 Whether it be eating, bathing, toileting, medical

12 administration and I think there are two more.

13 Getting dressed. So a person really needs help

14 with at least two of these areas as to qualify, to

15 participate in a medical adult daycare facility.

16 Q. What type of services skilled medical

17 services will be provided for the participant in

18 this adult daycare program?

19 A. Well, firstly, on premises would be nurses

20 who would oversee the participant's medication.

21 Those people, an my parents included, have been on

22 many, many medications. Sometimes those are

23 difficult to monitor, to make sure they're being

24 administered properly, to check vitals and that

25 takes place at the medical daycare program.

1 There are many other services of a
2 medical nature that would take place at the
3 facility, including perhaps dialysis, including the
4 adult daycare participant may need dialysis, and
5 while they are at the center, they will undergo the
6 dialysis treatment. They may need to have a
7 checkup with the physician who will be on the
8 premises. They meet with a nephrologist for their
9 dialysis needs. They may have an ostomy that needs
10 to be checked either by a nurse or s nurse
11 practitioner, or physician on the premises. They

12 may have some surgical site that needs attention.

13 There's probably a number of other medical-related

14 things that could take place someplace else in the

15 community, but it works out conveniently where the

16 senior obtains transportation to the daycare center

17 and has all of the services available, as well as

18 socialization, one meal typically and could obtain

19 services or others.

20 Q. You indicated transportation to the

21 facility. How does transportation for participants

22 occur to the facility?

23 A. The vast majority of the participants to our

24 medical adult daycare program will be picked up by

25 a facility vehicle, passenger van, typically with a

1 wheelchair lift to accommodate the seniors who are

2 wheelchair bound and brought to the facility.

3 The architect will show where they

4 will be dropped off at the facility. And later in

5 the day when they're ready to go home, they are

6 picked up at the facility and taken to their home.

7 Part of Medicaid reimbursement and part of the

8 medicaid eligibility includes the cost of

9 transportation so we will be providing that.

10 Q. You also indicated very early on in

11 your testimony that the population of Bergen County

12 is aging.

13 A. Those participants, those people over 65

14 today, 13.1 percent and projected by 2014 to be in

15 excess of 150,000 people over the age of 65 in

16 Bergen County. The statistics as to the number of

17 people within a three mile radius of this proposed

18 facility, number of people 65 and above.

19 Today, there are within a three mile

20 radius, there are 38,000 people who are over the

21 age of 65 years or older within three miles, 38,000

22 people and of course that's going to grow by

23 several -- by quite a few percent over the next

24 five years.

25 Q. Are there any other existing adult

1 daycare centers located in Bergen County within the

2 234 square miles?

3 A. There are a number of adult daycare

4 facilities throughout the County. None of which

5 are in Hackensack proper. I think the existing

6 adult daycare facilities have room for 800 slots.

7 The number to date 846 slots, I believe are

8 available to meet the existing adult daycare

9 center.

10 Q. In part of your review of the

11 facility, did you make a determination with your

12 consultants that that number of 846 is insufficient

13 to support the adult population needing adult

14 medical daycare?

15 A. Yes. Not only is that number insufficient

16 to serve the County of Bergen, but I believe that

17 the City of Hackensack is severely underserved by

18 adult daycare facilities since there are none, and

19 obviously there's a growing need in this City

20 alone.

21 MR. BASRALIAN: Thank you. I have

22 several more questions, if I may.

23 Q. I guess the question could be asked,

24 why is this facility proposed to be located in

25 Hackensack and why on Prospect Avenue where you

1 designated it? And where the application sits for
2 this proposal, could you please describe for the
3 board the rational behind the application?
4 A. Some of the reasons I think I stated, but
5 let me reiterate them. First and foremost are the
6 demographics of Bergen County. As I mentioned
7 there's an aging, growing population in this
8 County. In less than five years there will be over
9 150,000 people age 65 and older. That necessitates
10 almost by definition, a growing need for various
11 types of health care services, particularly the

12 types that we propose to provide at Bergen Passaic

13 LTACH. Secondly, the LTACH as I mentioned

14 typically receives or admits patients from an acute

15 care hospital within roughly a ten mile radius of

16 the proposed site. There are ten major acute care

17 hospitals. First and foremost, of course

18 Hackensack University Medical Center. Holy Name in

19 Teaneck, Englewood Hospital in Englewood, Valley

20 Hospital in Ridgewood, Bergen Regional Medical

21 Center in Paramus. There is St. Joseph's in

22 Paterson. There is another St. Joseph's in Wayne.

23 There the Meadowlands Hospital down in Seacucus and

24 I think the tenth one on that list is, Palisades

25 General down in Hudson County. So the proximity to

1 the hospital is very important for location of this
2 facility. I should mention that in New Jersey alone
3 there are roughly 80 acute care hospitals and it
4 goes up and down here and there but roughly 80
5 acute care hospitals. There are roughly 350
6 nursing homes in the State of New Jersey and today
7 there are only seven LTACH, seven existing LTACHs
8 in the State. When the full bed need is finally
9 realized, there will probably be no more than 15
10 LTACHS in the State of New Jersey.
11 LTACH, both here in New Jersey and

12 elsewhere in the Country, typically serve as a
13 regional health care provider. Acute care
14 hospitals in New Jersey in particular draw patients
15 from any where from say ten to 15 miles. Nursing
16 homes typically draw patients anywhere from a five
17 to ten mile radius. And an LTACH will too draw and
18 will draw patients from somewhere from a 35 and 45
19 mile radius. That's both in New Jersey and
20 elsewhere in the Country.

21 So being located close to these
22 hospitals is very important for siting an LTACH.
23 Secondly, there are many, many health care services

24 and professionals that reside in the City of

25 Hackensack and the surrounding area. And everybody

1 knows there are many, many physician offices
2 located primarily as a result of both HUMC and
3 those physicians are available for the needs of the
4 patients. At the LTACH that we propose, there are
5 also many other support services. The facilities
6 that have diagnostic services and the equipment
7 available locally that the LTACH would not have,
8 and the paraprofessionals, whether nurses, licensed
9 nurses, and other health care workers in the City
10 of Hackensack. And this facility needs to draw
11 upon, needs to draw from a large work force in

12 order to staff itself properly.

13 Q. In addition, you mentioned the many

14 physicians available and other supporting services,

15 does that mean that Hackensack represents, in your

16 opinion, a good pool of employees for this type of

17 facility?

18 A. Absolutely. As I mentioned earlier, being

19 one of the owners and operators of two nursing

20 homes in the State -- excuse me, in the City of

21 Hackensack, and we always had a great availability

22 of trained health care workers. Other parts of the

23 State do not have the luxury of having that many

24 people available to provide these services.

25 So, I believe that this is an ideal

1 location to site a significant health care

2 facility.

3 Q. You indicated the hospital will be

4 staffed by a physicians and nurses and other

5 people. Could you indicate the number of new jobs

6 that you believe will be created with this

7 facility?

8 A. Yes. For this facility when it is operating

9 at full capacity with all three programs, we would

10 create more than 500 new full-time equivalent

11 permanent healthcare jobs.

12 Q. And that would cover the whole
13 spectrum of services generally available in an
14 LTACH Hospital from physicians to food services
15 too?

16 A. That would be physicians, that would be
17 nurse practitioners, registered nurses, licensed
18 practical nurses, nurse's aides, social workers,
19 dieticians, food service workers, housekeeping
20 people, maintenance people, respiratory therapists.
21 All types of therapies, occupational therapists,
22 physical therapists. It would cover business
23 people. It would cover accountants, bookkeepers,

24 IT people, nursing homes. An LTACH really employs

25 quite a few people of quite a variety of

1 backgrounds and experience and knowledge. And I

2 believe that Hackensack has a great availability of

3 these people.

4 My experience through the years of

5 operating the Regent Care Center on Prospect, we

6 would expect 20 to 25 percent of the employees that

7 would work at the Bergen Passaic LTACH to come

8 directly from the Hackensack Community in the 07601

9 zip code.

10 Q. Now, the architect will testify

11 after you, and I note that the structure is a first

12 class, world class LTACH.

13 Did you, as part of your design, instruct

14 your professionals to create a facility that was

15 built to the hospital standards that are required

16 with infinite materials in a setting that

17 accommodates both the needs of the patient in the

18 community, in your opinion?

19 A. Yes. And I would like to elaborate on that.

20 I think I've worked in the City of Hackensack for

21 over twenty years and I'm sure many of you know I

22 run two nursing home facilities. And we plan to

23 and we want to, become a good corporate citizen of

24 this community. And the first way I think we could

25 do that, and we can do that with our proposed

1 facility, is to create one that tries to take into
2 account the nearby community and the immediate
3 surrounding area.

4 While everybody would like to have
5 more backyards, and more trees and more open space,
6 I think you we have gone out of our way, that's in
7 a very significant way, to try to take those
8 concerns and issues into account with the design of
9 this facility. I think some of the other witnesses
10 will present in more detail, but first and foremost
11 that I would like to point out, the building itself

12 is located strictly on the Prospect side of the
13 property. The address is 329 Prospect. It is not
14 located on the Summit Avenue side. I know there
15 is a great sensitivity in this community to the
16 existing nature of Summit Avenue, but our building
17 is located strictly on the Prospect side. And what
18 we did to maintain the Summit Avenue side, we
19 provided a park setting on the Summit Avenue side
20 where the existing three houses are. And those
21 three lots and three houses comprised roughly three
22 quarters of an acres, and we retained some very
23 astute architect, landscape architect to put

24 together what I think is a very sensitive plan and

25 that park would not only be available for the use

1 of our patients at the facility, the staff and
2 employees, but open to the members of the
3 community, those who live on Summit Avenue and
4 those who live on Prospect Avenue, and nearby
5 areas. And the park will be opened daylight hours
6 and the park will be maintained fully and
7 completely at our cost by us.

8 Q. Lastly, if I might, included in the
9 proposal, is a multi-purpose room. And as you have
10 the similar facility in your nursing homes, are
11 they made available to the public and how have they

12 been utilized in the past in your other facilities?

13 A. We incorporated into the program design, the

14 Bergen Passaic LTACH, several multi-purpose rooms

15 on the first two levels of the building. What we

16 have done for many years at our nursing home across

17 the street, Prospect Heights Care Center, we opened

18 up the multi-purpose room for use by the community

19 groups. We had numerous police functions at the

20 facility, the police youth academy, sororities,

21 various fund raisers for their activities. We even

22 have several condominium, co-op buildings nearby

23 Prospect Heights, and they used the multi-purpose

24 room at Prospect Heights to have their board

25 meetings or community meetings, whereby they don't

1 have a facility on their premises.

2 Also the apartment buildings. We

3 afforded them the use of our facility. I also

4 remember quite a few years ago one of the buildings

5 was undergoing a renovation of their garage

6 structure and needed parking. And this is early on

7 in the Prospect Heights time, and we allowed the

8 members of that apartment building to utilize our

9 garage.

10 MR. BASRALIAN: Thank you.

11 Mr. Chairman, I have no further

12 questions of this witness at this time.

13 THE CHAIRMAN: I have some questions

14 and I'm sure the board members have questions.

15

16 QUESTIONS BY THE CHAIRMAN:

17 Q. If I may, you mentioned the LTACH is

18 kind of a new concept, if you will, in the medical

19 care.

20 A. It is new to New Jersey.

21 Q. New to New Jersey. You mentioned a

22 45 mile radius as far as where this facility will

23 be drawing from. Where is the closest one in this

24 area?

25 A. The closest existing LTACH is Select

1 Specialty Hospital, that's located in Rochelle

2 Park. And that's on the campus of Bristol Manor

3 Nursing Home.

4 Q. How big is that facility?

5 A. I believe that's 62 beds.

6 Q. And this one being proposed?

7 A. 144.

8 Q. Does the location of this, the

9 proposed location, have anything to do with the

10 location of your nursing home?

11 A. Well, to be honest, I became aware of the

12 availability because I visit Prospect Heights quite
13 often. In that regard, yes. But I do feel it is
14 ideally suited because number one, I believe the
15 site is very amenable to the creation of a health
16 care facility, while it is not particularly in
17 conformance with everything that a community would
18 like, it fits in quite well with the multi-family
19 nature of Prospect Avenue. And I also thought that
20 a facility like this type requires a significant
21 amount of parking and it was our belief and our
22 ultimate design, that we could provide a
23 significant amount of parking underground on this

24 site to accommodate those needs.

25 I think Mr. Basralian pointed out

1 earlier and I think it is worth repeating, that we
2 are not proposing any on-site parking whatsoever.

3 And I don't think there is a building on Prospect
4 Avenue that doesn't have on site --

5 MR. BASRALIAN: I think you mean
6 surface parking.

7 THE WITNESS: Yes. Thank you for the
8 correction.

9 Yes. Surface parking. All of the
10 parking proposed is underground.

11 Q. I guess -- and the reason for my

12 question is, there was no area in the hospital zone

13 that you looked at, that would fit? I guess I'm

14 trying to understand how advantageous this location

15 is because of your facility across the street,

16 versus somewhere in the hospital zone?

17 A. There really won't be any sharing of

18 personnel between the LTACH and the nursing home.

19 Q. Not necessarily personnel, how about

20 caring for patients?

21 A. Typically the patients are transported by

22 ambulance, whether it be across the street or from

23 wherever. To answer your question about the

24 hospital zone, I'm well aware of the hospital zone

25 in which the HUMC resides. We did investigate the

1 availability of properties in that zone to obtain
2 and purchase, to create a facility like this, and
3 we were unable to come up with any contiguous
4 parcels available to accommodate this facility.
5 And most particularly to accommodate the parking.
6 There are a lot of small parcels in that zone. It
7 is not really amenable to this type of a
8 development.

9 MR. BASRALIAN: I might add,
10 Mr. Chairman, there is a 35 foot height restriction
11 in the overlay zone to which you're referring.

12 That area is from Essex Street down to Railroad

13 Avenue, from Essex to --

14 MR. DiMINNO: Beech.

15 MR. BASRALIAN: It is not Beech, it

16 is Atlantic Street which encompasses the hospital

17 zone and the hospital overlay zone. And that has

18 certain restrictions. It also has a lot of housing

19 that cannot be disturbed. It is because of the

20 type of housing. It is a mixed use. And this

21 applicant as well as others in the R-3 zone were

22 investigated in acquiring parcels and there was

23 only one major parcel that was contiguous and that

24 was already acquired.

25 A. I should add a good part of the hospital

1 zone lies in an area where it is prone to flooding
2 or a high water table, and those sites in the
3 hospital zone that we looked at did not have the
4 luxury of being able to provide an underground
5 parking structure.

6

7 BY THE CHAIRMAN:

8 Q. So parking needs to be adjusted as
9 far as maybe above ground.

10 A. You're absolutely right. Those sites in the
11 hospital zone, would dictate that they be above

12 ground or on grade parking. But would not allow

13 for the area required for this type of facility.

14 Q. Area meaning?

15 A. Taking the parking requirement and to be

16 able to provide the health care services on the

17 same amount of area.

18 Q. I understand what you're saying.

19 That's why we're here. A variance in the hospital

20 zone versus a variance in a residential zone, is

21 still a variance.

22 A. Your concerns and your questions were posed

23 to us by your city planner and that's why we looked

24 at it and investigated it.

25 Q. So this is in your opinion an ideal

1 spot for this facility?

2 A. Yes.

3 Q. Throughout the whole City of

4 Hackensack?

5 A. Right now, it is the best one I've come up

6 with, yes. We have put a considerable amount of

7 time and effort in developing this. And like I

8 said, we've come up with it, it is never going to

9 satisfy all residents or all neighbors, but I

10 believe we will operate -- we will construct and

11 operate a first class building and facility and

12 provide a tremendous amount of health care services

13 that this community needs.

14

15 QUESTIONS BY MR. DIANA:

16 Q. The certificate shows that your

17 license is for 72 beds.

18 A. Yes. Mr. Diana just mentioned the

19 certificate of Need as it is existing today is for

20 72 LTACH beds after we obtain, hopefully, zoning

21 approval, we will look to expand that to the 144

22 beds that we're proposing. As I mentioned earlier

23 there are -- the State has identified the need for

24 900 LTACH beds and only 250 beds are currently

25 operating in the State.

1 Q. And how did you come up with the 72
2 beds? How did they require you to go out and get
3 72 beds and you decide to boost it up to 144?

4 A. Can you repeat that question?

5 Q. I asked how he determined to raise it
6 up to 144 beds from 72? And I remember you
7 mentioning -- did you purchase these from the
8 hospital?

9 A. No, we do not. The need for these LTACH
10 beds were created by the New Jersey Department of
11 health and Senior Services. What they did was

12 assign these beds to all of the acute care
13 hospitals in the State of New Jersey, and it was
14 incumbent upon us as well as other LTACH to go to
15 these acute hospitals and basically seek the
16 assignment of beds. And the beds that we obtained
17 in order to procure our Certificate of Need were
18 assigned to us by Hackensack Medical University
19 Center and what was the PBI Regional Center known
20 as St. Mary's Hospital in Passaic.

21 Q. Hence Bergen Passaic.

22 A. Yes. And fits within the 35, 45 mile

23 radius.

24 Q. I'm sorry. The 900 that you say the

25 State says, 900 beds are required in the State of

1 New Jersey. They didn't want them all in

2 Hackensack.

3 A. No, by no means. They want to give the

4 people in the County of Camden some beds too.

5 Q. If you use 72 beds in this particular

6 location, that wouldn't be enough? You would be

7 able to cut the building down in half.

8 A. That's a very obvious question and what we

9 believe is, having gone through the demographics

10 and the need in this community, and with all of the

11 hospitals here, there is a need for much greater --

12 for the 72 beds, and I should point out that the
13 facility that we're proposing will be in
14 development with us for a couple of years and will
15 take several more years to fund the development
16 after approval. And we believe that we were not
17 only looking to meet the needs of the health care
18 needs of the community today, but those in five or
19 ten or fifteen years out. We're trying to look
20 forward.

21 Q. And there's an expiration on the
22 license, I read that.

23 MR. BASRALIAN: The expiration date,

24 the end of December 2009 and the Department of

25 Health and Senior Services extend them at an 18

1 month interval. That's the maximum they extend
2 knowing full well -- pardon me, the duration of
3 time it takes to develop plans, receive approval
4 and ultimately construction of this type of
5 facility.

6 MR. DIANA: And this is your last
7 extension?

8 MR. BASRALIAN: Not necessarily the
9 last extension at all. The application has to be
10 made for extension, if approval is granted, then
11 the extension is there for the duration of

12 construction.

13 THE CHAIRMAN: For extension. In

14 other words, they normally just keep extending or

15 eventually they say this isn't going to happen.

16 MR. DiMINNO: Or do you have to

17 provide something?

18 MR. BASRALIAN: That could happen,

19 but that's not the case and my experience with

20 applications and good caution.

21 THE CHAIRMAN: This has been going on

22 since 2004.

23 MR. DIMINNO: Where is that, can we

24 read that?

25 MR. BASRALIAN: This was the last

1 extension that we received. But if the application
2 is approved, hopefully if it is approved before
3 December 2009, that under those circumstances, the
4 extension and additional beds will be forthcoming.

5 As Mr. Pineles testified, the hospitals, the acute
6 care hospitals, to whom all of these beds were
7 assigned do not operate. They are operated by
8 independent entities, not for the hospital or by
9 the hospital. So of all of the 256 beds in New
10 Jersey existing today, none of them are operated by
11 hospitals, acute care hospitals.

12 THE CHAIRMAN: What about doubling

13 the original approval from the State, is that

14 something that -- I know there's a need for 900

15 more, but what do they base their decision on

16 regionally?

17 THE WITNESS: There's a criteria,

18 yes. And the criteria that the State established

19 is that the beds that go into a facility need to

20 come from an acute care hospital that is one hour

21 or less drive away from the proposed facility.

22 That is the criteria. It is a little unusual, but

23 that's the way it is.

24

THE CHAIRMAN: Thank you.

25

1

2 QUESTIONS BY VICE CHAIRMAN DiMINNO:

3 Q. Mr. Pineles, you gave us some number,

4 144 LTACH beds and 88 dialysis.

5 A. 84.

6 Q. 254 adult daycare. Do all of those

7 apply towards the 900 total beds or just the 144

8 number?

9 A. No. The 900 beds refer to the need for

10 LTACH beds in the State. So the dialysis and the

11 LTACH care don't have anything to do with the 900.

12 Q. That's separate in addition to the

13 144, you're adding those.

14 A. Yes.

15 Q. And if I could ask just for

16 clarification for the board, are you a principal in

17 this project?

18 A. Yes, I am.

19 Q. And are there other branches or

20 facilities or sister companies to this project?

21 A. No. This is an independent entity, Bergen

22 Passaic LTACH, LLC.

23 Q. Any affiliation with the hospital?

24 A. Not a direct affiliation, it is part of our

25 assignment from the beds from Hackensack Hospital.

1 We also entered into a referral and transfer
2 agreement with them, which typically most health
3 care providers have with many, many institutions.
4 Those are really required by the governing
5 authorities including CMS, the Center for
6 Medicare/Medicaid services. So we have a referral
7 transfer from Hackensack Hospital and we will enter
8 into a similar type of referral transfer agreement
9 with many others, whether it be an acute care
10 hospital, nursing home it could be.

11 MR. BASRALIAN: I would like to

12 interject on the record, there is no affiliation
13 between the Medical Center, Hackensack University
14 Medical Center or St. Mary's, which provides beds,
15 or any other medical Center that provide the beds
16 in the future. There is no ownership, no combined
17 ownership, no monetary interest, nothing being paid
18 for this. They are an independent operation,
19 except for the referral agreements required by law
20 with any hospital, whether Hackensack, Passaic,
21 Holy Name or anyplace else. I would like the
22 record to reflect there is no affiliation in that
23 regard whatsoever.

24 THE WITNESS: I should add, unlike

25 Hackensack and other hospitals, we have a

1 for-profit entity and we realize we would be

2 subject to taxes.

3

4 QUESTIONS BY VICE CHAIRMAN DiMINNO:

5 Q. How does somebody qualify or enter

6 into this facility? I heard you say, I believe,

7 there are other locations where you transport

8 people from. How do they come to the location?

9 A. Let me see if I could address that in a

10 little more detail than I did a little earlier.

11 As I said, most of the patients that

12 are admitted to any LTACH, including our LTACH,
13 would come from an acute care center. Typically
14 they had either an episode, they have been
15 declining, had a procedure done, or a diagnosis
16 done. They are discharged from the hospital and
17 the admission from us takes place via the social
18 worker's discharge plan at the acute care hospital,
19 referring hospital, along with our case manager and
20 liaison at the LTACH.

21 Q. Do you need some type of referral
22 agreement from somewhere to accept them or is any
23 hospital able to send whoever over by designation,

24 by a person's health or non-health or is it some

25 type of agreement you set up with a specific

1 facility?

2 A. The practice in the industry of the health

3 care business today, that there are referral

4 agreements between institutions that typically

5 transfer patients between them, whether nursing

6 homes to hospitals or vice versa. And those are

7 done for various legal reasons as well as HPPA a

8 privacy protection act we share with the hospital.

9 Health care information that needs to be protected.

10 MR. BASRALIAN: I think there is

11 another question there. If someone there needs a

12 procedure, someone in LTACH needs a procedure, that

13 individual goes back to the referring hospital,

14 that's a procedure that's required.

15

16 BY VICE CHAIRMAN DiMINNO:

17 Q. I appreciate that. I'm not sure I

18 got the answer that I was looking for.

19 A. I think I answered part of it, but let me

20 expand a little bit more. I think you were

21 wondering why an LTACH is chosen for a patient, to

22 come to, from an acute care hospital or how anybody

23 else --

24 Q. Now why, how?

25 A. Specifically how they are transported?

1 Q. How is your LTACH designated? There

2 are a lot of hospitals around. Is there some way

3 that you select which hospital you wish to have

4 them chosen from? Or is it a random thing, just

5 based upon health from any hospital.

6 A. Basically they're joint or between the acute

7 care hospital in the area and our facility as LTACH

8 providers, the acute care hospital makes a

9 determination that a particular patient needs to be

10 discharged from the hospital based on their

11 diagnosis, how they were treated at the hospital

12 and this determines what type of discharge site to
13 send that patient to. The patient may be able to
14 go home, receive home care. The decision to send
15 the patient to an LTACH is when the hospital has
16 been unable to find another discharge site, that is
17 both safe for the patient and can treat the
18 patient's underlying condition.

19 Q. What I'm looking for, not an LTACH,
20 your LTACH. This one versus another one that
21 exists.

22 A. Basically with regard to the relationship
23 between our LTACH and the acute care hospitals, our

24 admissions people, case manager liaison, there's

25 different terminology for that, our admitting

1 nurses when working with the discharge people at
2 the acute care hospital, and they're back and forth
3 with an interchange of health care formation
4 regarding the patient. We need to determine that
5 we can take care of that specific patient. The
6 hospital needs to know whether we can take that
7 patient. It is back and forth. It is very similar
8 to how the discharge/admission takes place in
9 nursing homes today. Except even more so, because
10 the patients are more sicker and need a high degree
11 of medical care, more than they need in the nursing

12 home.

13 Q. Let me ask it in another way. If you

14 do not have an agreement or referral agreement, can

15 you accept or will you accept folks from other

16 hospitals?

17 A. The simple answer is yes.

18 Q. Is that the practical answer, will

19 that happen?

20 A. Yes. The bulk of the majority of patients

21 will come from the area hospitals. However, the

22 people in New Jersey go to hospitals in New York

23 City. There are so many hospitals and institutions

24 in this area. It is hard to have a referral or

25 transfer agreement with every single institution in

1 the area where residents of a community might go
2 for care. But the vast majority will come from a
3 local hospital.

4 Q. With regard to what type of patient,
5 will you have patients there perhaps with alzheimer
6 or other diseases that may need some type of
7 security upon leaving the premises, or anything
8 like that?

9 A. Alzheimer is not a basic diagnosis that is
10 treated for, cared for in an LTACH. If a patient
11 has an underlying medical condition that needs

12 care, and alzheimer is secondary, it might not be

13 secondary to them, but secondary to their other

14 medical condition, then we will take care of those

15 patients. But not typically. Alzheimer patients

16 that's not a typical patient for an LTACH.

17 Q. Will there be any type of patient

18 that you will you need security? Will some

19 patients need to remain in the building as they may

20 not know better to leave?

21 A. Th building and the operations of LTACH is a

22 highly staffed building. The staffing is much

23 higher than any other type of health care. The

24 design of the building facilitates it. Since it's

25 a vertical-type building, patients are up above and

1 there will be a security system, security personnel
2 to monitor the comings and goings of all people as
3 most hospitals have today. That is built into our
4 facility plan in those ways.

5 Q. So the answer is yes?

6 A. Yes.

7 Q. I am almost done. I appreciate it.

8 You had mentioned that this new location would
9 create 500 possible new jobs to the area. Would
10 all those new 500 jobs be residents between Summit
11 Avenue and Prospect in this facility?

12 A. As an employer, I always like people to live
13 close to their work. I don't think we could
14 realistically expect all of those employees to come
15 from Summit Avenue and the Prospect Avenue zone.

16 Q. You mentioned 25 percent of those 500
17 jobs would come from 07601 zip code. How did you
18 determine that percentage?

19 A. That's based on my experience operating our
20 two nursing homes in Hackensack. And I believe
21 that the actual rough percentage of employees work
22 in Hackensack University Medical Center. They may
23 have between 20, 25 percent of their employees that

24 live locally.

25 Q. I see. And lastly, you mentioned the

- 1 park on Summit Avenue. It is like a park setting?
- 2 Would the ambulances and emergency vehicles be
- 3 driving through this park?
- 4 A. The simple answer is no, but let me explain
- 5 that. All of the patient transports and 911 calls
- 6 would be directed, and the architect and engineer
- 7 will show you the plans that illustrate this, but
- 8 all of that type of traffic would be directed to
- 9 the top level of the garage. Provisions were made
- 10 to allow ambulances and the like and emergency
- 11 vehicles down below grade where there are elevators

12 to go up to the building. The exception to that is
13 the fire department. In our discussion with the
14 fire department, they requested that the driveway
15 that we are providing on Summit Avenue be available
16 for their emergency vehicles because I don't
17 believe the large fire trucks would fit
18 underground.

19 Q. Okay. You had mentioned the
20 passenger vans may be small buses, I'm not sure.

21 A. Variety of vans.

22 Q. Maybe the better question was,
23 vehicles would be coming through the Summit Avenue

24 entrance ingress and egress as opposed to Prospect,

25 if I heard you clearly. You said Prospect, I

1 imagine, would be the entrance for all of the other

2 traffic?

3 A. Yes. I think I can address your question.

4 Clearly, the Summit Avenue entrance would only be

5 used for passenger vehicles as they are commonly

6 known. All ambulances, all emergency vehicles all

7 delivery trucks and the like, would enter on the

8 Prospect Avenue side.

9 AUDIENCE MEMBERS: (Sound)

10 THE CHAIRMAN: Please, Please.

11 A. And there are several design features that

12 would dictate that. And one of which is the fact
13 that there is provisions made on the top level of
14 the garage for the parking and unloading and
15 loading of the passenger vehicles. Secondly, the
16 underground parking structure obviously covered,
17 and somewhat immune to the elements for a good
18 number of months of the year, and there is a direct
19 elevator access from all levels of the garage up
20 into the building.

21 Q. And lastly, I just wanted to thank
22 you for answering. And lastly I just want to
23 reiterate a couple of things you mentioned before

24 when Mr. Basralian had asked about your site

25 selection. You had made some comment about the

1 demographics of Bergen County. 150,000 seniors, 55

2 and older.

3 A. 65 and older.

4 Q. 65 and older. Excuse me. I see that

5 you mentioned there is probably ten regional

6 hospitals that you may pull from as a total?

7 A. That is correct.

8 Q. And you need a referral agreement

9 from all of those hospitals. I see that there was a

10 promotion for Hackensack and local professionals

11 and I know the Chairman, Mr. Guerra, asked why the

12 residential zone as opposed to the health care
13 service zone, and just for my clarification,
14 because I didn't really hear that, what exactly, in
15 a simple answer, what was your reason for selecting
16 the residential zone as opposed to the health care
17 zone, was it the water or parking?
18 A. It was several reasons. One of which was we
19 sought to obtain property in the hospital zone and
20 were unsuccessful in finding a suitable piece of
21 property. Secondly, the site was conducive or
22 amenable to building a structure that could
23 accommodate the programs that we plan. And

24 thirdly, we believed we could incorporate

25 underground parking, which would provide a number

1 of parking spaces required for staffing, etc.

2 MR. DiMINNO: Thank you.

3 MR. DIANA: The question I have, when

4 you mentioned 911 calls, I'm assuming somebody gets

5 too sick in your facility, that you have to

6 transport them to an acute care hospital versus

7 someone coming to your hospital at a 911 emergency

8 situation.

9 A. I generally was referring to the 911 calls.

10 Typically, an LTACH is able to handle many of those

11 types of incidents with regard to patients because

12 there are physicians on the premises 24-hours a day
13 and nurse practitioners and other medical
14 professionals who could handle an episode that a
15 patient may experience on site. There are many
16 LTACH patients that are unstable or on cardiac
17 monitoring and those patients could mostly be on
18 site, where I see more of the 911 calls coming
19 from. The facility is really not geared for that.
20 We have visitors coming to the nursing home, and if
21 a visitor falls and hurts themselves, we're not
22 able to take care of their emergency. We need to
23 call 911. And the local ambulance will pick them

24 up. That's where I expect most of those 911 calls.

25 I do not expect a significant amount of 911 calls

1 from this facility.

2 MR. MALAGIERE: Mr. Chairman, at this

3 time is there anybody else on the board who may

4 have any questions?

5 NO RESPONSE

6 MR. MALAGIERE: Do you want to take a

7 moment to consider potentially just taking a few

8 minutes now to consider carrying the hearing to a

9 special meeting before you open it up to the

10 public? If that's your wish, the applicant would

11 get the full benefit of the 10:30 time.

12 Mr. Chairman, do you have any

13 suggestions for a special meeting?

14 THE CHAIRMAN: Given the magnitude of

15 this application, the board has done this in the

16 past, is that, we, instead of having this

17 application heard during our regular meeting, we

18 will schedule a special meeting during the course

19 of the month. In essence, we have our regular

20 meeting and then we would have a special meeting.

21 And a special meeting is just for this application.

22 I think we will be doing that.

23 We looked at a couple of days in May,

24 May 7th and May 14th. We want to make sure none of

25 the board members have a conflict with that date.

1 MR. MALAGIERE: First of all,
2 Mr. Basralian, does your client want a special
3 meeting and will your client pay the fees for a
4 special meeting?

5 MR. BASRALIAN: Yes, we will.

6 MR. PESSOLANO: I have a conflict on
7 the 7th, if that does matter.

8 THE CHAIRMAN: Then we are going to
9 make it on the 14th.

10 A special meeting will be on the 14th
11 of May, just for this application.

12 MR. MALAGIERE: So an announcement

13 will come at the end of the hearing stating this

14 will be carried to May 14, 2009 so the applicant

15 does not have to re-notice.

16 MR. BASRALIAN: Thank you.

17 MR. MALAGIERE: Is it your wish to

18 adjourn for five minutes and let the witness

19 regroup, and then when we return from break, we

20 will open the hearing. It will be open to the

21 public for any questions.

22 THE CHAIRMAN: Yes. We will take a 10

23 minute break.

24 MR. BASRALIAN: As a procedural

25 matter, since our next witness has a number of

1 exhibits and the best way for the board to see it

2 and for the public, we will put the exhibit over

3 here and set them up (indicating).

4 MR. MALAGIERE: Okay.

5

6 (A brief recess is taken @ 9:20 PM).

7 (Hearing resumes @9:30 PM).

8

9 MR. MALAGIERE: The Chairman said the

10 public session of the meeting is now open.

11 I just want to give you brief

12 instructions, if I may.

13 The main purpose is to question or

14 cross-examine this witness. It is not to make

15 comments. The Chairman is typically lenient with

16 regard to comments by way of questioning, but we

17 would prefer that comments be reserved for the end

18 of the application.

19 We understand that there is only one

20 lawyer objector in this room at this point in time,

21 and people aren't trained in this stuff. So we

22 will work with you, person-by-person.

23 With all difference to counsel, the

24 Chairman asked us that we entertain people from the

25 public before objector counsel gets involved. So

1 please, as you come forward, we'll take your name,

2 swear you in, and try to give everyone as much a

3 chance as possible.

4

5 ALEXIS PALINKAS, residing at 235 Prospect Avenue,

6 Sworn.

7 QUESTION BY MR. PALINKAS:

8 Q. First of all I want to say it is a

9 wonderful facility for somewhere else. No one has

10 any problem with the facility.

11 My problem is, the parking situation

12 and looking at the numbers you're giving, will the

13 people who work in the facility be parking in the

14 garage?

15 A. Yes. Everybody that works at Bergen Passaic

16 LTACH will be able to park in the garage.

17 Q. That's 500 people?

18 A. What I said, we'll employ more than 500

19 people. That's not all of the time, at different

20 times of the day, days of the week. Not any one

21 time.

22 MR. MALAGIERE: Let him finish the

23 answer and slow down so she can take it down.

24 Q. How many people at one time will be

25 parking, and employees, who will be parking in that

1 garage?

2 A. I don't have the exact figure at the tip of

3 my tongue. I will tell you that one of our

4 witnesses later on is a traffic expert, and

5 contained in his report and his testimony, will be

6 the exact amount of parking that's required.

7 I can tell you that we have provided

8 for, not just for the employee parking on the

9 premises, but for the visitors and any other family

10 members or patients or attending physicians that

11 might visit. We made provisions for the parking

12 needs. The parking structure of 405 spaces should
13 accommodate all of those needs, and it should not
14 bear on any of the surrounding neighborhoods.

15 Q. I think you just used the magic word
16 "Should." My mother was a resident at Prospect
17 Heights and when I drove there to try to park in
18 the parking lot, it is absolutely impossible to
19 maneuver in the building.

20 The question is -- well, I guess he
21 will tell us later, what kind of a parking garage
22 you're going to have that will accommodate these
23 people. But, if that is the case, that the

24 visitors and employees will be able to park in this

25 garage then why do the people who work in Prospect

1 Heights have to rent parking spaces from the school

2 on Summit Avenue?

3 A. I have identified there's a problem, there

4 is a problem at the nursing home. The garage there

5 is not adequate and I'm the first to tell you that.

6 I wish it was twice or three times the size it is,

7 but it is not.

8 Frankly, it is the experience I had

9 with the parking situation at Prospect that made

10 me, and our design team, focus very carefully on

11 the parking needs at the Bergen Passaic LTACH.

12 And we did some very thorough analysis of both the
13 staffing and visitors, admissions, discharges and I
14 truthfully believe that we have addressed that
15 problem square on, and it will not create any other
16 parking problem in the area.

17 Q. And will you absorb the Prospect
18 Heights parking problem in the new building?

19 A. I can't say that now. I can't say that now,
20 no.

21 MR. MALAGIERE: Come forward.

22

23 BARBARA RUBIN, address 326 Prospect Avenue, Sworn.

24 QUESTIONS BY MS. RUBIN:

25 Q. Mr. Pineles, I live next door to

1 Prospect Heights. I have a front view with my
2 windows all the way around. And I want to ask you
3 a question. Do you have an emergency room at
4 Prosect Heights?

5 A. No.

6 Q. Well, as it turns out, I see vans,
7 ambulances, all kinds of ins and outs, coming in
8 and out.

9 A. Huh-hum.

10 Q. And that's only seven floors there.

11 And how many beds do you have there?

12 A. If I could address Ms. Rubin, patients are
13 mostly typically transported to and from hospitals
14 to nursing homes, back and forth via ambulance or
15 ambulate. That's just the way it is done in
16 Hackensack or elsewhere in the Country.

17 Q. Now, I want to ask you --

18 A. -- if I could add to that, frankly, I am
19 aware of the queueing at times at Prospect Heights.
20 I don't believe there is ever any sound issue or
21 sirens going on. Since this City has a major
22 medical Center, there are always ambulances going
23 one way or the other through the City but I don't

24 think that's a major concern.

25 What I would like to stress the fact

1 that with the design of the Bergen Passaic LTACH,
2 we went to extraordinary efforts to make all of the
3 ambulances, both load and unload patients down
4 underground in the parking structure. And not
5 queue up on the street. We created a much
6 significantly larger access to the garage to
7 accommodate that.

8 Q. I'm not talking about access on the
9 street. I am talking about how you get in there.
10 You have driveways and you have to get them in?

11 A. Right.

12 Q. And that adds to the congestion
13 already on Prospect Avenue. And another thing you
14 said, you stated you need more beds, LTACH beds.

15 Did they say they should be put in a residential
16 area?

17 A. Typically the way the Department of Health
18 determines a need for a particular type of health
19 care service, they don't specify what type of areas
20 it needs to be placed.

21 Q. It is obviously it should not be in a
22 residential area. I see here, I counted them, 14
23 variances that you're asking for. And you don't

24 meet any of the ordinances. You are completely

25 under all of them. How can you justify that?

1 A. Well, I would like to say that while the
2 number 14 is accurate that have been identified, we
3 do comply with the vast majority of the Zoning
4 ordinances. We are located within a multi-family
5 zone, the R-3 zone where we put the building where
6 you reside, and we meet many of the other code
7 requirements. The building code is quite extensive.
8 We believe that many of the variances that we are
9 seeking in front of this board are typical or minor
10 in nature. And we sought to address those and
11 perhaps compensate for some of those in other ways.

12 Q. Can you address the fact there is so
13 much traffic already on Prospect Avenue with buses
14 in the morning, buses at night, ambulances
15 continually going down to Hackensack Medical
16 Center. You will be adding to all of that which is
17 already impossible.

18 A. I can't address all of the traffic in the
19 area on Prospect and what's generated by many other
20 various providers, including Hackensack Hospital.
21 What I can tell you, we retained a traffic expert
22 in preparation in development of this facility to
23 determine whether the traffic generated and caused

24 by the creation of this facility would severely

25 impact the area and the traffic loads. And I will

1 defer to his testimony at a later date, hopefully
2 in May, but I believe he concluded that the impact
3 of the traffic generated from this facility will
4 not be severe to the community.

5 I would also like to point out and
6 you'll see from the traffic study and you're
7 welcome to read it, you'll see a good amount of the
8 traffic that's generated from this facility is on
9 the off peak hours, and our dialysis unit opens up
10 at six o'clock in the morning, some come at 5:30 in
11 the morning, and it's not rush hour. And some of

12 the employees leave at 11 o'clock at night or 11:30

13 at night, so a good amount of traffic generated by

14 the facility is on the off peak hours, which will

15 not add to the existing burden.

16 Q. I know all about shifts of hospitals

17 and seven o'clock shift in the morning leaves in

18 the middle of the day, and then the new shift comes

19 in.

20 A. That is correct.

21 Q. Even the seven o'clock, we're not

22 talking about that. And on top of that, your

23 traffic people that you have hired, do they live on

24 Prospect Avenue?

25 A. I may recollect that the traffic engineer

1 used to live on Prospect. But I don't know where

2 he currently lives.

3 Q. That's probably why he doesn't live

4 there anymore.

5 A. I don't know, but you could ask him.

6 Q. It just seems to me that you have

7 chosen a piece of property that was readily

8 assessable at a marvelous price and without regard

9 to the residents who live on this street, and not

10 to their quality of life.

11 A. I would like to address that since you bring

12 that up. Health care facilities, it is important
13 that they be located adjacent or near to where the
14 people that need those services are. And while no
15 one likes certain things in their backyard, again,
16 we're serving the senior population. And that's
17 out intention, to serve the senior population in
18 both Southern and Northern Bergen County. It is
19 not just for the patients, but for the family
20 members who come to visit the patients and are
21 there for extended stays. That's one point.

22 And another point I would like to
23 address, your concerns or comments, sounds of a

24 large building, obviously I can hear the sentiments

25 from the audience tonight, no one likes the idea.

1 What I can promise you is this. We experienced
2 this when we developed Prospect Heights Care
3 Center. People said oh, we don't want a nursing
4 home in the neighborhood. No one wants a nursing
5 home in the neighborhood. I have spoken to many,
6 many people over the years, both patients and
7 visitors to Prospect Heights, they were never able
8 to find the nursing home, Prospect Heights, without
9 really looking at the address real carefully,
10 because they didn't know the nursing home was
11 located there. And I believe that we have gone out

12 of our way to design a facility, and again I'll
13 leave that to the designers who are coming up next,
14 that it is in many ways residential in nature. It
15 is not a single family house, it is not a two and a
16 half story split level house. Once upon a time,
17 and I do understand. I saw recently the new book
18 that came out about the City of Hackensack, and I
19 saw many of the pictures of the old mansions and
20 things on Summit Avenue and Prospect Avenue.
21 Unfortunately for you and the community, the
22 neighborhood doesn't reflect what it once was 50,
23 100 years ago. And I believe -- and I'll be short,

24 what we will end up with, and hopefully what you,

25 as a community and neighborhood will end up with,

1 is a very good looking building. And somebody
2 would have to know it is a health care facility
3 because it really won't look a lot different than
4 many of the other apartment buildings on Prospect
5 Avenue.

6 Q. Can I say this, that Prospect Heights

7 has seven stories. Is that correct?

8 A. Yes.

9 Q. This seems to be your baby, because

10 you spent a fortune on artwork inside. The point of

11 the matter is, what you're asking for is 24 stories

12 with traffic going in and out, in and out, two
13 driveways. I looked at the plans and you seem to
14 say that this is not going to look -- that it is
15 going to look something like a normal building?
16 A. I'm not making light of it, and I'm not in
17 anyway trying to pretend it is a small building at
18 all. I will tell you that there are many buildings
19 on Prospect Avenue that have many stories. They
20 might not be 24, but many buildings 17 and 18
21 stories, and the only different is, that you have
22 to crane your neck a little taller to see the last
23 few stories.

24 Q. The only difference is they are

25 residential and yours is commercial.

1 A. The only thing I have to tell you, when you
2 walk on the streets in the community, you really
3 wouldn't know one from the other.

4 Q. I don't believe what you have to say
5 is true. And I hope that it will never happen
6 because I live there and you don't.

7 A. I respect that. I respect your statement.

8

9 TERRIS BINDER, Address 245 Prospect Avenue, Sworn.

10 QUESTIONS BY MS. BINDER:

11 Q. Mr. Pineles, by these questions I

12 hope to get a handle on some of the numbers that

13 you mentioned vis-a-vis the traffic situation.

14 So, you said that there is going to be 84

15 outpatient dialysis beds. Correct?

16 A. Not exactly. Well, first of all, in the

17 dialysis world, they're called seats or stations.

18 The 84 will not all be outpatient or designated

19 for outpatients. As I mentioned, roughly a third

20 of the inpatients, LTACH patients, would be getting

21 dialysis treatment at the center.

22 Q. But they would be across the day?

23 A. That is correct.

24 Q. And there would be three sessions a

25 day?

1 A. Three treatment times a day.

2 Q. Not on off hours except maybe the

3 earliest ones. How would the people be transported

4 to your facility for dialysis?

5 A. Most of the dialysis patients would arrive

6 by ambulet or passenger van. Some would be dropped

7 off by their family members.

8 Q. And so there might be some vans that

9 have multiple patients in them, and some would come

10 independently?

11 A. That is correct.

12 Q. And coming and going throughout the

13 day until they finish their session.

14 A. It wouldn't be continuous throughout the day

15 --

16 Q. And then you said there would be

17 probably over 200 people coming to dialysis on any

18 typical day, except for the people who are

19 inpatients.

20 A. I don't know the exact figure. I believe it

21 is somewhat less than that. I'll defer to the

22 traffic expert who has that identified.

23 Q. And then you said that the adult

24 daycare facility would accommodate about 250

25 people?

1 A. That is correct.

2 Q. And so those people would be arriving

3 on a daily basis probably not at six, probably not

4 at six o'clock AM.

5 A. Our program is slated to open up at

6 seven-thirty in the morning.

7 Q. And they would be coming in vans and

8 possibly being dropped off also.

9 A. The vast majority of the adult daycare

10 participants would arrive by passenger van.

11 Q. And how many people typically are in

12 a passenger van?

13 A. About 10 or 12 in the passenger van.

14 Q. So there will still be maybe 25 or 30

15 vehicles coming in, maybe even more, to drop people

16 off?

17 A. Somewhere in that range of 25, 30 is

18 accurate, yes.

19 Q. And in addition to that, people

20 coming to visit the patients who are in the long

21 term acute care?

22 A. I would hope so, yes.

23 Q. That would generate a bit of daily

24 traffic too?

25 A. I don't think the visitor traffic is nearly

1 as much as the dialysis patients or the adult

2 daycare.

3 Q. Plus employees. If there are 144

4 beds, there could be quite a few people visiting.

5 A. And we projected how many visitors would

6 come, I hope so, like I said.

7 Q. And that is in addition to people who

8 have to be transported because you don't have CAT

9 scans or MRIs or any of these tests. They would

10 possibly be transported back and forth to

11 hospitals?

12 A. Most patients that have arrived at the LTACH
13 have undergone their surgical procedure or
14 diagnostic procedure. If a patient needs any
15 further surgical or further diagnostic procedure,
16 they would have to be transported, and that would
17 be by ambulate.

18 Q. Okay. I just wanted to clarify that
19 to get a handle on the additional traffic.

20 MR. MALAGIERE: Come forward.

21

22 DAVID LENDER, address 565 Summit Avenue, Sworn.

23 QUESTIONS BY MR. LENDER:

24 Q. I want to go over the numbers. By my

25 math, you have 84 chairs involved in the dialysis

1 center, three sessions per chair, per day?

2 A. Right. At full capacity.

3 Q. That 252, that's roughly 250 sessions

4 and you said a third of those are going to be

5 dialysis for the LTACH patients, about 38. So my

6 math says you got a little over 214 outpatients

7 coming in and out everyday.

8 A. Yes.

9 Q. So 214 come in, 214 go out.

10 A. I don't have our projections right in front

11 of me.

12 Q. You have gone through a lot of
13 numbers. I'm just averaging off your numbers.

14 A. I don't have those figures at my fingertips
15 or on the tip of my tongue. But generally the
16 number of trips or traffic is roughly as you said.

17 Q. That's 428, 425 in and out per day in
18 the dialysis center?

19 A. Not necessarily individuals trips. Many
20 dialysis patients will be picked up and transported
21 by passenger van. There could be five or six or
22 ten dialysis patients which would arrive in one
23 vehicle to the facility.

24 Q. So if you divide that by ten, you got

25 40 or so per day, in and out. And those are not at

- 1 six o'clock AM. 6:00 AM to 5:30 PM.
- 2 A. The treatment times run from 6:00 to 5:30,
- 3 so the first treatment is at 6:00. The first
- 4 patient for 6:00 arrives between 5:30 and 6:00 AM
- 5 in the morning.
- 6 Q. Even if you are at maximum capacity
- 7 from the vans in and out per day over that time
- 8 period, and then on the adult daycare, if you're at
- 9 maximum capacity on the vans, you just said 25 to
- 10 30 in and out. So that's again 50 to 60 vans in
- 11 and out per day?

12 A. Right. Spread out throughout the course of

13 the ten hours or so.

14 Q. So you're talking about roughly 90 to

15 100 vans in and out per day incremental. On top of

16 the additional traffic for the staff as well.

17 A. I think those numbers are in the ballpark.

18 Q. And that doesn't include the

19 visitors. We're just talking about patients here.

20 A. Right.

21

22 FREDERICK BINDER, Address 245 Prospect.

23 QUESTIONS BY MR. BINDER:

24 Q. Your lawyer spent most of the time

25 with the process, and we probably support it. What

1 we are concerned with, is the location. And the
2 traffic engineer that you brought up, did they
3 arrive around rush hour to see the backup of
4 traffic?

5 (AUDIENCE SOUNDS)

6 MR. MALAGIERE: Mr. Binder, I'm sorry,
7 please finish your question.

8 Q. I'm particularly concerned about the
9 building on the corner of Passaic and Prospect
10 Avenue, the medical building with a single ramp
11 with cars going up and down that single ramp and

12 the backing up is tremendous. The VA building.

13 A. I personally experienced that problem myself

14 at that corner.

15 Q. Have you also considered that

16 Hackensack University Hospital is expanding their

17 facility down the hill, which may also result in an

18 increase in ambulance traffic?

19 A. I haven't myself personally, but I'm quite

20 certain our traffic engineer looked at the

21 projected traffic for the next five, ten years in

22 the immediate area.

23 Q. So there is no concern that, for

24 example, emergency ambulances will rush to

25 Hackensack Hospital to the emergency room, which

- 1 you'll not have in your building, may actually
- 2 endanger the people in those ambulances which --
- 3 A. I think it is an issue, that's a concern to
- 4 everybody in this room. Including myself. But I
- 5 think I'm satisfied based on our study that the
- 6 increased traffic will not impede the traffic flow
- 7 or congestion in the area.
- 8 Q. I was wondering what your personal
- 9 reaction, your personal assessment of our town
- 10 ordinance, regarding residential areas? They do
- 11 serve a purpose, you do realize?

12 A. Obviously I am a big believer in zoning

13 ordinances and they serve a great purpose to the

14 communities --

15 Q. And do you think perhaps 13,

16 challenging up to 13 ordinances might have some

17 impact on degrading the value of the ordinance?

18 A. No, but as I mentioned earlier and I would

19 like to repeat it again, some of the variances that

20 we're seeking here in front of the board and the

21 community here, are minor and technical in nature.

22 And I believe, if you take the project in its

23 totality, that we do serve the needs and meet the

24 spirit of the zoning ordinance and the master plan.

25 And I also believe that we've gone out of our way

1 to demonstrate doing other design features, now the

2 park and the --

3 Q. The park that you mention, isn't it

4 likely that many of your patients will use that

5 park?

6 A. Yes, it is. And I hope they do. It is open

7 for both our patients and the community.

8 Q. Patients in wheelchairs and patients

9 that are sick, and you feel completely fine that's

10 attractive.

11 A. I find that I see people in wheelchairs up

12 and down the avenue, all day long, in good weather.

13 And I'm not saying it is a parade or a train or

14 anything like that just because I want to tell you.

15 I'm very committed to the health care business. I

16 spent a good part of my life in it and I have a

17 great difference to old people, and I have personal

18 experience with family members who have been

19 wheelchair bound and disabled, and just because

20 they are disabled, doesn't mean we should put them

21 off on an island like a lepra colony, like we did

22 75 years ago.

23 Q. I'm not advocating that. I appreciate

24 your concern for older people and I assure you that

25 a building of this structure will certainly hasten

1 the ageing process of most of the patients.

2

3 MARK JOHNSON, address 339 Summit Avenue, Sworn.

4 QUESTIONS BY MR. JOHNSON:

5 Q. Mr. Pineles, I have a number of

6 questions. You mentioned that there were 62 beds

7 at the facility in Rochelle Park, and you were

8 intending to, I guess, upgrade to 144 beds at the

9 LTACH on Prospect. That equals 206 beds. The

10 State of New Jersey allocated for 900. The first

11 question, can you tell me did I get those

12 statistics correct?

13 A. At the moment, yes. Those are accurate.

14 Q. So that's about 20 percent the way I

15 figured of 900 that were allotted. The first

16 question, are there any other facilities in Bergen,

17 Passaic, Essex County, other than the ones that you

18 mentioned and Rochelle Park?

19 A. There is one other LTACH in Passaic County

20 located at St. Joe's in Wayne being operated.

21 Q. How many beds do they have, sir?

22 A. I don't know the exact number, but I believe

23 it is somewhere between 25 and 30 beds.

24 Q. Next question, does your nursing care

25 facility, either one in Hackensack, have dialysis

1 services available to its patients?

2 A. Not on premises, no.

3 Q. So what specifically do you do with

4 the people who are in your nursing care facilities

5 in terms of getting them dialysis now?

6 A. Those patients are transported to outpatient

7 facilities elsewhere.

8 Q. What's the percentage of people in

9 your nursing home who on a daily basis that require

10 dialysis services?

11 A. I don't think I can get you a specific

12 percentage. I could tell you at any one time there

13 are five to ten patients that go to a dialysis

14 facility.

15 Q. Five to ten on a daily basis?

16 A. Yes, I think so.

17 Q. And I imagine that having a dialysis

18 center across the street in a facility that you own

19 would make that after advantageous?

20 A. I'm not going to mislead you to think we'll

21 send them elsewhere. Patients have a right in this

22 Country to go wherever they please, if it was

23 convenient. I will tell you this was discussed at

24 the break with a gentleman who asked me if I had

25 dialysis at Prospect Heights, and I will tell you

1 I've been a big advocate for a long time in having
2 dialysis services available on premises at nursing
3 homes for patients that need them. It is very
4 taxing and very unfair when elderly patients, who
5 are in nursing homes who have to go to outpatient
6 dialysis facilities often. Could you picture
7 yourself in the middle of January, a cold day, ten
8 degrees out, a patient on dialysis. They have no
9 choice if they want to live. They have to take
10 treatment in the middle of January, 5:00 or 5:30 in
11 the morning, and they have to be transported. They

12 miss their regular meals severed at the nursing
13 home, they get transported and the overall length
14 of time for those patients, it is not three to four
15 hours, it turns into a five or six hour ordeal.
16 They go out into the cold, however well clothed
17 they are, it is not enough, they're not warm
18 enough, and they don't eat properly. Sometimes
19 medication (inaudible) in transportation. It is
20 not an ideal setup. What I want to distinguish in
21 an LTACH patient, LTACH patients are much more
22 severely compromised and medically needy than those
23 in a nursing home. They're typically bedbound,

24 they are not amenable to an outpatients dialysis.

25 Q. Next question is about, what is the

1 percentage of people who have -- younger than 60,
2 who also need dialysis who have kidney failure,
3 renal problems?
4 A. I don't know the statistics off the top of
5 my head. I will tell you I think I mentioned
6 earlier that renal failure affects different ages,
7 different people as young as ten years old, and
8 people as old as 100 years old who are on dialysis.
9 I will tell you that the majority of dialysis
10 patients tend to be older and elderly and as a
11 result of other complications, diabetes and

12 hypertension.

13 Q. Would you agree that most of the

14 people that have renal failure need dialysis on a

15 daily basis are people above the age of 65?

16 A. I don't know the exact statistics. I could

17 find out and give you an answer next time. But I

18 believe it is far greater than 50 percent.

19 Q. Would the other people then maybe

20 drive or be able to access or even some of the

21 other elderly people drive for their own dialysis

22 appointment?

23 A. There are some dialysis patients I believe

24 do drive to their treatment. It is the exception.

25 The exception. Certainly not people below the

1 driving age and sometimes people will be able to go
2 to dialysis and go to work afterwards, but the vast
3 majority and I mean 90 to 95 percent are being
4 transported by somebody else.

5 Q. Can you differentiate for me a
6 medical adult daycare and a social adult daycare?

7 A. The medical adult daycare facilities are
8 recognized, licensed by the State of New Jersey as
9 well as other states. The social model of daycare
10 means people come basically for eating,
11 socialization, playing cards, drinking a beer,

12 social function. The medical model of daycare and
13 what's recognized by the State, the adult daycare
14 facility provides health care services and I think
15 I mentioned earlier the criteria established by the
16 Department of Health to be eligible under the State
17 Medicaid program, is that the participant needs
18 help or assistance with two activities of daily
19 living.

20 Q. Where is the closest medical adult
21 daycare center in this area?

22 A. I believe there is a small facility located
23 on the Holy Name Hospital Campus. I don't think it

24 is very big. It is a limited number of spots and I

25 think there's another. There's a number, a total

1 of 846 slots running in Bergen County, I think
2 there might be one other small facility in Teaneck.

3 Q. How many parking spaces do you have
4 over at your nursing home at this point?

5 Q. At Prospect Heights 100 spaces on the
6 premises.

7 Q. I spoke to an employee of your
8 facility who I see parking in front of my house on
9 a daily basis who walks over to work for, I guess,
10 the 6:30 shift. They have told me that they are not
11 allowed to park in your facility. Is that the

12 case?

13 A. To a certain extent that's true, yes.

14 Let me explain that. We recognize and we

15 identified earlier, parking is an issue at the

16 Prospect Heights Center. We made a policy decision

17 and we try to enforce it, we give preference to the

18 family members and physicians. Many of the patients

19 are older at Prospect Heights and the spouse, and

20 the family members are elderly and we give

21 preference to allow them to park as many as we can

22 on premises.

23 Q. Are you willing to allow the board to

24 hire, I guess, at your expense, an independent

25 person to examine some of the data, the statistics

1 that you presented here tonight in terms of
2 demographics, not only of Hackensack, but in terms
3 of the elderly population, in terms of dialysis
4 needs, in terms of percentage of people who do and
5 do not get dialysis with respect to Bergen County?

6 A. I think I would defer to our attorney to
7 answer that question. I don't know what the normal
8 procedure is.

9 Q. The last question. Your parking study
10 was conducted before the extension to the medical
11 Center but also before the Bergen Mall was opened.

12 A. Not before the Bergen Mall, I don't think

13 the Bergen Mall has been opened for quite a few

14 years.

15 Q. Before changing to Town Center?

16 A. Right.

17 Q. Are you aware that your parking

18 numbers may be askew in the parking, traffic?

19 A. I would think that's a question better

20 directed to our traffic engineer, but I believe he

21 took into account both existing conditions and the

22 future conditions and the future expected

23 conditions in the area.

24 Q. Other than the fact this building is

25 actually across from your current site, is there

1 any reason that this couldn't be in Teaneck or Edge

2 Water or any other place in Bergen County or the

3 surrounding area?

4 A. I think there are, many other LTACHs, both

5 in New Jersey and the Country, there could be many

6 locations. I think this site is ideally suited for

7 our project.

8 MR. JOHNSON: Thank you very much.

9

10 AL PAGAN, address 302 Prospect, sworn.

11 QUESTIONS BY MR. PAGAN:

12 Q. What is the size of the two

13 properties now?

14 A. Four individual houses.

15 Q. Do you know how many square feet or

16 how many acres it consists of?

17 A. 50,000 square feet. Or a little over 1.15

18 acres. A little over an acre.

19 Q. How much of that right now is

20 impervious? Do you know? In other words, how much

21 of is is paved? I'm trying to find out how much is

22 grass area, and how much is paved area?

23 A. I don't have that figure at the tip of my

24 tongue. Our engineer could address that.

25 Our site engineer will address that. I will tell

1 you this, there is quite a bit of property today
2 covered by driveways, some have large driveways on
3 those four houses, and I'm not clear that we're
4 going to be increasing the impervious coverage at
5 all.

6 Q. I would be surprised if you're right.

7 A. I'm not certain. I'll defer that to the
8 engineer.

9 Q. I think the board and its engineer
10 when they look at it, should look at this
11 stormwater management, even though we're on top of

12 a hill here, there are problems with storm sewers,

13 overloading storm sewers, sanitary sewers

14 especially.

15 MR. MALAGIERE: That all will be

16 looked at typically and analyzed. I don't mean to

17 cut you off, we do have a lot of people, and that

18 will all come up through the engineering testimony.

19 It is an important question. It just needs to be

20 addressed to the right professional. Thank you.

21 Q. Okay. I would hope that three

22 things, traffic, the sanitary questions and

23 adequacy of the sanitary system is reviewed because

24 drainage goes in both directions. And make sure you

25 have taken care of stormwater management and maybe

1 a little detention will be needed to make sure you
2 don't hurt the existing system, and nothing is in
3 the way of the sanitary system and to look at it to
4 make sure. You got a lot of people there, putting
5 into the sewer system. And lastly, I don't
6 remember what that one was.

7 A. The only thing I could tell you, I believe
8 we addressed some of those concerns and you will
9 hear that in later testimony.

10 MR. MALAGIERE: Come forward.

11

12 SUZANNE SZNAJDERMAN:, address 242 Summit, Sworn.

13 QUESTIONS BY MS.SZNAJDERMAN:

14 Q. Why do you feel you need the land on

15 Summit Avenue.

16 A. Basically the simple answer to that is, we

17 needed the land on Summit Avenue to accommodate the

18 underground parking structure and have enough

19 parking spaces, as we are planning on going down up

20 to five stories with our underground parking

21 structure. None of that underground parking

22 structure will be visible from Summit Avenue, with

23 the exception of one entrance and egress on Summit

24 Avenue. For the most part what would be apparent

25 and what you would see, and I think we have some

1 rendering which will illustrate, a park setting on

2 Summit Avenue.

3 Q. When do we get to see the sketches?

4 A. As soon as you finish with me.

5 Q. Is there a height limitation on

6 Prospect Avenue of houses on Prospect Avenue? Can

7 they go up to a certain story?

8 MR. JOSEPH MELLONE: Construction

9 official and Land Use Administrator for the City of

10 Hackensack, Sworn.

11 I am sorry, I didn't hear the

12 question?

13 MR. MALAGIERE: Is there a height

14 limitation?

15 MR. MELLONE: 35 feet in a one-family

16 and two-family dwelling.

17 MS. SZNAJDERMAN: On Prospect Avenue.

18 MR. MELLONE: Are you asking about the

19 height of a multi-family dwelling structure?

20 MS. SZNAJDERMAN: On Prospect, is

21 their a height limitation for the building?

22 MR. MELLONE: I'm going to grab it

23 right out of the book for you now. R-3 structures

24 multi-family -- actually it is 280 feet, 30

25 stories.

1 MS. SZNAJDERMAN: How many stories is

2 that? I don't understand.

3 MR. MELLONE: 30 stories. It is

4 approximately ten foot per story.

5 MS. SZNAJDERMAN: You could build up

6 to 30 stories?

7 MR. MELLONE: There are other items

8 that need to be taken into condition. There are

9 setback issues, the higher the building the more

10 the building has to be set back from your property

11 line. So it is sometimes -- unless you have a very

12 large lot you cannot go very high or you would be

13 seeking some variances.

14 QUESTIONS BY MS.SZNAJDERMAN:

15 Q. Is that the reason you need the land

16 on Summit Avenue because of your height

17 requirement?

18 A. No. As I said I think the sole reason is

19 the underground parking requirement. I don't think

20 it has anything to do with the height issue.

21 Q. So this land on Summit Avenue belongs

22 to you and you could change your mind and not keep

23 it as a park-like setting. It is not going to

24 belong to the City.

25 A. I assume the City Attorney, the board

1 attorney and our attorney will address the issue
2 with that, but I could tell you our commitment is
3 to keep it as a park, and I assume that can be
4 written in any kind of approval or as a condition.

5 Q. Can I have a printout of the zoning
6 variations that were requested? How do I get that?

7 MR. MALAGIERE: We will give you a
8 copy of the agenda what's required and what's
9 proposed.

10 MS. SZNAJDERMAN: Thank you.

11

12 JERRY WEBER, address 245 Prospect, Sworn.

13 QUESTIONS BY MR. WEBER:

14 Q. The question is concerning -- well,

15 this is the very edge of the residential area

16 (indicating) here. How long do you think this

17 building will be under construction?

18 A. It will take approximately two years to

19 construct.

20 Q. Two years and traffic going back and

21 forth annoying people with the construction, the

22 dust in a heavy residential area?

23 A. I could tell you from my experience from

24 constructing both Prospect Heights and Regent Care

25 Center that your City officials and elected City

1 officials do a great job monitoring.

2 Q. You don't have to put a 24-story

3 building, you're going to have trucks going back

4 and forth.

5 A. Unfortunately I'm not going to mislead you.

6 Q. Two years in a heavy residential

7 area, you're going to have trucks pulling in,

8 delivering goods. How are they going to get into

9 the building, going directly in, or they have to

10 maneuver?

11 A. We made provisions and I think both the

12 architect and the site engineer will address the
13 issues and we will be able to illustrate with a
14 diagram we have put before you.

15 Q. How long is the driveway?

16 A. I can tell you simply, we made provisions so
17 that the access to the garage on Prospect Avenue
18 will accommodate medium sized trucks. I believe up
19 to 27 feet long. And there is something like
20 twelve foot six of clearance, which is the height
21 of most medium sized trucks. I think it is the
22 height of most big tractor-trailers.

23 Q. They could drive directly in, you're

24 saying?

25 A. Drive into the top level of the garage and

1 we provided for a loading dock, so they could

2 unload.

3 Q. They won't have to maneuver in the

4 street, you're saying?

5 A. They have to maneuver like any other

6 vehicle, but I believe that the site engineer will

7 show you the study.

8 Q. They have to back up?

9 A. Those trucks will directly pull into the

10 garage as any other passenger vehicle would.

11 Q. Well, these will be big trucks?

12 A. Just as a truck turns, a car turns. A truck

13 could turn. So I don't think we are suggesting any

14 K-turns or anything like that.

15 Q. There were a lot of articles in the

16 paper talking about environmental pollution, people

17 that live in heavily traffic roads, suffering from

18 asthma. And with all of the trucks that you'll be

19 throwing into the district and onto the streets,

20 what have you done to alleviate that?

21 A. I could tell you that we have made many

22 provisions to make this a very green building.

23 Q. I'm not talking about the building.

24 Traffic going through.

25 A. What I can tell you as I stand here today, I

1 can't address obviously other needs of the local
2 community and the society in general with the
3 carbon and the like. I don't think we have an
4 answer to that as a developer of this facility or
5 frankly as a society. I don't think we can address
6 that issue.

7 Q. We live in this community and we are
8 worried. I would hope the Zoning council would
9 consider that there's a lot of people in the
10 community suffering from breathing problems and
11 this won't help.

12 A. I will tell you along those lines, it is not
13 like we didn't give that a thought to take that
14 into consideration. We have investigated the use
15 of passenger vans which are powered by CNG.
16 Compressed natural gas. And they're common.
17 Bergen County used to have a filling station in
18 their municipal yard. Those vehicles, whether it
19 be a car or a truck that runs on compressed natural
20 gas gives off no emissions, carbon dioxide or
21 nitroxide. We're investigating it. If we're able
22 to, we'll utilize vans that are powered by CNG.

23 Q. And if not?

24 A. We will transport people the way everybody

25 in Hackensack and the rest of the area does.

1 Q. I can't help but be concerned with
2 all of the increased traffic during the two years
3 of construction and the years after that. We are
4 going to be in a much worse situation in a heavy
5 residential area.

6 A. I'm not going to pretend. There will be
7 some disruption, but short-lived.

8 Q. It is not two years that you're
9 living there.

10 MR. MALAGIERE: We have three people
11 that are standing and want to question the witness.

12 We have ten minutes and the Chairman is adjourning
13 the meeting, and the way that all three of you can
14 speak, if you limit each of your testimony to three
15 minutes.

16

17 DOROTHY MONPOLI, address 307 Prospect, Sworn.

18 QUESTIONS BY MS. MONPOLI:

19 Q. I can limit myself.

20 MR. MALAGIERE: Of course this

21 gentleman will be back.

22 Q. I am particularly concerned about the

23 excavation of five levels of dirt underground. I'm

24 concerned about lateral support and I'm concerned

25 about the foundation of the adjacent building. And

1 I'm wondering if you're going to post a bond, a
2 financial bond to insure against damage to any
3 other adjacent structures.

4 MR. MALAGIERE: It is not a question
5 that this witness can answer. There is no way he
6 can answer that.

7 Q. He can't.

8 MR. MALAGIERE: It is all going to be
9 required, no bond required for lateral damage,
10 there will be several bonds and escrow is required
11 if there is an approval, but there is no way this

12 witness is competent to testify. I apologize for

13 intruding.

14 Q. Okay. That's all right.

15 The second question, you have done a traffic study.

16 Did you do your traffic study including the

17 possible need for a traffic light being installed

18 at Prospect and Berry, Prospect and Gulf?

19 A. I believe our traffic expert did look at the

20 immediate intersections adjacent to the proposed

21 site, and has addressed that and he'll testify to

22 that, I guess, at the next session.

23 Q. Last, is just a comment. I am a real

24 estate agent. Unfortunately everyone in this room

25 has seen their property value erode because of the

1 economy by approximately ten percent in the past
2 year. I do believe that the construction time, not
3 necessarily the building after construction, but
4 construction time would further erode property
5 values and therefore enable the residents, although
6 we don't want it, enable the residents in the
7 buildings on Prospect Avenue to file for a tax
8 reduction.

9

10 ROBERT GARTNER, address 309 Summit, Sworn.

11 QUESTIONS BY MR. GARTNER:

12 Q. By your own track report, you have 24
13 of the slots on the dialysis units being used by
14 in-house patients.

15 A. Right.

16 Q. If you were just supporting those
17 in-house patients, you need only eight or ten
18 seats?

19 A. No, the numbers aren't quite right. I said
20 roughly of the LTACH patients who would require
21 dialysis, that's 48 patients.

22 Q. And they don't need it everyday?

23 A. No. Typically dialysis patients receive

24 treatments three times a week while they're

25 in-patient. After those patients are discharged,

1 they will continue to need dialysis services.

2 Q. But those in-house patients, you only

3 need eight or ten seats. Most of your dialysis

4 unit is to support outside business. It has

5 nothing to do with your in-house, if you look at

6 it, you're a separate business dialysis, has very

7 little to do with LTACH.

8 A. No, that's not really correct.

9 Q. Let's me re-word that. The dialysis

10 that you're proposing has very little to do with

11 the --

12 A. What I will say in response is, it's
13 complimentary to our health care we're providing.
14 It will provide for the patient, the LTACH patient
15 that needs dialysis, and the ones that leave the
16 facility, to continue to need it and we provide for
17 other out-patients from the community.

18 Q. It is very much a separate business.
19 It might be related, but it is separate.

20 A. It is what it is.

21 Q. The parking deck is located on Summit
22 Avenue properties?

23 A. Across the property, underneath Prospect and

24 underneath Summit.

25 Q. You're using three Summit Avenue

1 properties for a commercial purpose?

2 A. Below grade.

3 Q. Are you aware of how many properties

4 on Summit Avenue between the north end to Essex, do

5 you know how many commercial properties are on

6 Summit Avenue now? It is probably a two mile

7 section, by the way.

8 A. Now that you told me how long, I'm certainly

9 not going to guess exactly how many. But I do know

10 there are a number of professional doctor offices.

11 Q. I'm talking about commercial

12 properties, those are different.

13 A. I don't want to be argumentative

14 professional office --

15 Q. There are three commercial

16 properties.

17 A. Okay.

18

19 MAURY GEORGIOI, address 106 Allen, Sworn.

20 QUESTIONS BY M. GEORGIOI:

21 Q. You're talking about this wonderful

22 park, how are you going to keep non-residents out?

23 Are you going to provide security, not our

24 Hackensack Police.

25 A. We're going to have security personnel on

1 our premises that will monitor the whole premises.

2 When you say keep residents out --

3 Q. Non-residents? You used the term

4 residents, I used the term non-residents.

5 A. I think it is a good question.

6 Q. Yes, I know.

7 A. I don't think it is going to be any

8 different than any other park in Hackensack. I

9 don't think people walk around with labels on their

10 foreheads to say where they're from. If there is

11 any untoward behavior, anything improper, public

12 lewdness or violence, yes, the authorities of

13 Hackensack Police force will be pulled in.

14 Q. So you will not have 24/7 security.

15 So, I, as a taxpayer, will have to pay?

16 A. No, that's not correct. We will have 24/7

17 security at the facility.

18 Q. So then --

19 A. Let me answer. The park will only be open

20 during daylight hours, approximately eight in the

21 morning to eight in the evening.

22 Q. So then maybe you would put a gate

23 around it?

24 A. It is not in our design or our intention to

25 gate the park and close out people. We will monitor

1 the park and do our best, but we live in a free

2 country and free society.

3 Q. Yes, we do. That's right.

4 You previously said something about a green

5 facility?

6 A. Right.

7 Q. Will all of your materials, building

8 materials everything inside this facility be green,

9 totally green for the health of your people?

10 A. Some purple, some blue.

11 Q. No, because I'm very big on green.

12 A. There is a whole body of design work in
13 theorem of policies that's going on in these days.
14 I, by no means is an expert. I will defer to the
15 architect and engineer. This building will be
16 developed under what's called and will be obtained
17 LEED of Certification. A well-known accredited
18 organization that's accredited across this country
19 and been in development over the last few years and
20 our intention is to get this building LEED
21 certification. LEED stands for Leadership in Energy
22 and Environmental Design. And there are numerous
23 features and we hired a professional designer that

24 will illustrate them to you.

25 Q. Can I make a suggestion? Can you

1 bring Deirdre Imus into this? They just built the

2 only green school in the State of New Jersey in

3 Carlstadt.

4 A. I don't want to argue with you, I'm aware of

5 another school, one out in Hunderton County

6 Peapack-Gladstone, a GOLD certified LEED facility,

7 first of its kind.

8 Q. This one may have been the first in

9 Bergen County.

10 A. There's been a tremendous effort in this

11 area in New Jersey.

12 Q. One last quick question. Where do you

13 live?

14 A. I live in Verona, New Jersey.

15 Q. Why don't we put it up there.

16 A. Thank you.

17 MR. MALAGIERE: All right. Mr.

18 Chairman?

19 THE CHAIRMAN: The application will be

20 carried to May 14, 2009.

21 MR. MALAGIERE: Yes. Mr. Basralian,

22 will the applicant waive any automatic approvals?

23 MR. BASRALIAN: Yes, we will carry it

24 to the next meeting.

25 MR. MALAGIERE: Do you waive any

1 automatic approvals through that meeting?

2 MR. BASRALIAN: Yes.

3 MR. MALAGIERE: This meeting will

4 adjourn to May 14, 2009, no further notice. This is

5 the notice.

6 (Whereupon the hearing is then

7 concluded at 10:30 PM)

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25 I, BETH CALDERONE, License No. XIO1409, a

1 Certified Shorthand Reporter and Notary Public of
2 the State of New Jersey, certify that the foregoing
3 is a true and accurate transcript of the hearing at
4 the place and on the date hereinbefore set forth.

5 I further certify that I am neither attorney
6 nor counsel for, nor related to or employed by, any
7 of the parties to the action in which this hearing
8 was taken, and further that I am not a relative or
9 employee of any attorney or counsel employed in
10 this case, nor am I financially interested in the
11 action.

12

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15 A Notary Public of the State of New Jersey

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