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|----|----------------|----------|
| 1 | I N D E X | |
| 2 | WITNESS NAME | PAGE NO. |
| 3 | IAN BORDEN | |
| 4 | By Mr. Alfieri | 24 |
| 5 | | |
| 6 | | |
| 7 | JAMES BALLAR | |
| 8 | By Mr. Alfieri | 53 |
| 9 | | |
| 10 | | |
| 11 | JOHN REA | |
| 12 | By Mr. Alfieri | 62 |
| 13 | | |
| 14 | | |
| 15 | ALEC SUKOWSKI | |
| 16 | By Mr. Alfieri | 67 |
| 17 | | |
| 18 | | |
| 19 | | |
| 20 | | |
| 21 | | |
| 22 | | |
| 23 | | |
| 24 | | |
| 25 | | |

1 E X H I B I T S

| 2 | EXHIBIT NO. | DESCRIPTION | PAGE NO. |
|----|-------------|--|----------|
| 3 | A-1 | Aerial photograph Manalapan Crossing tract | 26 |
| 4 | | | |
| 5 | | | |
| 6 | A-2 | Tract Map Development Plan proposing Building B | 29 |
| 7 | | | |
| 8 | | | |
| 9 | A-3 | Site Plan for Lot 8.03 as approved in 2023 | 29 |
| 10 | | | |
| 11 | | | |
| 12 | A-4 | Proposed market | 31 |
| 13 | | | |
| 14 | | | |
| 15 | A-5 | Color rendering of Landscape Plan for the Lot 8.03 | 33 |
| 16 | | | |
| 17 | | | |
| 18 | A-6 | Sign | 40 |
| 19 | | | |
| 20 | A-8 | Front facade sign | 55 |
| 21 | | | |
| 22 | | | |
| 23 | A-9 | Site line views August 19, 2024 | 58 |

24
25

1 CHAIRWOMAN KWAAK: Application PMS
2 1931A/PMS193TS Cardinale and Manalapan Crossing
3 Associates Amended Preliminary and Final Major
4 Site Plan Minor Technical Subdivision Block 66
5 Lot 8.03 162 Highway 33 ShopRite. At this time,
6 Mr. Kastell is going to step off the dais and
7 recuse himself. Please have that noted in the
8 minutes.

9 MR. CUCCHIARO: Madam Chair, just as a
10 matter of housekeeping it's my understanding we
11 have multiple attorneys here tonight so let's
12 start by just having all of the attorneys just
13 enter their appearance and identify the clients.

14 MR. ALFIERI: Good evening, Madam Chair
15 and Members of the Board. Salvatore Alfieri
16 Cleary, Giacobbe, Alfieri and Jacobs on behalf
17 of the Applicant.

18 MR. GASIOROWSKI: Madam Chair, my name
19 is Ron Gasiorowski. I'm an Attorney. I
20 represent an interested party Jeff Stufsky. I
21 have discussed this the matter and disclosed my
22 participation to my good friends Mr. Alfieri as
23 well as Mr. Cucchiaro.

24 MR. CUCCHIARO: Do you know what Mr.
25 Stufsky's address is?

1 MR. GASIOROWSKI: I'll give it to you
2 before I leave.

3 Jeff Stufsky sworn.

4 MR. STUFSKY: 17 Begonia Drive,
5 Manalapan.

6 MR. CUCCHIARO: Mr. Alfieri, do you have
7 any objection to Mr. Gasiorowski's client
8 standing?

9 MR. ALFIERI: No. No objection to
10 standing.

11 MR. CUCCHIARO: Mr. Gasiorowski, it's my
12 understanding that you have some objections to
13 the Board jurisdiction tonight.

14 MR. GASIOROWSKI: Do you mind if I sit
15 or do you want me to rise?

16 CHAIRWOMAN KWAAK: No. You can sit.

17 MR. GASIOROWSKI: My name is Ron
18 Gasiorowski. I've been retained to represent
19 interested parties in this matter. I have
20 really discussed this with both my colleagues
21 Mr. Alfieri as well as Mr. Cucchiaro and I
22 wanted to raise a preliminary objection to the
23 Notice which was made by the Applicant in this
24 particular matter.

25 Really two objections. One, when we

1 read the report of Jennifer Beahm your Planner
2 she refers to the fact that on the adjacent
3 parcel of lands which is where the residential
4 homes are located the buffer which should be
5 utilized by the commercial or the applicant will
6 be placed on the property which is owned by the
7 individual homeowners who live on the opposite
8 side of that road.

9 When the Notice was given the Notice was
10 only given to people who were residing or living
11 on the property within 200 feet of the subject
12 application. It's my position that Notice must
13 be given to anyone within 200 feet of the
14 adjacent parcel where that buffer is located
15 because it is apart of this application.

16 The second point which I raised is when
17 we look at the application and the site plan you
18 will see that along the westerly perimeter of
19 the subject property there is a private road.
20 That private road is utilized to ingress to the
21 commercial site but also to ingress into the
22 residential property. Similarly when one is
23 leaving the residential property one will
24 ingress there to the commercial property and
25 then egress out to the public road. It's my

1 position that Notice should have been given to
2 everyone within 200 feet of the not the
3 commercial but where the residential properties
4 are located that's identified perhaps as Tract 2
5 that was part of the original subdivision of
6 this property.

7 MR. CUCCHIARO: Mr. Alfieri, do you have
8 any response?

9 MR. ALFIERI: Just very brief response.
10 On the second point first the Crossing Lane
11 which is a private road is on Lot 8.01. Lot
12 8.01 is the subject of this application. This
13 application involves entire lot 8.01 which is
14 all of the commercial uses along with the storm
15 water management system and Crossing Lane.

16 We have given Notice to everyone within
17 200 feet of the entirety of Lot 8.01 which
18 includes the Crossing Lane access drive. We do
19 not have to give Notice to the interior roadways
20 of the residential subdivision because they have
21 nothing to do with this application. This
22 application only involves Lot 8.01. There's
23 case law that talks about if you have a driveway
24 that is on an adjacent property providing access
25 to the application the subject property of the

1 application you have to notify everyone within
2 200 feet of the lot that has the driveway. This
3 is the converse. We're not using another access
4 point to get to our site so I believe we have
5 met the standard to provide adequate Notice.

6 As it relates to the second point with
7 the buffer that buffer is adjacent to, first of
8 all that buffer has nothing to do with the
9 current application. The variance that Ms.
10 Beahm refers to in her letter is a variance that
11 was granted in the first application for the
12 commercial project. We're not changing that in
13 any way number one. Number two, we've notified
14 everyone. That buffer is adjacent to Crossing
15 Lane and we've notified everyone within 200 feet
16 of that buffer I mean of the Crossing Lane which
17 encompasses all of those lots that are adjacent
18 to Crossing Lane but since the variance that was
19 discussed by Ms. Beahm in her report has nothing
20 to do with the particular application that's
21 before you tonight we do not believe that any
22 additional Notice would be required.

23 MR. GASIOROWSKI: I'd like to just
24 respond briefly first with regard to the buffer.
25 That buffer was created in the application

1 involving what presently has been approved.
2 That particular use at that time was far less
3 than the proposed supermarket use which is a new
4 application and I would submit to you that since
5 this application of the supermarket is saying
6 they're going to utilize that buffer and not
7 have a buffer on their property that's a new
8 issue once again and because that's apart of the
9 second tract notice must be given to everybody
10 within 200 feet of that tract. Thank you.

11 MR. CUCCHIARO: Madam Chair, I'll deal
12 with the buffer issue first. Buffers aren't
13 changing. The buffer was previously approved
14 for relief at zero feet on this side of the
15 application and there was a 10 foot buffer on
16 the other side. Nothing is changing in this
17 application. It's still zero feet and 10 feet
18 so from a jurisdictional standpoint I think the
19 Applicant is fine with the Notice that was put
20 out.

21 The access drive I think I spoke to both
22 to Mr. Gasiorowski and Mr. Alfieri today to
23 understand all of the arguments. I just want to
24 make sure that you know for purposes of the
25 record I still understand because I think I got

1 a little confused before again so I want to make
2 sure from both counsel we're not talking about
3 anything in the K Hov portion of the previous
4 approvals, correct?

5 MR. GASIOROWSKI: Pardon me?

6 MR. CUCCHIARO: We're not talking about
7 any lots associated with the previous K
8 Hovnanian approvals.

9 MR. GASIOROWSKI: Where the residential
10 lots are presently located that was subdivided
11 into a separate tract at that time. At that
12 time I don't believe there were any residential
13 lots.

14 MR. CUCCHIARO: Well the then K Hov
15 portion of this has residential and
16 nonresidential so what I'm asking is, Mr.
17 Gasiorowski, is your argument regarding the
18 Notice and interior lots does that include lots
19 in the K Hov property?

20 MR. GASIOROWSKI: No. Not the K Hov
21 property.

22 MR. CUCCHIARO: That's what I thought.
23 I just wanted to make sure. Mr. Alfieri, so in
24 the previous approvals there were what the
25 Ordinance defines as technical subdivisions that

1 were granted. My understanding is none of those
2 technical subdivisions have been presented and
3 it all is a single lot.

4 MR. ALFIERI: That's correct. Lot 8.01
5 contains all of those buildings if you will that
6 were approved and technically subdivided but
7 never perfected.

8 MR. CUCCHIARO: That includes the
9 residential portion where the affordable housing
10 is going to be.

11 MR. ALFIERI: The affordable housing
12 mixed use building is part of 8.01 also never
13 carved off.

14 MR. CUCCHIARO: So what internal lots?
15 I mean there is just a reference to internal
16 lots. What internal lots are being discussed
17 here I guess that's what my confusion is right
18 now. It would seem to me if K Hov is not part
19 of this there is just one lot. There are no
20 internal lots.

21 MR. ALFIERI: Correct. 8.01 no internal
22 lots.

23 MR. CUCCHIARO: So then every portion of
24 where this road is that Mr. Gasiorowski is
25 referring to is on that lot.

1 MR. ALFIERI: Correct. Crossing Lane is
2 on 8.01.

3 MR. CUCCHIARO: In its totality.

4 MR. ALFIERI: Pardon?

5 MR. CUCCHIARO: Totality.

6 MR. ALFIERI: Totality.

7 MR. CUCCHIARO: I have to tell you
8 something as a matter of law I would have to
9 agree with Mr. Gasiorowski if they were on
10 different lots that would become part of the
11 application.

12 MR. ALFIERI: I agree.

13 MR. CUCCHIARO: However under these
14 facts they are not separate lots. They are one
15 lot so you did Notice for 200 feet of the one
16 lot that contains all of that private road.

17 MR. ALFIERI: That's correct.

18 MR. CUCCHIARO: So I think you know I
19 understand Mr. Gasiorowski's argument. I think
20 as a the matter of law he's stating a correct
21 statement of law but the fact of our case I
22 think the Notice that Mr. Gasiorowski was asking
23 for has been accomplished because this is the
24 Notice went out 200 feet from the boundaries of
25 the entire lot which includes all of what was

1 permitted with the technical subdivision and
2 includes the totality of the private road so I
3 think that the Notice is adequate.

4 Mr. Gasiorowski obviously retains his
5 right you know.

6 MR. GASIOROWSKI: May I make one comment
7 please?

8 MR. CUCCHIARO: Sure.

9 MR. GASIOROWSKI: Of course I'm familiar
10 with the private road you're referring to but
11 that private road is utilized by extending it
12 into the residential property.

13 MR. CUCCHIARO: What I'm asking you what
14 lot are you talking? So identify for me what
15 lot in which you are talking about. If it's not
16 the K Hov lots and the technical subdivision has
17 not been perfected what lot?

18 MR. GASIOROWSKI: I'm referring to the
19 entirety of what was identified as Tract 2 in
20 the Site Plan plan which was approved about a
21 year ago or so. So the access to that
22 residential properties is through the private
23 road which is located on the commercial site and
24 that commercial site is also utilized as the
25 egress to get out to the roadway.

1 MR. CUCCHIARO: So, Sal, Jen has a point
2 with regard to the lot that's being referred to.

3 MS. BEAHM: So, Sal, if you look at the
4 cover sheet of the plans the lot number that we
5 keep talking about which is the commercial piece
6 is identified as 8.03.

7 MR. ALFIERI: Correct.

8 MS. BEAHM: And then the 8.01 is the K
9 Hov piece so when you are saying the Notice from
10 8.01 I'm losing you.

11 MR. ALFIERI: It's 8.01.

12 MS. BEAHM: 8.03 is the commercial
13 piece.

14 MR. ALFIERI: Yes.

15 MR. CUCCHIARO: Non-K Hov.

16 MR. ALFIERI: The Notice says 8.03. The
17 list says 8.03. I was referring to the K Hov.
18 8.03 is our property.

19 MR. CUCCHIARO: Then again to be
20 abundantly clear we're not talking about K Hov.
21 Everything whether it's residential, mixed use,
22 commercial everything else is on Lot 8.03.

23 MR. ALFIERI: Everything. Yes.
24 Everything other than the Four Seasons property
25 itself.

1 MR. CUCCHIARO: Which is the K Hov.

2 MR. GASIOROWSKI: Everything is not on
3 Lot 8.03 because the proposed residential
4 development is on the adjacent parcel.

5 MR. CUCCHIARO: Mr. Gasiorowski, you
6 have to identify what lot numbers you're talking
7 about because if it's not the K Hov property
8 which you said it's not there's only one other
9 lot so what lot are you referring to as a
10 residential lot?

11 MR. GASIOROWSKI: West of Lot 8.03 which
12 has been subdivided.

13 MR. CUCCHIARO: But it hasn't been
14 perfected. It has not been perfected.

15 MR. GASIOROWSKI: Pardon me?

16 MR. CUCCHIARO: It hasn't been
17 perfected.

18 MR. GASIOROWSKI: If it hasn't been
19 perfected what's the relevance of that? It's
20 still there. It may not be subdivided into
21 individual lots but it was subdivided off in
22 2023 and 2024.

23 MR. CUCCHIARO: Well the subdivision
24 hasn't been perfected. They haven't gotten to
25 that point and even just as a matter of physical

1 Notice.

2 MR. GASIOROWSKI: May I interrupt you
3 one second? Let's assume for the sake of
4 argument that you're saying that the residential
5 lots to the west of 8.03 has not been perfected.
6 Well if it wasn't perfected then it's still
7 apart of Lot 8.03 then Notice should have been
8 given to every piece of property within 200 feet
9 of the exterior of that second tract.

10 MR. CUCCHIARO: That's what Mr. Alfieri
11 said he did 200 feet of Lot 8.03.

12 MR. ALFIERI: Yes. We have a 200 foot
13 list for Lot 8.03 and all properties within 200
14 feet.

15 MR. GASIOROWSKI: And that includes all
16 of the lots which are located for the
17 residential development. Is that what are
18 saying, Mr. Alfieri?

19 MR. ALFIERI: I'm not saying that.

20 MR. GASIOROWSKI: Well you're not saying
21 that.

22 MR. CUCCHIARO: Mr. Gasiorowski, I'm
23 going to say this for the last time. When
24 you're talking about Notice it's something very
25 specific. You're talking about west. You're

1 talking about residential lots. What lot
2 number. If you are saying that 200 feet Notice
3 was not provided you need to identify that for
4 me because I don't see any other lots other than
5 the Lot 8.03 and the K Hov lots.

6 MR. GASIOROWSKI: Mr. Alfieri had said
7 that he only gave Notice to those lots within
8 200 feet of Lot 8.03. Well 8.03 in its entirety
9 I believe is 23 acres which is where all of the
10 commercial development is located. That's what
11 he has done and the buffer that we're talking
12 about is not on his property. The buffer in
13 question is on the adjacent parcel of land so if
14 in fact it's on the adjacent parcel of land that
15 should have been entered into the Notice.

16 MR. CUCCHIARO: What adjacent parcel of
17 land are you referring to?

18 MR. GASIOROWSKI: I'm referring to the
19 parcel that was apart of the original
20 subdivision before.

21 MR. CUCCHIARO: No. No. If you're
22 saying a lot did not have Notice that went out
23 200 feet you must be able to identify that lot
24 so what lot number?

25 MR. GASIOROWSKI: I am referring to the

1 lot which was created. When the Applicant first
2 came in he had the first lot. And by the way
3 when one looks at all of the maps and all of the
4 surveys it's very difficult to discern some of
5 those identifications and that's even shown I
6 think on some of the plans it's identified as
7 Lot 8.01 so there are some mistakes in it.

8 We're here this evening to discuss an
9 application with regard to Lot 8.03 that is the
10 commercial side. The perimeter of that lot and
11 I believe it's to the west is where the private
12 road is. The buffer which is referred to in Ms.
13 Beahm's letter is not on the 8.03 property.

14 MR. CUCCHIARO: We're talking about the
15 access road right now.

16 MR. GASIOROWSKI: Well the access road
17 off of the roadway whatever it may be is on Lot
18 8.03 which is the commercial site. When you
19 look at that perimeter road you will then see
20 that that perimeter road is also a continuing
21 into the adjacent parcel of land which is on the
22 opposite side of the commercial site and I'm
23 saying that since that is being utilized for the
24 future development of that lot it's an ingress
25 and egress which goes through the subject

1 property.

2 MR. CUCCHIARO: When you're talking
3 about a commercial lot Lot 8.03 is not a
4 commercial lot right now. It is mixed use.

5 MR. ALFIERI: There's also residential
6 special needs housing.

7 MR. GASIOROWSKI: But the supermarket
8 the ShopRite is located on Lot 8.03 and to the
9 west of that supermarket or ShopRite there is a
10 private road. That private road not only
11 provides an ingress and egress as to the
12 supermarket but it also provides an ingress and
13 egress into the adjacent parcel of land where
14 the residential homes are.

15 MR. GASIOROWSKI: Well ShopRite is that
16 portion of this property currently on its own
17 lot or is it part of the overall Lot 8.03?

18 MR. ALFIERI: It's on 8.03.

19 MR. CUCCHIARO: Alright. Madam Chair,
20 it would appear that the entirety of the road is
21 on Lot 8.03. There's not been any perfection of
22 the subdivision and 200 foot Notice has gone out
23 from the perimeter of Lot 8.03 so they've
24 reached all of the homes or all of the lots that
25 would have been reached had the subdivision been

1 perfected but it's not and so they took the lot
2 that exists and they went 200 feet from the
3 boundaries of that lot so my recommendation is
4 that the Board has jurisdiction as I said
5 before.

6 MR. GASIOROWSKI: May I ask one
7 question? Is it your belief that these
8 residential homes are located on Lot 8.03?

9 MR. CUCCHIARO: Don't know. You're
10 speaking a lot of vagaries tonight. You are not
11 explaining to me what residential homes you're
12 talking about. What residential homes are you
13 talking about? Can you point them out on the
14 map?

15 MR. GASIOROWSKI: If you look at the
16 Site Plan it shows you very clearly what's
17 there.

18 MR. CUCCHIARO: Where on the Site Plan
19 are you talking about?

20 MR. GASIOROWSKI: I'm talking on the
21 Site Plan where it shows the perimeter road and
22 that parcel which is located immediately to the
23 west of the perimeter road. Are you saying that
24 is still apart of Lot 8.03? If that's the case
25 then this argument is even stronger because then

1 Notice should have been given.

2 MR. CUCCHIARO: Lot 8.01 is the K Hov
3 lot, right?

4 MS. BEAHM: Yes.

5 MR. CUCCHIARO: You told me your
6 argument didn't include the K Hov lot. Are you
7 now saying that it does?

8 MR. GASIOROWSKI: I'm sorry. Repeat
9 your question.

10 MR. CUCCHIARO: Asked originally because
11 I said I still had some confusion whether this
12 jurisdictional argument involved the properties
13 that were part of the K Hov portion of this
14 overall site and the answer was no but now you
15 seem to be referring to them.

16 MR. GASIOROWSKI: I'm looking at what is
17 called an Aerial Plan which it's on the board
18 and if you look at the very bottom it's
19 identified as Block 66 Lot 8.01 and I would
20 assume at that time 8.01 probably encompassed
21 all of the commercial as well as the residential
22 development. As a result of the subdivision I
23 believe that what is known as the commercial
24 site is now known as Lot 8.03.

25 MR. ALFIERI: Correct.

1 MR. GASIOROWSKI: So the original plan
2 encompassed the entirety of the commercial plus
3 the residential.

4 MR. CUCCHIARO: I'm asking a very simple
5 question. Are you talking about lots that exist
6 in the K Hov portion?

7 MR. GASIOROWSKI: No.

8 MR. CUCCHIARO: If the answer is yes.

9 CHAIRWOMAN KWAAK: People in the public
10 please let the attorneys figure this out.

11 MR. CUCCHIARO: I've gotten the answer
12 three times now.

13 MR. ALFIERI: Can we move on?

14 CHAIRWOMAN KWAAK: Let me confer with my
15 attorney.

16 MR. CUCCHIARO: We're going to move on.
17 I want to make sure everybody has due process
18 rights. Mr. Gasiorowski had an argument he
19 wanted to make. Now that we're done I recommend
20 the Board exercise jurisdiction.

21 CHAIRWOMAN KWAAK: Gentlemen, before we
22 get started these are the ground rules this
23 evening. Mr. Gasiorowski, Mr. Alfieri, these
24 are the ground rules this evening. Mr. Alfieri
25 is going to present his application with his

1 witnesses. Board Members will not be asking any
2 questions tonight. Public, there will be no
3 questions from you this evening either. We want
4 them to roll this out. Hopefully when they
5 testify your questions will be answered. If not
6 write them down. You will get a chance to
7 speak. It may not be this evening. It may be
8 at the next meeting. Our professionals are not
9 speaking either so with that saying, Sal, you
10 can proceed.

11 MR. ALFIERI: So our first witness is
12 going to be Ian Borden from PDS. We'll have him
13 qualified after he's sworn in.

14 Ian Borden sworn.

15 MR. BORDEN: Good evening. My name is
16 Ian Borden President of Professional Design
17 Services Lakewood, New Jersey.

18 DIRECT EXAMINATION BY MR. ALFIERI:

19 Q. And, Mr. Borden, we're seeking to have
20 you qualified as Professional Planner. Would you
21 place your credentials on the record please?

22 A. Yes. I am a graduate of Rutgers
23 University 42 years ago and a licensed Professional
24 Planner in the State of New Jersey for many years.
25 Worked in the fields of engineering and surveying for

1 40 years. I've testified in front of this and many
2 other Boards. I did the testimony on the Manalapan
3 Crossing project since its inception.

4 Q. And your license is in good standing?

5 A. Yes.

6 MR. ALFIERI: Ron, should we ask Mr.
7 Gasiorowski did he have questions?

8 MR. GASIOROWSKI: I have no questions.

9 MR. CUCCHIARO: Any voir dire or
10 objections to the Board accepting him as an
11 expert?

12 MR. GASIOROWSKI: I have no objection.

13 MR. ALFIERI: Madam Chair, we ask that
14 his credentials be accepted please.

15 CHAIRWOMAN KWAAK: His credentials are
16 sufficient.

17 MR. ALFIERI: Thank you.

18 Q. Mr. Borden, I know you submitted a
19 series of exhibits in advance that we are going to
20 show on the screen and we also handed out a package
21 of the same exhibits to the Board Members and I'm
22 handing one to Mr. Gasiorowski. So, Mr. Borden,
23 would you identify where the property is located in
24 general terms off of the aerial which we're going to
25 need to mark?

1 MR. CUCCHIARO: We will mark this.

2 MR. BORDEN: We've premarked the
3 exhibits.

4 Q. For the record just identify what A-1 is
5 please.

6 A. Certainly. So Exhibit A-1 on the screen
7 is the front page that's an aerial photograph of the
8 entire Manalapan Crossing tract. That photograph is
9 dated October of 2024 so it's a recent photograph and
10 onto that aerial we have superimposed the proposed
11 buildings most notably in yellow as shown the
12 proposed Building B which is the supermarket.

13 Q. And before we get into the details of
14 the subject application can you give the Board and
15 the public a history of how this project was approved
16 and what was approved and what's currently developed?

17 A. Yes. So the tract was originally known
18 as Lot 8.01. It contained a hundred
19 twenty-one-and-a-half acres. The property was zoned
20 Village Commercial and in 2018 the Manalapan Township
21 Committee adopted an Ordinance called a mixed use
22 overlay zone which applied to the Village Commercial
23 zone which allowed for mixed use being age restricted
24 residential, commercial and it's also an inclusionary
25 zone to include special needs, affordable housing.

1 So my office prepared an application for the current
2 Applicant remains the current Applicant and submitted
3 for Preliminary Major Subdivision and Site Plan
4 approval which was obtained in April 11th of 2019 and
5 that approval provided for 280 age restricted single
6 family homes along with clubhouse and recreational
7 facilities. The K Hov project has been colloquially
8 noted.

9 And then also a mixed use commercial
10 development which is Lot 8.03 as discussed in the
11 subject of this application which contain a hundred
12 ninety-nine thousand eight hundred eighty square feet
13 of commercial building area, 58 special needs
14 affordable housing units on the second and third
15 floor of what we call Building A and the 1,044
16 parking spaces.

17 That project subsequently received final
18 approval from this Board. The resolution compliance
19 was met. Outside agency approvals obtained and the
20 final plat for Phase 1 was filed which created Lot
21 8.03 among the residential lots for Phase 1 of the K
22 Hov development and construction started on the
23 project in 2021.

24 Currently as shown on the aerial quite a
25 few of the homes are constructed. Internal roadways

1 of the subdivision are all completed. The clubhouse
2 I believe is finished construction. Crossing Lane
3 has been developed and importantly this Board a lot
4 of time was spent on the offsite roadway improvements
5 in the original Hearings all of that work including
6 the traffic signals at the intersections of Crossing
7 Lane and Route 33 as well as Millhurst Road have been
8 completed so all of what we call the backbone site
9 improvements have been completed.

10 Q. And as it relates to the special needs
11 building that has been constructed as well?

12 A. That's correct. The Building A, which
13 the pointer unfortunately reflects off the T.V. so it
14 doesn't show, but the larger building shown in the
15 grey roof it's an existing building closer to
16 Millhurst Road has been completed. All of the
17 affordable special needs apartments are completed and
18 as of this to date we are told that 57 of the 58
19 units are occupied with the 58th unit to be occupied
20 by 12/1.

21 Q. And then on the other side of Lot 8.03
22 is the Quick Chek. Is that correct?

23 A. Correct.

24 Q. And that's also under construction?

25 A. Correct. We reappeared before the Board

1 last year in 2023 seeking an Amended Site Plan
2 approval for Lot 8.03 for the building what we call
3 Building F which is the Quick Chek that Sal mentioned
4 on the far west or far left of the commercial tract.
5 That was simply to modify to bring in Quick Chek as a
6 tenant and to modify some of site improvements to
7 match what their desires were and that Site Plan was
8 approved in August of 2023.

9 That plan was that approval was also
10 perfected, construction commenced and my
11 understanding a Certificate of Filing has been issued
12 for the Quick Chek. It's finished.

13 So now we are back trying to seeking to
14 amend the approval for that leaves us with multiple
15 buildings that were not finished. I just pulled up
16 Exhibit A-2. This is the overall tract map
17 Development Plan showing what we are proposing
18 Building B but I want to refer to A-3. A-3 is the
19 overall Site Plan for Lot 8.03 as approved in 2023
20 for Building F which is the Quick Chek.

21 CHAIRWOMAN KWAAK: And this is dated
22 today's date this exhibit.

23 MR. CUCCHIARO: No. This is dated.

24 CHAIRWOMAN KWAAK: This is November 14,
25 2024.

1 THE WITNESS: It is marked with today's
2 date.

3 MR. ALFIERI: He didn't talk about A-2
4 yet. He jumped to A-3. We'll go back to A-2 in
5 a minute.

6 Q. So A-3 is the original commercial Site
7 Plan that shows the special need, correct, the Quick
8 Chek special needs housing, et cetera, et cetera?

9 A. Correct. So this is the amended Site
10 Plan that's approved in 2023 which was done for the
11 Quick Chek and this Plan shows the original approved
12 and unchanged other Buildings which are B, C, D, E
13 and F. We have B and C which are the two-story
14 buildings in the center on the circle. Next to
15 Building A those buildings were two-story buildings
16 with restaurants on the first floor, office on the
17 second floor with outdoor dining in the plaza in
18 between. There's also outdoor dining on the second
19 floor of each building and Building D to their west
20 was a two-story medical office building.

21 Just to complete the buildings Building
22 E between obviously D and F is a bank that remains
23 unchanged with this application and on the top of the
24 plan is Building G which is a medical office building
25 which also remains unchanged by this application.

1 So what we have sought in this
2 application is now we've eliminated Buildings B, C
3 and D so that the three buildings in the center and
4 we are proposing to create a new Building B which
5 I'll refer to A-4 which is the proposed supermarket.

6 Q. Just so our record is complete, Ian,
7 let's identify A-4 please.

8 A. A-4 is the overall Site Plan that is
9 included in the approval package.

10 Q. And the overall Site Plan which is the
11 Site Plan we want the Board to consider tonight.

12 A. That's correct. This is the Plan that
13 we're seeking approval for. The other Exhibits A-1
14 through A-3 were simply to walk the Board and the
15 public through the path of where the project has been
16 and how we are where we are today.

17 Q. Alright. So before we get to A-4 let's
18 go back to A-2 because you didn't identify or discuss
19 that and just so we have complete records let's do
20 that.

21 A. I understand. A-2 is just basically the
22 same it's the overall development showing it does
23 show the proposed Building B with the supermarket but
24 it's simply a schematic which shows the residential
25 lots and the overall development as it is proposed.

1 Q. So A-2 is the overall Manalapan Crossing
2 project including the K Hov property and the
3 commercial component shows what the Applicant is
4 seeking approval for this evening.

5 A. That's correct. I'm trying to give
6 again a bigger picture of the residential and the
7 commercial even though the application is only of the
8 commercial lot 8.03.

9 Q. So you go back to A-4?

10 A. So A-4 just want to give you some facts
11 and figures on the project. As I noted earlier the
12 approved mixed use commercial project contained a
13 hundred ninety-nine thousand eight hundred eighty
14 square feet of commercial and the 58 special needs
15 affordable units. It is proposed now the total
16 square footage with this change the building square
17 footage shrinks as the result of the removal of
18 Buildings B, C and D and the new Building B so the
19 proposal is a hundred fifty-eight thousand five
20 hundred fifty-nine square feet and 969 parking spaces
21 so we have reduced over 41,000 square feet and 39
22 parking spaces.

23 The amount of parking easily complies
24 because the amount of required parking that is needed
25 for this new reduced building area is 822 and we are

1 providing 969 so we have more than adequate parking
2 under the Ordinance which acquires 5 spaces per a
3 thousand square feet. We do have 37 E.D. spaces
4 which is required under the State law. Just as a
5 general statement there is no increase in impervious
6 area as a result of this modification and the storm
7 water management facilities that have been previously
8 approved and constructed remain unchanged by this
9 proposal.

10 The only modifications required from a
11 drainage perspective are relocating some inlets but
12 the backbone improvements of all of the Crossing
13 Lane, the drainage, the sewer, the water have all
14 been constructed already as part of the overall
15 project.

16 I'm going to refer to A-5. A-5 is a
17 landscape colored rendering of the Landscape Plan for
18 the overall lot 8.03 that my office prepared. I want
19 to describe a little more detail what the thought
20 process was and what the intentions were with the
21 design of the new Building B. Again Building A and F
22 are constructed and remain unchanged. Building E and
23 G are approved but also remain unchanged. So as part
24 of this modification for Building B you see the large
25 building that's 83,559 square feet. The front of the

1 store faces looking at A-4 to the bottom left which
2 is towards Route 33 which is towards the southwest.

3 There is a loading zone proposed to the
4 northeast which is towards Millhurst Road. One of
5 the items that we were very careful in the building
6 of Building B we're very cognizant of the loading
7 area and potential impacts visually so landscape
8 design here was very, very important and we spent a
9 lot of time on that. We added landscape plantings
10 along the Route 33 frontage between the jug handle
11 and the building which is in the bottom right of A-4.
12 The project I should have said complies fully with
13 the Route 33 scenic corridor overlay.

14 You can see the plantings on this
15 exhibit as well as extending along Millhurst and then
16 the loading dock again to the northeastern portion of
17 the building the loading dock is depressed lower than
18 the surrounding properties including Crossing Lane
19 and Building A parking. We provided for a buffer
20 between Building A and Building B and extending along
21 over to Crossing Lane we put a solid fence in there.
22 The solid fence is a height of 8 feet opposite the
23 loading dock and we put evergreen landscape plantings
24 in that area as well and those wrap around to
25 Crossing Lane.

1 We also have the center islands of
2 Crossing Lane has not been changed geometrically from
3 the original design however the original design
4 provided that area to be basically hard scape pavers
5 and what we did in this design is we removed most of
6 the hard scape and put in plantings. We wanted to
7 soften it with plantings including some buffer
8 plantings to you know to help visually from the north
9 or from the Four Seasons area.

10 From a general site perspective there is
11 a single access proposed from Crossing Lane onto the
12 original approval under Buildings B, C and D. There
13 were two and that's been consolidated into one.

14 It is also proposed to add an ingress
15 drive from Route 33 as well as an egress drive. A
16 separate egress drive and both of those would be
17 right in for the ingress and right out for the egress
18 and of course there will be traffic testimony
19 discussing these in more detail.

20 From an approval perspective outside
21 agency approval the Building B has received approvals
22 from both the County Planning Board and the NJDOT.
23 We received an amended access permit for Building B.
24 Those permits however were issued prior to the
25 addition of these separate access drives to Route 33

1 so while we do have approvals from both agencies for
2 the supermarket there needs to be more work on each
3 of those because they need to be further amended
4 simply to add these new ingress and egress drive.

5 Q. But Ian, let me just clarify that point.
6 The right in right out on Route 33 that's now
7 proposed was something that the Saker ShopRite people
8 had requested that we add to the plan, correct?

9 A. That's correct.

10 Q. Prior to the addition of those two the
11 egress and ingress on 33 we received all outside
12 agency approvals necessary to build the ShopRite
13 without the Route 33 driveways.

14 A. That's correct.

15 Q. Thank you.

16 A. From an outside agency perspective we've
17 been communicating with the Manalapan Fire Bureau.
18 We have received a review letter from them which I
19 believe was four items on October 25. We revised the
20 plans accordingly. We submitted those on November
21 1st. They provided an email review today dated
22 November 14 with two small items. One was to
23 relocate the fire department connection the remote
24 connection to connect to the sprinklers slightly on
25 the site as well as adding a gate in the fence at the

1 rear of the loading area to allow a fire truck to
2 drive through the loading area and not just turn
3 around in the loading area. We've agreed to do both
4 of those things and we will revise the plans to the
5 satisfaction of the Fire Bureau.

6 To finish up on the general site
7 conversation the lighting plan that's proposed is
8 consistent with the original approval. These are
9 pole mounted LED lights at a height of 25 feet. The
10 lighting along Crossing Lane and Buildings A and F
11 have been installed already. The lighting for
12 Buildings B, E and G have obviously not been
13 installed but the lighting would be installed
14 proposed consistent with the light fixtures and
15 intense as originally approved by this Board.

16 From a general zoning perspective the
17 project continues to comply with the mixed use
18 overlay zone quickly. The required lot area of Lot
19 8.03 which is the mixed use commercial lot the
20 Ordinance says that the lot must be a minimum of 21
21 acres and a maximum of 25. It is 24.88. The
22 building coverage is permitted to be 20 percent. We
23 propose 15.8. Building setbacks are 120 feet to
24 Millhurst and hundred feet to Route 33 and we comply
25 with that.

1 The maximum building height under the
2 zone is 50 feet which is the highest point of
3 Building A because that is a three-story building.
4 This building does not approach that height. The
5 architect will give testimony on that. The Floor
6 Area Ratio permitted 0.7 and we propose 0.58.

7 And as I start to wrap up there's a few
8 again we kind of narrow down the details into the
9 smaller items. There was an Ordinance that was
10 brought to our attention under the Planner and
11 Engineer review that we need to address which is the
12 outdoor display of goods. The store the front of the
13 store as I mentioned facing the southwest or facing
14 Route 33 does have as all ShopRites do my experience
15 have an area under the canopy in the front of the
16 store. An area of outdoor display. And the
17 Manalapan Ordinance does regulate outdoor display of
18 goods under Chapter 95-7.15 of the Ordinance and I'll
19 quickly go through those items. Under A of that no
20 goods shall be.

21 Q. As a aside at some point we will have a
22 representative of ShopRite to provide more
23 operational testimony and discuss outside display in
24 a little more detail. I'm sorry, Ian, continue with
25 the Ordinance.

1 A. I want to hit the zoning aspects of it
2 and the Applicant can fill out many more details that
3 I may not fully flesh out but the Ordinance A no
4 goods shall be displayed for sale in any residential
5 zone district. We're not a residential zone district
6 so that does not apply. B is businesses uses shall
7 not permanently display goods for sale. Motor
8 vehicles. We're not proposing motor vehicles. It
9 also states any goods to be displayed must be the
10 merchandise of that store. Obviously it can't be
11 merchandise that you don't sell inside the store
12 all of the merchandise to be displayed are typically
13 seasonal items but they are all items that are sold
14 by the ShopRite so they are all goods of the tenant.

15 The sale of goods and outdoor display of
16 goods is considered temporary under the Ordinance
17 stating that no business shall hold more than five
18 such sales per year nor shall any one sale exceed one
19 week in duration. We do seek a relief from this
20 section of the Ordinance because it is proposed that
21 these displays would be permanent. The displays
22 themselves would change seasonally with the products
23 you know, for example, flowers in the spring but the
24 display itself would be permanent so that is relief
25 that is sought from 7.15 that is the only relief

1 sought.

2 Quickly through the final other items
3 flea markets are not permitted. We're not proposing
4 a flea market. Goods for sale are displayed have
5 certain setback requirements which is 25 feet to any
6 street right of way or 15 feet to any side or rear
7 line. These area of goods sold which is shown on the
8 Site Plans I would add are located 60 feet from
9 Crossing Lane and a hundred forty-five feet from
10 Route 33 so it would easily exceed the front setback
11 from either street.

12 Temporary sales of Christmas trees are
13 only permitted seasonally. We're not proposing the
14 temporary sale of Christmas trees so that section
15 does not apply and lastly it states that peddlers
16 canvassers or itinerary vendors are subject to
17 separate license requirements. We are not proposing
18 any of those so that which is Paragraph G does not
19 apply to our proposed project.

20 Quickly I want to move into signs.
21 Signs are probably one of the larger conversation
22 points of the project. We prepared an exhibit. I
23 forgot what number I'm at.

24 Q. A-6?

25 A. A-6 which is a sign exhibit. This is

1 the plan that we've color coded the various signs
2 because we've had two existing layers of approvals
3 and now we have a third so we have signs that are
4 approved at different steps. We have the green
5 labels are the six signs. The Ordinance the v.C.
6 zone the mixed use commercial zone in particular is
7 very specific when it comes to signage. It allows
8 six ground mounted signs. We are proposing nine.
9 There was a seventh sign that was approved as part of
10 the 2023 amended approval for the building Quick Chek
11 project.

12 Very quickly so we are seeking a
13 variance to provide two ground mounted signs that are
14 not permitted and very quickly just to simply
15 describe the signs you have Building 1 and the
16 numbers are labeled on the Exhibit. Building 1 is
17 the main pylon sign that's located at the jug handle
18 that sign remains in the location as previously
19 approved. That sign was a three-sided sign. There
20 was a third sign that faced the residential
21 development. It faced the corridor between Building
22 D and C where the outdoor dining was. We are simply
23 seeking to remove that third leg of the sign if you
24 will so we do need a variance because the Ordinance
25 is very specific that it must be a three-sided sign.

1 We are proposing a standard two-sided sign but that
2 is technically a variance.

3 Q. So if that two-sided sign is it
4 orientated in such a way that it's visible from both?

5 A. Yes.

6 Q. Of the roads that are adjacent to the
7 property.

8 A. Yes. The Ordinance is specific as well
9 that the sign must be seen from Millhurst and Route
10 33 and the orientation of the sign is such that it
11 is. We have Signs 2 and 3 are main entry ground
12 mounted signs at either end of Crossing Lane to
13 identify the residential community and the Manalapan
14 Crossing project.

15 Signs 4 and 5 are residential ground
16 mounted signs at the two access points for the
17 residential subdivision off of Crossing Lane and then
18 Sign 6 was a ground mounted sign for Building A which
19 of course is the mixed use with the affordable
20 housing so those signs were approved in the 2019
21 approval. Sign 7 which is shown in red on the
22 Exhibit is a ground mounted sign that was granted a
23 variance and approved as part of the amended approval
24 for Building F Quick Chek in 2023 and that was simply
25 to display the name Quick Chek with the gas prices

1 and now we are seeking two new signs which are known
2 in blue which I've labeled 8 and 9. Both of these
3 signs have a proposed area of a hundred fifteen
4 square feet with a maximum height of 13 feet. The
5 actual sign is 9 feet high but the detail is shown on
6 the site plans but the circular logo of ShopRite that
7 circular logo with the shopping cart extends above
8 the actual sign to the maximum height of 13 feet so
9 the top of what I would call the sign area is 9 feet
10 but the logo extends up to 13 feet and those are
11 proposed at the ingress drive from Route 33. 8. And
12 then 9 would be the ingress drive from Crossing Lane.
13 And variances are required for those two signs
14 because again the Ordinance is very specific there
15 are only six signs that are permitted.

16 And lastly on the signage we have
17 informational signs. The Ordinance again is very
18 specific under the sign section of the Ordinance
19 Section 8.7 that requires that onsite informational
20 signs are permitted to have a maximum area of two
21 square feet and a maximum height of seven feet.
22 There are proposed three different type of
23 informational signs as part of Building B and those
24 are enter, exit signs and basically a ShopRite logo
25 and those signs have a maximum area of eight square

1 feet so they exceed the two square feet permitted and
2 their maximum height is 5.2 feet so they do not
3 exceed the maximum height but the area exceeds the
4 informational sign area of two feet so a variance is
5 required for that.

6 Q. Ian, let's go back to the Route 33 sign
7 proposed Sign 8 for the ShopRite. It's supposed to
8 be 20 feet off of Route 33 and it's currently not
9 shown to be 20 feet but the Applicant is going to
10 comply and move it back so it's 20 feet.

11 A. Thank you, Sal, I skipped over that by
12 accident. Yes, our plans inadvertently showed Sign
13 what I call 8 on the Exhibit which is the new ground
14 mounted sign located adjacent to Route 33. We show
15 the setback at 10 from right of way. The Planner and
16 Engineer correctly pointed out the required setback
17 is 20 feet. We will shift the sign back 10 feet. We
18 do not seek a variance for the setback for that sign.

19 So from just to conclude with some
20 planning testimony now we have four different
21 variances that we are seeking. Three for signs and
22 one for the temporary under the Section 715 for the
23 temporary display of goods and I've already read them
24 through but I'll summarize them very quickly. The
25 Ordinance allows six ground mounted signs. A seventh

1 sign has been approved as part of another approval.
2 We are seeking Signs 8 and 9. The main pylon sign
3 these are under 5.6 which is the mixed use zone
4 criteria. The main pylon sign is to have three
5 sides. We are proposing two. The sign will remain
6 visible from both Millhurst and Route 33 and then
7 third is the under the sign section of the Ordinance
8 8.7 the maximum area of informational sign is two
9 square feet and ShopRite is proposing a maximum sign
10 area of eight square feet. The height however being
11 less than the maximum height of seven where 5.2 is
12 proposed.

13 And then four was under 7.15 which is
14 the temporary sales. It is proposed to provide
15 permanent sales of the goods displayed outdoors under
16 the front canopy in the areas identified on the Site
17 Plan. All goods will be displayed will be the
18 merchandise of ShopRite but would not be temporary as
19 required by the Ordinance but would be a permanent
20 display although seasonal as the products change
21 based upon the appropriate season.

22 So in my opinion these variances are
23 warranted under the C 2 benefits versus detriments
24 these are very minor variances I would call them
25 basically a technical variance because nothing relate

1 to the zoning or the bulk standards of the project
2 and the benefits in my opinion of granting the
3 deviation would substantially outweigh any detriment
4 given the minor nature of these requests and
5 especially on the ground sign both the two proposed
6 ground signs for ShopRite on Crossing Lane and Route
7 33 respectively as well as the informational signs
8 we're simply trying to help in my opinion public
9 safety by allowing better ability for motorists to
10 traverse this site and understand where they're
11 going.

12 Q. Couple followups. First as it relates
13 to your planning testimony and those items within the
14 CME report dated November 12 that are listed as
15 technical requirements and we will have an engineer
16 come up eventually to discuss in more detail but from
17 a planning point of view are there any items within
18 the technical engineering review comments starting on
19 Page 10 on the CME report that you would consider
20 items that you cannot comply with as a condition of a
21 approval?

22 A. No. We agree to comply with all of
23 those technical requirements.

24 Q. And then we're also seeking approval for
25 a technical subdivision.

1 A. Thank you.

2 Q. Under the Ordinance. Can you describe
3 that and is there a plan that shows?

4 A. Exhibit A-10 is the minor subdivision
5 that was submitted as part of the application. The
6 Ordinance the mixed use Ordinance under 5.6 G6
7 permits a technical subdivision for the purpose of
8 creating lots for ownership of the various commercial
9 buildings to be treated as a minor subdivision.

10 The Ordinance language further states
11 that the application for a technical subdivision be
12 treated as a minor subdivision so there are a few
13 technical requirements under the Ordinance. I'll go
14 through them again very quickly. Item A under the
15 Ordinance 5.6 G6 states that technical subdivision
16 for such a project may be required for marketing or
17 financing purposes. We're simply proposing a
18 subdivision for that purpose.

19 It states that an application for a
20 technical subdivision may be submitted with an
21 application for approval of a nonresidential site
22 plan which is what we've done. C such an application
23 shall be considered a technical subdivision and
24 treated as a minor subdivision without the necessity
25 to obtain bulk variances though technically be

1 required and that's what we have submitted in
2 accordance with the Ordinance.

3 The purpose of the application is to
4 create a new lot for the purpose of financing or
5 transfer of ownership which again is what we are
6 proposing. A technical subdivision may not
7 substantially modify or otherwise adversely impact
8 the integrity of the previously approved development
9 plan. The subdivision does not change the site
10 improvements at all and leading into the next comment
11 the technical subdivision must not replace, limit or
12 modify the parking or access to parking and nor is it
13 proposed in that regard. Obviously there will be
14 cross parking access provided between all of the
15 proposed lots and that leads into the last comment
16 which is if the technical subdivision includes a
17 division of parking which we do.

18 Appropriate easements for parking and
19 access, drainage and utilities will be provided and
20 that will be a condition of any approval. I should
21 state I kind of skipped over the fact that we are
22 proposing a subdivision for each of the proposed
23 buildings. There's six buildings or six proposed
24 lots five for the individual lots Buildings A, B, E,
25 F and G and then a sixth lot which would be the

1 common area of Crossing Lane and the landscaped
2 overlay scenic overlay area along Route 33 and
3 Millhurst Road that would remain as part of a common
4 lot.

5 Q. So the discussion you and I had was that
6 under the Ordinance for this zone it doesn't appear
7 as if a private road and buffer and basin are listed
8 as permitted principal uses and if that's the case
9 then we can't create a lot that has them as the only
10 use so the Applicant has agreed to eliminate the
11 creation of that lot and annex it to the lot that has
12 the mixed use special needs housing building. Is
13 that correct?

14 A. That is correct. Yeah, this technical
15 subdivision has been approved already as part of the
16 2023 amendment and it was approved with Crossing Lane
17 being a separate common area lot but as Mr. Alfieri
18 stated upon further review should the interpretation
19 be that the common area lot does not have a principal
20 use then it would be attached to Building A so that
21 lot would encompass Building A, its parking and all
22 of these common area improvements.

23 Q. And of course the necessary cross access
24 easements, et cetera, that would involve all of the
25 properties.

1 A. Yes.

2 Q. Now one other point is that this
3 property being Lot 8.03 does not provide direct
4 access onto a public street. Is that correct?

5 A. Yes, that's correct.

6 Q. The two driveways that are proposed on
7 Route 33 cross through a buffer which is not part of
8 the Lot 8.03. Is that correct?

9 A. It is part of the 8.03.

10 Q. The buffer?

11 A. The scenic overlay corridor.

12 Q. So the the question becomes if we do not
13 provide direct access onto Route 33 and we provide
14 the direct access onto Crossing Lane then we have the
15 planning variance under Municipal Land Use Law
16 Section 35 I believe.

17 A. I believe we comply with Section 35
18 because the Municipal Land Use Law 4055(d)-35
19 requires that all building lots abut a street. The
20 law states that no permit shall be issued for the
21 erection of any building unless the lot abuts the
22 street given access to the proposed building and then
23 it further goes on to define what a street is and
24 there's three different categories of what a street
25 might be.

1 First is an existing state, county or
2 municipal street or highway. Two would be a street
3 shown upon the plan approved by the planning board or
4 three a street on a plat duly filed in the county
5 recording office and obviously Crossing Lane would
6 not be considered an existing state, county or
7 municipal street but in my opinion Crossing Lane does
8 meet the definition of Item 2 and 3 because it is
9 that street is shown on a plat approved by the
10 Planning Board. Remember the 2019 approval of the
11 overall tract resulted in a subdivision filed in 2021
12 under Case 323-07 which is the final plat for Phase 1
13 of Manalapan Crossing which illustrates on it
14 Crossing Lane is a private road so as such it is a
15 street shown upon a plan approved by the Planning
16 Board and it also is a street on a plat duly filed in
17 the County recording office.

18 MR. CUCCHIARO: Madam Chair, my
19 recommendation is the Applicant put on proofs
20 of a planning variance.

21 MR. ALFIERI: Right. And I think we
22 probably will wait until we have our traffic
23 engineer testify to describe how that road is
24 constructed and how it's built to municipal
25 standards.

1 MR. CUCCHIARO: As a preview I mean
2 essentially what the planning variance requires
3 is just that the lot which doesn't have direct
4 access would still provide access for emergency
5 vehicles to access.

6 MR. ALFIERI: Right. And Mr. Rea
7 will describe that.

8 A. This is consistent with the original
9 approval.

10 MR. ALFIERI: And I believe that covers
11 the planning testimony for Mr. Borden, Madam
12 Chair, we're not asking questions tonight so
13 we're going to jump into each witness. Is that
14 what we are doing?

15 CHAIRWOMAN KWAAK: Yes.

16 MR. ALFIERI: We are going to bring our
17 architect up next?

18 MR. SHORR: Can I ask a point? What is
19 the size of the building?

20 CHAIRWOMAN KWAAK: They haven't gotten
21 to that yet.

22 MR. ALFIERI: I didn't hear what he
23 said.

24 CHAIRWOMAN KWAAK: He's asking about
25 the size of the building but they haven't

1 gotten that yet.

2 MR. SHORR: It was mentioned before.

3 MS. BEAHM: He did say it.

4 MR. ALFIERI: The ShopRite.

5 THE WITNESS: Eighty three thousand
6 square feet.

7 MR. ALFIERI: We're bringing up the
8 exhibits so the architect can refer to it.

9 James Ballar sworn.

10 MR. CUCCHIARO: Qualify the witness.

11 DIRECT EXAMINATION BY MR. ALFIERI:

12 Q. Mr. Ballar, by whom are you employed and
13 place your architectural credentials on the record
14 please.

15 A. I'm with Robert W. Adler & Associates.
16 We represent Saker ShopRites. I have been with RWA
17 for 31 years. I've been a New Jersey licensed
18 Architect for almost 27. I have not had the
19 opportunity but I've presented to numerous other
20 Boards throughout the State.

21 Q. And your license is in good standing?

22 A. Yes.

23 MR. CUCCHIARO: Mr. Gasiorowski, do you
24 have any questions?

25 MR. GASIOROWSKI: I have no objections.

1 MR. ALFIERI: We request that his
2 credentials be accepted unless the Board has
3 questions.

4 CHAIRWOMAN KWAAK: His credentials are
5 sufficient. Thank you.

6 BY MR. ALFIERI:

7 Q. Mr. Ballar, you're going to be referring
8 to various exhibits so we have to make sure they were
9 submitted previously or we have to mark them tonight.

10 A. I believe all of them have been
11 submitted previously. This is the Zoning Set 14
12 sheets dated October 29th '24. This was in the
13 original package.

14 CHAIRWOMAN KWAAK: Sal, do you have that
15 on digital for the public?

16 MR. ALFIERI: We do not. We only have
17 the ones that are displayed now.

18 THE WITNESS: I have handouts if they do
19 not have them.

20 MR. ALFIERI: Do you want reduced
21 version of the floor plan?

22 CHAIRWOMAN KWAAK: We should have them.
23 I'm talking about the public.

24 A. The ShopRite project is 83,855 square
25 foot. Single story masonry prefabricated masonry

1 panels with a steel substructure. The width of the
2 building is roughly 329 feet. The depth is 292 feet.
3 I'm going to talk about the height real quick. This
4 I believe is Exhibit 8 in the package.

5 Q. So we're referring to A-8 and can you
6 identify that in a little more detail please?

7 A. A-8 represents to be colored rendering
8 of all four elevations of the building.

9 MS. BEAHM: Can I interrupt? On the
10 packet you handed out it has it identified as
11 A-7.

12 MR. ALFIERI: What does it say at the
13 bottom?

14 MR. BORDEN: Do I have two A-7s?

15 MS. BEAHM: I think so.

16 MR. BORDEN: Mine says A-8.

17 MR. ALFIERI: I didn't see an A-7 on
18 what you have unless it's one above.

19 MR. BORDEN: The A-7 above it I added at
20 the last second so I might have copied the wrong
21 one in. On the screen it is A-8.

22 MS. BEAHM: I'll just mark mine as A-8
23 it's not a problem.

24 A. The reason I'm bringing this up is just
25 to discuss building height. As we were talking about

1 building height the allowable is 50 feet. We're at
2 35 feet for both towers which are at both ends. The
3 highest point is at 35 feet. The primary parapet
4 height is at 30 feet. As you come around the back of
5 the building, the sides and the back of the building
6 are roughly 29-and-a-half feet so we're down 6 inches
7 to the back and the rear.

8 I'll discuss the architecture here. The
9 building itself is very traditional on its style and
10 character. We've placed a brick face, brick veneer
11 walls, stone caps, arches, EFIS arches between brick
12 columns and to not and then we brought those details
13 around those sides of the building as an applied EFIS
14 arch with brick veneer pilasters on both sides of the
15 building.

16 We have a mix of crown cornices with
17 recessed panels again just to give it a large
18 traditional facade that is broken up by a series of
19 angulations and elements so we're trying to eliminate
20 any simple veneer warehouse building.

21 The colors are muted and very tan.
22 Reds, browns, creamy yellows. I'm going to go back
23 to the plan. So to talk about the plan I'll start
24 from the front of the building we have a covered walk
25 on either side of a vestibule. To Ian's point the

1 outside merchandising they're de-marked areas with
2 hatch in it so there's outdoor merchandising on the
3 left or west and two spaces on the right or east
4 side. The outdoor merchandising as he said seasonal
5 items, pumpkins, flowers, firewood those kinds of
6 elements, mulch and they turn over daily.

7 The utilities are in the back right
8 corner opposite of the side of the residential unit.
9 We thought that was very important. Egress from the
10 mezzanine which is in the lower right corner is again
11 on the opposite side. As you come around the back we
12 have 14 foot high screen walls on either side of the
13 loading dock to screen as much of the loading from
14 that the trucks when trucks back in and then to Ian's
15 point we have our eight-foot high fence that comes
16 around with the opening only opening to the circle
17 that comes around this area. It's roughly 832 square
18 feet of outdoor merchandising.

19 What we've done to screen the rooftop
20 equipment is we've created larger taller parapets in
21 the back of the building which is the third one down.
22 We have six-foot high parapets in the back. The
23 building pitch is front to back to its drainage so
24 the front those parapets are roughly four feet high
25 so four feet high in the front pitch along the back

1 to six feet high. We've centrally located the units.
2 I'm going to bring up I think it's Exhibit 9 the site
3 line. I think that's 9 this one.

4 MR. BORDEN: Yes.

5 A. This is a one of two sets. Exhibit 9
6 dated August 19th 2024. What we did was take a
7 series of site line views from the residential, the
8 building behind the bank building and tried to show
9 if you were standing in front of those where that
10 site line where we would hit so we slid the
11 mechanical units as far forward or as far back so
12 those things were not going to be above the parapet
13 height.

14 So here's the side of the store the
15 westerly side Crossing Lane the closest residential
16 unit that's on the corner. This is Building A the
17 three-story building in the back with the 8 foot high
18 fence and the site lines with the loading at this
19 level and the bottom one is the front of the building
20 this is the bank building if you were over on the
21 bank building you would see so we're far enough back
22 so the rooftops aren't visible.

23 I'd like to talk about signage. It is
24 one of the variances I am not sure that Ian mentioned
25 but the building signs. I'm going to flip them back

1 and forth from Sheet 3 to Sheet 4. The majority of
2 our signs are across the front of the building the
3 longest width. We have two other signs one is on the
4 easterly side. It's on corner of the tower. And
5 then the other one is on the other side of the
6 building left side of the building or westerly at the
7 other tower.

8 There's a total of 13 signs for the
9 project. Eleven of them are on the front of the
10 building. The other two are one and one on the other
11 side. The Ordinance allows 20 percent of the signage
12 area which by definition has to take into account the
13 area that's above the covered walk. That area is
14 roughly 2,826 square feet. Twenty percent of that
15 would be 565 square feet. Those 11 signs total 537
16 square feet where 565 is allowed. We're under the
17 allowable.

18 The variances is for quantity. We have
19 numerous tenants inside the building each of those
20 tenants are justify the sign. The tenants such as
21 pharmacy, nutrition, nutritional sushi. There's six
22 tenants. Those signs total 226 square feet and then
23 you have the ShopRite logos either side of the tower
24 so the relief we're looking for is the front of the
25 building where ShopRite only is allowed one ShopRite

1 sign we technically have seven ShopRite signs.

2 Q. And if we refer to Exhibit A-8 which has
3 been marked and is on the screen now those are the
4 signs that are the front facade?

5 A. Correct.

6 Q. That you are referring to.

7 A. Correct. So if I started from the left
8 there is a ShopRite logo on the left tower. There is
9 what they call order and pick up and delivery. It's
10 called Shop from Home. The pharmacy which is
11 required by State. Then we have the World ShopRite
12 which go hand in hand. Then we have nutrition, a
13 blank tenant, Asian Sushi and another ShopRite logo.

14 Q. And if we scroll down on that same A-8
15 it shows the other two facade signs at either corner.
16 Is that correct?

17 A. Correct. The width of the facade and
18 the ShopRite branding we're already starting with
19 four logos or four signs one at each corner of the
20 tower and then you have the ShopRite.

21 Q. And are these signs typical of the Shop
22 Rites throughout the State?

23 A. They are typical. It's their branding.
24 I could bring up Exhibit this is I think 7.

25 MR. BORDEN: Yes. A-7.

1 A. These are examples of some ShopRites
2 that have been constructed in recent years and you'll
3 notice the ShopRite logo on the towers. There's a
4 vinyl lollipop or logo inside the middle of the
5 vestibule that has an arch. The arch storefront is a
6 window system and then you'll see the ShopRite in the
7 lower middle element as examples and in the upper
8 middle you'll see the tenant signs in both of those.

9 This is a perfect example of what this
10 store is going to look like on the front.

11 Q. And just to further qualify this exhibit
12 these are photographs taken by your office of actual
13 ShopRite locations?

14 A. Correct.

15 Q. And they accurately depict what those
16 Shop Rites look like.

17 A. Correct.

18 Q. I'm sorry. Continue please.

19 A. To support what Ian was talking about as
20 far as one of the monument signs that's out on the
21 side the left most to the middle is a typical
22 standard monument sign so to conclude we're looking
23 for relieve for quantity of signs for ShopRite
24 because they are allowed one. We're requesting
25 seven. Four of those are the lollipops or logos that

1 are at the corner of those towers. That's all I
2 have.

3 MR. ALFIERI: That's all we have of the
4 Architect.

5 CHAIRWOMAN KWAAK: Ok. At this time we
6 are going to take a five-minute break and then
7 we will be back.

8 (Whereupon there was a break 9:09 p.m.
9 to 9:20 p.m.)

10 CHAIRWOMAN KWAAK: I'd like to call our
11 meeting back to order at 10 minutes after 9.

12 MR. ALFIERI: We are now going to call
13 John Rea.

14 John Rea sworn.

15 DIRECT EXAMINATION BY MR. REA:

16 Q. And John, we're seeking to have you
17 qualified as a traffic engineer and expert. Would
18 you place your credentials on the record please?

19 A. Sure. I'm a licensed Professional
20 Engineer in the State of New Jersey. My field of
21 specialty is traffic engineering. I have a total of
22 50 years' experience in traffic engineering.
23 Undergraduate degree in Civil Engineering from NJIT
24 and a Masters in Transportation Engineering from NYU
25 and I've testified before many Boards throughout the

1 State including this Board on multiple occasions.

2 MR. GASIOROWSKI: I acknowledge Mr.
3 Rea's credentials.

4 THE WITNESS: Thank you.

5 Q. So John, your office prepared a report
6 in support of the application and that report was
7 done without consideration for the right in right out
8 proposed on Route 33. Is that correct?

9 A. That is correct.

10 Q. Can you describe, summarize the results
11 of your report?

12 A. Sure. Because of the change in the Land
13 Use Plan and the addition of the supermarket and the
14 removal of the three buildings I believe Buildings B,
15 C and D I'm not sure that's correct or not but
16 because of the change in the Land Use Plan our
17 primary focus for updating the traffic study was
18 several fold. 1 obtain a new approval in the New
19 Jersey Department of Transportation project. 2
20 obtain Monmouth County for the project Millhurst Road
21 being under County jurisdiction and of course 3
22 preparing and updating a traffic impact study to
23 submission to the Board in support of the
24 application.

25 As of this moment in time we have

1 received the NJDOT approval for the land use change.
2 We have received their approval. We've received
3 Monmouth County approval so the updated traffic
4 impact study which by the way included updated
5 traffic counts, a new traffic generation analysis for
6 the supermarket and a fully detailed traffic impact
7 study. It's a good inch and a half, two inches thick
8 which is what DOT requires. It's all been submitted
9 approved by DOT approved by Monmouth County and
10 hopefully will be and we also the traffic impact
11 study also addressed to the best of my knowledge the
12 comments in the CME review letter which we received
13 October 14th.

14 MR. RIZZO: November 12.

15 THE WITNESS: The one before. Your
16 latest review letter is November 12 and I
17 believe it concludes we've addressed the
18 concern from your previous review letter which
19 I think was back in October so we've done
20 everything we can do to address the comments in
21 the CME review letter, get the DOT permit, the
22 Monmouth County permit and it's all been done.

23 Q. And in terms of the access points
24 obviously one approved by the State one approved by
25 the County your opinion they operate safely and

1 efficiently before the ShopRite approval and
2 subsequent?

3 A. All within acceptable levels of service.
4 The overwhelming majority of the levels of service
5 for the morning, afternoon and Saturday peak hours
6 level of Service C or better. They all meet the DOT
7 criteria. The County has signed off on it. The
8 improvements that have been constructed by the
9 Applicant at 33 and Millhurst Road at Crossing Lane
10 and Route 33 and also at Crossing Lane and Millhurst
11 Road they're all in place.

12 In my estimation they look pretty good
13 and traffic is flowing pretty well. The supermarket
14 is not there yet but those improvements will be able
15 to handle the traffic. Those improvements be able to
16 handle the traffic from the supermarket within
17 acceptable levels of service.

18 Q. And in terms of onsite circulation are
19 there any issues or concerns?

20 A. Not that I can see. The plan has been
21 designed in accordance with proper engineering
22 principals. It's been reviewed by the Boards
23 consultant and it provides for adequate parking,
24 adequate circulation, multiple points of access for
25 emergency vehicles so the answer is yes.

1 Q. And then you heard the discussion I had
2 with Mr. Borden about the planning variance for
3 Section 35 Municipal Land Use Law Crossing Lane
4 itself. Can you just describe the condition of that
5 in terms of whether it meets the standards that will
6 be required for public street?

7 A. I believe it does. I mean the average
8 person traversing Crossing Lane wouldn't know that
9 it's a private street and not a municipal street.
10 Crossing Lane has been built to municipal standards.
11 The average person crossing on Crossing Lane wouldn't
12 know that it's a private street. It is private
13 street but it's been built to municipal standards and
14 it will provide adequate circulation to all of the
15 different parcels for emergency vehicles, delivery
16 trucks, refuse removal, fire trucks, everything in
17 that nature. It's been built to a very high
18 standard.

19 MR. ALFIERI: Thank you. That is all we
20 have of Mr. Rea.

21 CHAIRWOMAN KWAAK: Ok. Any other
22 witnesses?

23 MR. ALFIERI: We have three more so
24 we'll go as long as you want us to go.

25 CHAIRWOMAN KWAAK: Let's go one more.

1 MR. ALFIERI: We'll do the other traffic
2 engineer because that should be pretty brief.

3 CHAIRWOMAN KWAAK: That's fine.

4 Alec Sukowski sworn.

5 DIRECT EXAMINATION BY MR. ALFIERI:

6 Q. Would you place your credentials on the
7 record please?

8 A. Yes. I'm an Assistant Project Manager
9 for Colliers Engineering and Design. I'm a licensed
10 Professional Engineer in the State of New Jersey. My
11 license is in good standing. I have testified before
12 several Boards in the State as well as in New York.

13 Q. And in terms of your expertise in
14 traffic testimony can you just put a little bit on
15 the record for that?

16 A. Sure. I've testified in most recently
17 in South Brunswick. I also testified in Newark and
18 Winslow Township.

19 Q. And qualified as traffic expert?

20 A. That's correct.

21 MR. CUCCHIARO: Mr. Gasiorowski?

22 MR. GASIOROWSKI: I have no questions.

23 I accept his credentials.

24 CHAIRWOMAN KWAAK: His credentials are
25 sufficient. Thank you.

1 BY MR. ALFIERI:

2 Q. The reason we have two traffic engineers
3 the Saker ShopRite had agreed to take on the
4 responsibility of obtaining the necessary approvals
5 for the right in and right out on Route 33, correct?

6 A. That's right.

7 Q. And that's what your office has been
8 handling?

9 A. Yes.

10 Q. And has your office communicated with
11 the NJDOT regarding the proposed ingress and egress
12 drive?

13 A. We have.

14 Q. Can you just summarize for the Board
15 what's being proposed on Route 33 and what your
16 discussions with NJDOT entailed?

17 A. Yes. So what we're proposing along
18 Route 33 is separate ingress driveway and a separate
19 egress driveway to allow more efficient access to the
20 approved ShopRite. The ingress driveway will be
21 approximately central between the intersection of
22 Crossing Lane and Millhurst and closer to the signal
23 at the egress driveway.

24 With NJDOT we had a pre-application
25 meeting on September 5th. We discussed this

1 configuration. We also discussed previous iteration
2 where the egress and ingress were combined into one.
3 They voiced their concerns about levels of service
4 which we have addressed in our report.

5 Q. And the design as currently proposed is
6 the design suggested by NJDOT?

7 A. That's correct.

8 Q. In the CME report they discuss the fact
9 that there is a level of service degradation that
10 needs to be addressed. Can you first describe that
11 and secondly describe what would need to be done to
12 address that?

13 A. So DOT sets forth criteria for the
14 operation of the intersection based on delay so they
15 set forth the limit for how much the delay can
16 increase as well as the volume to capacity ratio so
17 slight increase in volume we violate the criteria by
18 three-tenths of a second so what we would do with the
19 access permit we would submit a waiver for that
20 violation very minor three-tenths of a second.

21 Q. And you're familiar with the fact that
22 the NJDOT actually approved the ShopRite without
23 those driveways?

24 A. Correct. The existing permit accounts
25 for the ShopRite, yes.

1 Q. And then also in the CME report on Page
2 7 is the discussion about a concern about queuing of
3 vehicles within the internal driveway. Can you
4 describe that issue and how it potentially can be
5 addressed?

6 A. Yes. So at the egress driveway the CME
7 review letter noted stacking spaces approximately
8 three vehicles. Our analysis shows a maximum of one
9 vehicle queue at a time and thinking about it it
10 makes sense because it is a right only out.

11 Q. Right out only.

12 A. Right out only, yes, and you have the
13 signal right there creating gaps in traffic. There's
14 not going to be a need to wait very long at that
15 location. The level of service indicated is a C
16 which is acceptable.

17 MR. ALFIERI: And I believe that's all
18 we have of this witness, Madam Chair.

19 CHAIRWOMAN KWAAK: Okay. How many more
20 witnesses do you have?

21 MR. ALFIERI: We have an engineer but we
22 don't have the operations people tonight so we
23 couldn't do operations either way but we could
24 do the engineer if you want.

25 MR. CUCCHIARO: Madam Chair, remember we

1 have to have that next application.

2 CHAIRWOMAN KWAAK: With that being said
3 let's carry this application.

4 MR. CUCCHIARO: Well let's just ask the
5 Applicant and Mr. Gasiorowski as well our next
6 meeting is 12/12 so, Mr. Alfieri, is your team
7 available and also, Mr. Gasiorowski, are you
8 available?

9 MR. GASIOROWSKI: I think I earlier
10 wrote a letter saying I would not be available
11 on December the 12th. I've spoken to Mr.
12 Alfieri and he has asked me whether or not
13 since I will not be cross examining until their
14 testimony is completed if he could present his
15 witnesses and provide me with a transcript and
16 then we proceed the meeting after that so if
17 that's the Board's wishes I consent or agree to
18 that.

19 MR. CUCCHIARO: Mr. Alfieri, I would
20 just request if you're providing the transcript
21 to Mr. Gasiorowski you also provide it to the
22 Board.

23 MR. ALFIERI: Of course, yes.

24 MR. CUCCHIARO: So with that said, Madam
25 Chair, we can carry this to the 12th again just

1 for our testimony if that's ok.

2 CHAIRWOMAN KWAAK: That's fine.

3 MR. CUCCHIARO: Just making the
4 announcement so the application of Cardinale
5 Manalapan Crossing application PMS11931
6 A/PMS193TS will be carried on the Board's
7 December 12th 2024 meeting for direct testimony
8 only. There will be no further Notice to
9 property owners so this is important. If
10 there's anybody here tonight that received
11 Notice in the mail of the Hearing you will not
12 receive one. This is your notice that the
13 meeting is being carried to December 12 that
14 meeting also 7:30 here in the main meeting
15 room.

16 I would also note that everyone is
17 invited if they wish to inspect documents and
18 plans and reports. They're available during
19 normal business hours in the Planning
20 Department if anyone would like to come and
21 take a look. That's all I have, Madam Chair.

22 CHAIRWOMAN KWAAK: That's it. Thank
23 you.

24 MR. ALFIERI: Thank you.

25 (Whereupon the hearing is carried

9:33 p.m.)

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CERTIFICATE

I, LISA NORMAN, a Notary Public and Certified Court Reporter of the State of New Jersey, do hereby certify that prior to the commencement of the examination, the witness was duly sworn by me to testify the truth, the whole truth and nothing but the truth.

I DO FURTHER CERTIFY that the foregoing is a true and accurate transcript of the testimony as taken stenographically by and before me at the time, place and on the date hereinbefore set forth.

I DO FURTHER CERTIFY that I am neither a relative nor employee nor attorney nor counsel of any of the parties to this action, and that I am neither a relative nor employee of such attorney or counsel, and that I am not financially interested in the action.



Notary Public of the State of New Jersey
License No. 30XI00177700
Dated: November 27, 2024

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|----------------------------|------------------------|-----------------------|------------------------|
| & | 162 5:5 | 21 37:20 | 68:15,18 |
| & 1:5 2:7 53:15 | 17 6:4 | 226 59:22 | 34 2:2 |
| 0 | 19 4:23 | 23 18:9 | 35 50:16,17,18 |
| 0.58. 38:6 | 1931a 5:2 | 24 3:4 54:12 | 56:2,3 66:3 |
| 0.7 38:6 | 19th 58:6 | 24.88. 37:21 | 37 33:3 |
| 07701 2:8 | 1st 36:21 | 25 36:19 37:9 | 39 32:21 |
| 07747 2:3 | 2 | 37:21 40:5 | 4 |
| 1 | 2 4:6 8:4 14:19 | 26 4:3 | 4 4:12 31:5,7,8 |
| 1 4:3 26:4,6 | 29:16 30:3,4 | 27 53:18 74:23 | 31:17 32:9,10 |
| 27:20,21 31:13 | 31:18,21 32:1 | 280 27:5 | 34:1,11 42:15 |
| 41:15,16 51:12 | 42:11 45:23 | 29 4:6,9 56:6 | 59:1 |
| 63:18 | 51:8 63:19 | 292 55:2 | 40 4:18 25:1 |
| 1,044 27:15 | 2,826 59:14 | 29th 54:12 | 4055 50:18 |
| 10 10:15,17 | 20 37:22 44:8,9 | 3 | 41,000 32:21 |
| 44:15,17 46:19 | 44:10,17 59:11 | 3 4:9 29:18,18 | 42 24:23 |
| 47:4 62:11 | 200 7:11,13 8:2 | 30:4,6 31:14 | 5 |
| 11 59:15 | 8:17 9:2,15 | 42:11 51:8 | 5 4:15 33:2,16 |
| 11th 27:4 | 10:10 13:15,24 | 59:1 63:21 | 33:16 42:15 |
| 12 46:14 64:14 | 17:8,11,12,13 | 30 56:4 | 5.2 44:2 45:11 |
| 64:16 72:13 | 18:2,8,23 | 30xi00177700 | 5.6 45:3 47:6 |
| 12/1 28:20 | 20:22 21:2 | 74:23 | 47:15 |
| 12/12 71:6 | 2018 26:20 | 31 4:12 53:17 | 50 38:2 56:1 |
| 120 37:23 | 2019 27:4 | 323-07 51:12 | 62:22 |
| 12th 71:11,25 | 42:20 51:10 | 329 55:2 | 53 3:8 |
| 72:7 | 2021 27:23 | 33 4:15 5:5 | 537 59:15 |
| 13 43:4,8,10 | 51:11 | 28:7 34:2,10 | 54 2:7 |
| 59:8 | 2023 4:9 16:22 | 34:13 35:15,25 | 55 4:20 |
| 14 1:4 29:24 | 29:1,8,19 | 36:6,11,13 | 565 59:15,16 |
| 36:22 54:11 | 30:10 41:10 | 37:24 38:14 | 57 28:18 |
| 57:12 | 42:24 49:16 | 40:10 42:10 | 58 4:23 27:13 |
| 14th 64:13 | 2024 1:4 4:23 | 43:11 44:6,8 | 28:18 32:14 |
| 15 40:6 | 16:22 26:9 | 44:14 45:6 | 58th 28:19 |
| 15.8. 37:23 | 29:25 58:6 | 46:7 49:2 50:7 | 5th 68:25 |
| | 72:7 74:23 | 50:13 63:8 | |
| | | 65:9,10 68:5 | |

| | | | |
|-----------|---|---|---|
| 6 | 17:13 18:5,8 19:9,13,18 20:3,8,17,23 21:8,24 27:10 27:21 28:21 29:2,19 33:18 37:19 50:3 | 59:13 abundantly 15:20 abut 50:19 abuts 50:21 accept 67:23 acceptable 65:3 65:17 70:16 accepted 25:14 54:2 accepting 25:10 access 8:18,24 9:3 10:21 14:21 19:15,16 35:11,23,25 42:16 48:12,14 48:19 49:23 50:4,13,14,22 52:4,4,5 64:23 65:24 68:19 69:19 accident 44:12 accomplished 13:23 accordance 48:2 65:21 account 59:12 accounts 69:24 accurate 74:11 accurately 61:15 acknowledge 63:2 | acquires 33:2 acres 18:9 26:19 37:21 action 74:17,20 actual 43:5,8 61:12 actually 69:22 add 35:14 36:4 36:8 40:8 added 34:9 55:19 adding 36:25 addition 35:25 36:10 63:13 additional 9:22 address 5:25 38:11 64:20 69:12 addressed 64:11,17 69:4 69:10 70:5 adequate 9:5 14:3 33:1 65:23,24 66:14 adjacent 7:2,14 8:24 9:7,14,17 16:4 18:13,14 18:16 19:21 20:13 42:6 44:14 adler 53:15 adopted 26:21 advance 25:19 adversely 48:7 |
| 6 | 4:18 40:24,25 42:18 56:6 | | |
| 60 | 40:8 | | |
| 62 | 3:12 | | |
| 66 | 1:5 5:4 22:19 | | |
| 67 | 3:16 | | |
| 7 | 17:13 18:5,8 19:9,13,18 20:3,8,17,23 21:8,24 27:10 27:21 28:21 29:2,19 33:18 37:19 50:3 8.03. 15:6,16,17 15:22 17:11 18:8 20:18,21 22:24 32:8 50:8,9 8.7 43:19 45:8 822 32:25 83,559 33:25 83,855 54:24 832 57:17 | | |
| 7 | 42:21 55:11 55:17,19 60:24 60:25 70:2 7.15 39:25 45:13 715 44:22 7:30 72:14 7s 55:14 | | |
| 8 | 4:23 43:2,5,9 43:12 45:2 58:2,3,5 62:11 9264 74:21 95-7.15 38:18 955 2:2 969 32:20 33:1 9:09 62:8 9:20 62:9 9:33 73:1 | | |
| 8 | 4:20 34:22 43:2,11 44:7 44:13 45:2 55:4,5,7,16,21 55:22 58:17 60:2,14 8.01 8:12,13,17 12:4,12,21 15:8,10 19:7 22:2,19,20 8.01. 8:11,22 13:2 15:11 26:18 8.03 1:5 4:9,16 5:5 15:12,18 16:3,11 17:5,7 | | |
| 9 | | | |
| a | ability 46:9 able 18:23 65:14,15 above 43:7 55:18,19 58:12 | | |

| | | | |
|--|---|---|---|
| <p>aerial 4:3 22:17 25:24 26:7,10 27:24</p> <p>affordable 12:9 12:11 26:25 27:14 28:17 32:15 42:19</p> <p>afternoon 65:5</p> <p>age 26:23 27:5</p> <p>agencies 36:1</p> <p>agency 27:19 35:21 36:12,16</p> <p>ago 14:21 24:23</p> <p>agree 13:9,12 46:22 71:17</p> <p>agreed 37:3 49:10 68:3</p> <p>alec 3:15 67:4</p> <p>alfieri 2:2,3 3:4 3:8,12,16 5:14 5:15,16,22 6:6 6:9,21 8:7,9 10:22 11:23 12:4,11,21 13:1,4,6,12,17 15:7,11,14,16 15:23 17:10,12 17:18,19 18:6 20:5,18 22:25 23:13,23,24 24:11,18 25:6 25:13,17 30:3 49:17 51:21 52:6,10,16,22</p> | <p>53:4,7,11 54:1 54:6,16,20 55:12,17 62:3 62:12 66:19,23 67:1,5 68:1 70:17,21 71:6 71:12,19,23 72:24</p> <p>allow 37:1 68:19</p> <p>allowable 56:1 59:17</p> <p>allowed 26:23 59:16,25 61:24</p> <p>allowing 46:9</p> <p>allows 41:7 44:25 59:11</p> <p>alright 20:19 31:17</p> <p>amend 29:14</p> <p>amended 5:3 29:1 30:9 35:23 36:3 41:10 42:23</p> <p>amendment 49:16</p> <p>amount 32:23 32:24</p> <p>analysis 64:5 70:8</p> <p>angulations 56:19</p> <p>annex 49:11</p> <p>announcement 72:4</p> | <p>answer 22:14 23:8,11 65:25</p> <p>answered 24:5</p> <p>anybody 72:10</p> <p>apart 7:15 10:8 17:7 18:19 21:24</p> <p>apartments 28:17</p> <p>appear 20:20 49:6</p> <p>appearance 5:13</p> <p>applicant 2:4 5:17 6:23 7:5 10:19 19:1 27:2,2 32:3 39:2 44:9 49:10 51:19 65:9 71:5</p> <p>application 5:1 7:12,15,17 8:12,13,21,22 8:25 9:1,9,11 9:20,25 10:4,5 10:15,17 13:11 19:9 23:25 26:14 27:1,11 30:23,25 31:2 32:7 47:5,11 47:19,21,22 48:3 63:6,24 68:24 71:1,3 72:4,5</p> | <p>applied 26:22 56:13</p> <p>apply 39:6 40:15,19</p> <p>approach 38:4</p> <p>appropriate 45:21 48:18</p> <p>approval 27:4 27:5,18 29:2,9 29:14 31:9,13 32:4 35:12,20 35:21 37:8 41:10 42:21,23 45:1 46:21,24 47:21 48:20 51:10 52:9 63:18 64:1,2,3 65:1</p> <p>approvals 11:4 11:8,24 27:19 35:21 36:1,12 41:2 68:4</p> <p>approved 4:9 10:1,13 12:6 14:20 26:15,16 29:8,19 30:10 30:11 32:12 33:8,23 37:15 41:4,9,19 42:20,23 45:1 48:8 49:15,16 51:3,9,15 64:9 64:9,24,24 68:20 69:22</p> |
|--|---|---|---|

| | | | |
|---|---|---|---|
| <p>approximately 68:21 70:7 april 27:4 arch 56:14 61:5 61:5 arches 56:11,11 architect 38:5 52:17 53:8,18 62:4 architectural 53:13 architecture 56:8 area 27:13 32:25 33:6 34:7,24 35:4,9 37:1,2,3,18 38:6,15,16 40:7 43:3,9,20 43:25 44:3,4 45:8,10 49:1,2 49:17,19,22 57:17 59:12,13 59:13 areas 45:16 57:1</p> | <p>asked 22:10 71:12 asking 11:16 13:22 14:13 23:4 24:1 52:12,24 aspects 39:1 assistant 67:8 associated 11:7 associates 5:3 53:15 assume 17:3 22:20 attached 49:20 attention 38:10 attorney 5:19 23:15 74:16,18 attorneys 2:4,9 5:11,12 23:10 august 4:23 29:8 58:6 available 71:7 71:8,10 72:18 average 66:7 66:11</p> | <p>back 29:13 30:4 31:18 32:9 44:6,10 44:17 56:4,5,7 56:22 57:7,11 57:14,21,22,23 57:25 58:11,17 58:21,25 62:7 62:11 64:19 backbone 28:8 33:12 ballar 3:7 53:9 53:12 54:7 bank 2:8 30:22 58:8,20,21 based 45:21 69:14 basically 31:21 35:4 43:24 45:25 basin 49:7 beahm 1:21 7:1 9:10,19 15:3,8 15:12 22:4 53:3 55:9,15 55:22</p> | <p>54:10 55:4 63:14 64:17 66:7 70:17 benefits 45:23 46:2 best 64:11 better 46:9 65:6 bigger 32:6 bit 67:14 blank 60:13 block 1:5 5:4 22:19 blue 43:2 board 1:1 5:15 6:13 21:4 22:17 23:20 24:1 25:10,21 26:14 27:18 28:3,25 31:11 31:14 35:22 37:15 51:3,10 51:16 54:2 63:1,23 68:14 71:22</p> |
| <p>argument 11:17 13:19 17:4 21:25 22:6,12 23:18 arguments 10:23 asian 60:13 aside 38:21</p> | <p style="text-align: center;">b</p> <p>b 1:13,14 4:1,7 26:12 29:18 30:12,13 31:2 31:4,23 32:18 32:18 33:21,24 34:6,20 35:12 35:21,23 37:12 39:6 43:23 48:24 63:14</p> | <p>beahm's 19:13 begonia 6:4 behalf 5:16 belief 21:7 believe 9:4,21 11:12 18:9 19:11 22:23 28:2 36:19 50:16,17 52:10</p> | <p>board's 71:17 72:6 boards 25:2 53:20 62:25 65:22 67:12 borden 3:3 24:12,14,15,16 24:19 25:18,22 26:2 52:11 55:14,16,19</p> |

| | | | |
|---|--|---|---|
| 58:4 60:25 66:2 bottom 22:18 34:1,11 55:13 58:19 boundaries 13:24 21:3 branding 60:18 60:23 break 62:6,8 brian 1:13 brick 56:10,10 56:11,14 brief 8:9 67:2 briefly 9:24 bring 29:5 52:16 58:2 60:24 bringing 53:7 55:24 broad 2:7 broken 56:18 brought 38:10 56:12 brown 1:14 browns 56:22 brunswick 67:17 buffer 7:4,14 9:7,7,8,14,16 9:24,25 10:6,7 10:12,13,15 18:11,12 19:12 34:19 35:7 49:7 50:7,10 | buffers 10:12 build 36:12 building 4:7 12:12 26:12 27:13,15 28:11 28:12,14,15 29:2,3,18,20 30:15,19,19,20 30:21,24,24 31:4,23 32:16 32:18,25 33:21 33:21,22,24,25 34:5,6,11,17,19 34:20,20 35:21 35:23 37:22,23 38:1,3,3,4 41:10,15,16,21 42:18,24 43:23 49:12,20,21 50:19,21,22 52:19,25 55:2 55:8,25 56:1,5 56:5,9,13,15,20 56:24 57:21,23 58:8,8,16,17,19 58:20,21,25 59:2,6,6,10,19 59:25 buildings 12:5 26:11 29:15 30:12,14,15,15 30:21 31:2,3 32:18 35:12 37:10,12 47:9 48:23,23,24 | 63:14,14 built 51:24 66:10,13,17 bulk 46:1 47:25 bureau 36:17 37:5 business 39:17 72:19 businesses 39:6 c c 2:1 30:12,13 31:2 32:18 35:12 41:22 45:23 47:22 63:15 65:6 70:15 call 27:15 28:8 29:2 43:9 44:13 45:24 60:9 62:10,12 called 22:17 26:21 60:10 canopy 38:15 45:16 canvassers 40:16 capacity 69:16 caps 56:11 cardinale 1:5 5:2 72:4 careful 34:5 carried 72:6,13 72:25 carry 71:3,25 | cart 43:7 carved 12:13 case 8:23 13:21 21:24 49:8 51:12 categories 50:24 center 30:14 31:3 35:1 central 68:21 centrally 58:1 certain 40:5 certainly 26:6 certificate 29:11 74:1 certified 74:4 certify 74:5,10 74:15 cetera 30:8,8 49:24 chair 5:9,14,18 10:11 20:19 25:13 51:18 52:12 70:18,25 71:25 72:21 chairwoman 1:12 5:1 6:16 23:9,14,21 25:15 29:21,24 52:15,20,24 54:4,14,22 62:5,10 66:21 66:25 67:3,24 70:19 71:2 72:2,22 |
|---|--|---|---|

| | | | |
|--|--|--|--|
| chance 24:6 change 32:16 39:22 45:20 48:9 63:12,16 64:1 changed 35:2 changing 9:12 10:13,16 chapter 38:18 character 56:10 chek 28:22 29:3 29:5,12,20 30:8,11 41:10 42:24,25 christmas 40:12,14 circle 30:14 57:16 circular 43:6,7 circulation 65:18,24 66:14 civil 62:23 clarify 36:5 clear 15:20 clearly 21:16 cleary 2:2 5:16 client 6:7 clients 5:13 closer 28:15 68:22 closest 58:15 clubhouse 27:6 28:1 | cme 46:14,19 64:12,21 69:8 70:1,6 coded 41:1 cognizant 34:6 colleagues 6:20 colliers 67:9 colloquially 27:7 color 4:15 41:1 colored 33:17 55:7 colors 56:21 columns 56:12 combined 69:2 come 46:16 56:4 57:11 72:20 comes 41:7 57:15,17 commenced 29:10 commencem... 74:5 comment 14:6 48:10,15 comments 46:18 64:12,20 commercial 7:5 7:21,24 8:3,14 9:12 14:23,24 15:5,12,22 18:10 19:10,18 19:22 20:3,4 22:21,23 23:2 | 26:20,22,24 27:9,13 29:4 30:6 32:3,7,8 32:12,14 37:19 41:6 47:8 committee 26:21 common 49:1,3 49:17,19,22 communicated 68:10 communicating 36:17 community 42:13 complete 30:21 31:6,19 completed 28:1 28:8,9,16,17 71:14 compliance 27:18 complies 32:23 34:12 comply 37:17 37:24 44:10 46:20,22 50:17 component 32:3 concern 64:18 70:2 concerns 65:19 69:3 conclude 44:19 61:22 | concludes 64:17 condition 46:20 48:20 66:4 confer 23:14 configuration 69:1 confused 11:1 confusion 12:17 22:11 connect 36:24 connection 36:23,24 consent 71:17 consider 31:11 46:19 consideration 63:7 considered 39:16 47:23 51:6 consistent 37:8 37:14 52:8 consolidated 35:13 constructed 27:25 28:11 33:8,14,22 51:24 61:2 65:8 construction 27:22 28:2,24 29:10 consultant 65:23 |
|--|--|--|--|

| | | | |
|--|---|---|--|
| <p>contain 27:11 contained 26:18 32:12 contains 12:5 13:16 continue 38:24 61:18 continues 37:17 continuing 19:20 conversation 37:7 40:21 converse 9:3 copied 55:20 corner 57:8,10 58:16 59:4 60:15,19 62:1 cornices 56:16 correct 11:4 12:4,21 13:1 13:17,20 15:7 22:25 28:12,22 28:23,25 30:7 30:9 31:12 32:5 36:8,9,14 49:13,14 50:4 50:5,8 60:5,7 60:16,17 61:14 61:17 63:8,9 63:15 67:20 68:5 69:7,24 correctly 44:16 corridor 34:13 41:21 50:11</p> | <p>counsel 11:2 74:16,18 counts 64:5 county 35:22 51:1,4,6,17 63:20,21 64:3 64:9,22,25 65:7 couple 46:12 course 14:9 35:18 42:19 49:23 63:21 71:23 court 74:4 cover 15:4 coverage 37:22 covered 56:24 59:13 covers 52:10 creamy 56:22 create 31:4 48:4 49:9 created 9:25 19:1 27:20 57:20 creating 47:8 70:13 creation 49:11 credentials 24:21 25:14,15 53:13 54:2,4 62:18 63:3 67:6,23,24 criteria 45:4 65:7 69:13,17</p> | <p>cross 48:14 49:23 50:7 71:13 crossing 1:5 4:3 5:2 8:10,15,18 9:14,16,18 13:1 25:3 26:8 28:2,6 32:1 33:12 34:18,21 34:25 35:2,11 37:10 40:9 42:12,14,17 43:12 46:6 49:1,16 50:14 51:5,7,13,14 58:15 65:9,10 66:3,8,10,11,11 68:22 72:5 crown 56:16 cucchiaro 1:21 5:9,23,24 6:6 6:11,21 8:7 10:11 11:6,14 11:22 12:8,14 12:23 13:3,5,7 13:13,18 14:8 14:13 15:1,15 15:19 16:1,5 16:13,16,23 17:10,22 18:16 18:21 19:14 20:2,19 21:9 21:18 22:2,5 22:10 23:4,8 23:11,16 25:9</p> | <p>26:1 29:23 51:18 52:1 53:10,23 67:21 70:25 71:4,19 71:24 72:3 current 9:9 27:1,2 currently 20:16 26:16 27:24 44:8 69:5</p> |
| | | | d |
| | | | <p>d 3:1 30:12,19 30:22 31:3 32:18 35:12 41:22 50:18 63:15 daily 57:6 dais 5:6 date 28:18 29:22 30:2 74:13 dated 26:9 29:21,23 36:21 46:14 54:12 58:6 74:23 de 57:1 deal 10:11 december 71:11 72:7,13 define 50:23 defines 11:25 definition 51:8 59:12 degradation 69:9</p> |

| | | | |
|--|--|---|---|
| degree 62:23 delay 69:14,15 delivery 60:9 66:15 department 36:23 63:19 72:20 depict 61:15 depressed 34:17 depth 55:2 describe 33:19 41:15 47:2 51:23 52:7 63:10 66:4 69:10,11 70:4 description 4:2 design 24:16 33:21 34:8 35:3,3,5 67:9 69:5,6 designed 65:21 desires 29:7 detail 33:19 35:19 38:24 43:5 46:16 55:6 detailed 64:6 details 26:13 38:8 39:2 56:12 detriment 46:3 detriments 45:23 | developed 26:16 28:3 development 4:6 16:4 17:17 18:10 19:24 22:22 27:10,22 29:17 31:22,25 41:21 48:8 deviation 46:3 different 13:10 41:4 43:22 44:20 50:24 66:15 difficult 19:4 digital 54:15 dining 30:17,18 41:22 dire 25:9 direct 24:18 50:3,13,14 52:3 53:11 62:15 67:5 72:7 discern 19:4 disclosed 5:21 discuss 19:8 31:18 38:23 46:16 55:25 56:8 69:8 discussed 5:21 6:20 9:19 12:16 27:10 68:25 69:1 discussing 35:19 | discussion 49:5 66:1 70:2 discussions 68:16 display 38:12 38:16,17,23 39:7,15,24 42:25 44:23 45:20 displayed 39:4 39:9,12 40:4 45:15,17 54:17 displays 39:21 39:21 district 39:5,5 division 48:17 dock 34:16,17 34:23 57:13 documents 72:17 doing 52:14 dot 64:8,9,21 65:6 69:13 drainage 33:11 33:13 48:19 57:23 drive 6:4 8:18 10:21 35:15,15 35:16 36:4 37:2 43:11,12 68:12 drives 35:25 driveway 8:23 9:2 68:18,19 68:20,23 70:3 | 70:6 driveways 36:13 50:6 69:23 due 23:17 duly 51:4,16 74:6 duration 39:19 |
| e | | | |
| e 2:1,1 3:1 4:1 30:12,22 33:22 37:12 48:24 e.d. 33:3 earlier 32:11 71:9 easements 48:18 49:24 easily 32:23 40:10 east 57:3 easterly 59:4 efficient 68:19 efficiently 65:1 efis 56:11,13 egress 7:25 14:25 19:25 20:11,13 35:15 35:16,17 36:4 36:11 57:9 68:11,19,23 69:2 70:6 eight 27:12 32:13,19 43:25 45:10 57:15 | | | |

| | | | |
|--|---|--|--|
| <p>eighty 27:12 32:13 53:5</p> <p>either 24:3,9 40:11 42:12 56:25 57:12 59:23 60:15 70:23</p> <p>element 61:7</p> <p>elements 56:19 57:6</p> <p>elevations 55:8</p> <p>eleven 59:9</p> <p>eliminate 49:10 56:19</p> <p>eliminated 31:2</p> <p>email 36:21</p> <p>emergency 52:4 65:25 66:15</p> <p>employed 53:12</p> <p>employee 74:16 74:18</p> <p>encompass 49:21</p> <p>encompassed 22:20 23:2</p> <p>encompasses 9:17</p> <p>ends 56:2</p> <p>engineer 1:20 38:11 44:16 46:15 51:23 62:17,20 67:2 67:10 70:21,24</p> | <p>engineering 24:25 46:18 62:21,22,23,24 65:21 67:9</p> <p>engineers 68:2</p> <p>entailed 68:16</p> <p>enter 5:13 43:24</p> <p>entered 18:15</p> <p>entire 8:13 13:25 26:8</p> <p>entirety 8:17 14:19 18:8 20:20 23:2</p> <p>entry 42:11</p> <p>equipment 57:20</p> <p>erection 50:21</p> <p>especially 46:5</p> <p>esq 1:21 2:3,8</p> <p>essentially 52:2</p> <p>estimation 65:12</p> <p>et 30:8,8 49:24</p> <p>evening 5:14 19:8 23:23,24 24:3,7,15 32:4</p> <p>eventually 46:16</p> <p>evergreen 34:23</p> <p>everybody 10:9 23:17</p> <p>examination 24:18 53:11</p> | <p>62:15 67:5 74:6</p> <p>examining 71:13</p> <p>example 39:23 61:9</p> <p>examples 61:1 61:7</p> <p>exceed 39:18 40:10 44:1,3</p> <p>exceeds 44:3</p> <p>exercise 23:20</p> <p>exhibit 4:2 26:6 29:16,22 34:15 40:22,25 41:16 42:22 44:13 47:4 55:4 58:2 58:5 60:2,24 61:11</p> <p>exhibits 25:19 25:21 26:3 31:13 53:8 54:8</p> <p>exist 23:5</p> <p>existing 28:15 41:2 51:1,6 69:24</p> <p>exists 21:2</p> <p>exit 43:24</p> <p>experience 38:14 62:22</p> <p>expert 25:11 62:17 67:19</p> <p>expertise 67:13</p> | <p>explaining 21:11</p> <p>extending 14:11 34:15,20</p> <p>extends 43:7,10</p> <p>exterior 17:9</p> <p style="text-align: center;">f</p> <p>f 29:3,20 30:13 30:22 33:21 37:10 42:24 48:25</p> <p>facade 4:20 56:18 60:4,15 60:17</p> <p>face 56:10</p> <p>faced 41:20,21</p> <p>faces 34:1</p> <p>facilities 27:7 33:7</p> <p>facing 38:13,13</p> <p>fact 7:2 13:21 18:14 48:21 69:8,21</p> <p>facts 13:14 32:10</p> <p>familiar 14:9 69:21</p> <p>family 27:6</p> <p>far 10:2 29:4,4 58:11,11,21 61:20</p> <p>feet 7:11,13 8:2 8:17 9:2,15 10:10,14,17,17 13:15,24 17:8</p> |
|--|---|--|--|

| | | | |
|--|--|---|---|
| <p>17:11,14 18:2 18:8,23 21:2 27:12 32:14,20 32:21 33:3,25 34:22 37:9,23 37:24 38:2 40:5,6,8,9 43:4 43:4,5,8,9,10 43:21,21 44:1 44:1,2,4,8,9,10 44:17,17 45:9 45:10 53:6 55:2,2 56:1,2,3 56:4,6 57:18 57:24,25 58:1 59:14,15,16,22 fence 34:21,22 36:25 57:15 58:18 field 62:20 fields 24:25 fifteen 43:3 fifty 32:19,20 figure 23:10 figures 32:11 filed 27:20 51:4 51:11,16 filing 29:11 fill 39:2 final 5:3 27:17 27:20 40:2 51:12 financially 74:19</p> | <p>financing 47:17 48:4 fine 10:19 67:3 72:2 finish 37:6 finished 28:2 29:12,15 fire 1:20 36:17 36:23 37:1,5 66:16 firewood 57:5 first 8:10 9:7 9:11,24 10:12 19:1,2 24:11 30:16 46:12 51:1 69:10 fisher 1:14 five 32:19 39:17 40:9 48:24 62:6 fixtures 37:14 flea 40:3,4 flesh 39:3 flip 58:25 floor 27:15 30:16,17,19 38:5 54:21 flowers 39:23 57:5 flowing 65:13 focus 63:17 fold 63:18 followups 46:12</p> | <p>foot 10:15 17:12 20:22 54:25 57:12,15 57:22 58:17 footage 32:16 32:17 foregoing 74:10 forgot 40:23 forth 59:1 69:13,15 74:13 forty 40:9 forward 58:11 four 15:24 35:9 36:19 44:20 45:13 55:8 57:24,25 60:19 60:19 61:25 friends 5:22 front 4:20 25:1 26:7 33:25 38:12,15 40:10 45:16 56:24 57:23,24,25 58:9,19 59:2,9 59:24 60:4 61:10 frontage 34:10 fully 34:12 39:3 64:6 further 36:3 47:10 49:18 50:23 61:11 72:8 74:10,15</p> | <p>future 19:24</p> <p style="text-align: center;">g</p> <p>g 30:24 33:23 37:12 40:18 48:25 g6 47:6,15 gaps 70:13 gas 42:25 gasirowski 2:7,8 5:18,19 6:1,11,14,17,18 9:23 10:22 11:5,9,17,20 12:24 13:9,22 14:4,6,9,18 16:2,5,11,15,18 17:2,15,20,22 18:6,18,25 19:16 20:7,15 21:6,15,20 22:8,16 23:1,7 23:18,23 25:7 25:8,12,22 53:23,25 63:2 67:21,22 71:5 71:7,9,21 gasirowski's 6:7 13:19 gate 36:25 general 25:24 33:5 35:10 37:6,16 generation 64:5</p> |
|--|--|---|---|

| | | | |
|--|---|--|---|
| <p>gentlemen 23:21 geometrically 35:2 giacobbe 2:2 5:16 give 6:1 8:19 26:14 32:5,10 38:5 56:17 givelekian 1:15 given 7:9,10,13 8:1,16 10:9 17:8 22:1 46:4 50:22 go 30:4 31:18 32:9 38:19 44:6 47:13 56:22 60:12 66:24,24,25 goes 19:25 50:23 going 5:6 10:6 12:10 17:23 23:16,25 24:12 25:19,24 33:16 44:9 46:11 52:13,16 54:7 55:3 56:22 58:2,12,25 61:10 62:6,12 70:14 good 5:14,22 24:15 25:4 53:21 64:7 65:12 67:11</p> | <p>goods 38:12,18 38:20 39:4,7,9 39:14,15,16 40:4,7 44:23 45:15,17 gotten 16:24 23:11 52:20 53:1 graduate 24:22 granted 9:11 12:1 42:22 granting 46:2 green 41:4 grey 28:15 ground 23:22 23:24 41:8,13 42:11,15,18,22 44:13,25 46:5 46:6 guess 12:17</p> <hr/> <p style="text-align: center;">h</p> <hr/> <p>h 4:1 half 26:19 56:6 64:7 hand 60:12,12 handed 25:20 55:10 handing 25:22 handle 34:10 41:17 65:15,16 handling 68:8 handouts 54:18 hard 35:4,6 hatch 57:2</p> | <p>hear 52:22 heard 66:1 hearing 72:11 72:25 hearings 28:5 height 34:22 37:9 38:1,4 43:4,8,21 44:2 44:3 45:10,11 55:3,25 56:1,4 58:13 help 35:8 46:8 hereinbefore 74:13 high 43:5 57:12 57:15,22,24,25 58:1,17 66:17 highest 38:2 56:3 highway 5:5 51:2 history 26:15 hit 39:1 58:10 hogan 1:20 hold 39:17 holobinko 2:7 home 60:10 homeowners 7:7 homes 7:4 20:14,24 21:8 21:11,12 27:6 27:25 hopefully 24:4 64:10</p> | <p>hours 65:5 72:19 housekeeping 5:10 housing 12:9 12:11 20:6 26:25 27:14 30:8 42:20 49:12 hov 11:3,14,19 11:20 12:18 14:16 15:9,15 15:17,20 16:1 16:7 18:5 22:2 22:6,13 23:6 27:7,22 32:2 hovnanian 11:8 hundred 26:18 27:11,12 32:13 32:13,19,20 37:24 40:9 43:3</p> <hr/> <p style="text-align: center;">i</p> <hr/> <p>ian 3:3 24:12 24:14,16 31:6 36:5 38:24 44:6 58:24 61:19 ian's 56:25 57:14 identifications 19:5 identified 8:4 14:19 15:6 19:6 22:19</p> |
|--|---|--|---|

| | | | |
|---|--|--|--|
| <p>45:16 55:10 identify 5:13 14:14 16:6 18:3,23 25:23 26:4 31:7,18 42:13 55:6 illustrates 51:13 immediately 21:22 impact 48:7 63:22 64:4,6 64:10 impacts 34:7 impervious 33:5 important 34:8 57:9 72:9 importantly 28:3 improvements 28:4,9 29:6 33:12 48:10 49:22 65:8,14 65:15 inadvertently 44:12 inception 25:3 inch 64:7 inches 56:6 64:7 include 11:18 22:6 26:25 included 31:9 64:4</p> | <p>includes 8:18 12:8 13:25 14:2 17:15 48:16 including 28:5 32:2 34:18 35:7 63:1 inclusionary 26:24 increase 33:5 69:16,17 indicated 70:15 individual 7:7 16:21 48:24 informational 43:17,19,23 44:4 45:8 46:7 ingress 7:20,21 7:24 19:24 20:11,12 35:14 35:17 36:4,11 43:11,12 68:11 68:18,20 69:2 inlets 33:11 inside 39:11 59:19 61:4 inspect 72:17 installed 37:11 37:13,13 integrity 48:8 intense 37:15 intentions 33:20 interested 5:20 6:19 74:19</p> | <p>interior 8:19 11:18 internal 12:14 12:15,16,20,21 27:25 70:3 interpretation 49:18 interrupt 17:2 55:9 intersection 68:21 69:14 intersections 28:6 invited 72:17 involve 49:24 involved 22:12 involves 8:13 8:22 involving 10:1 islands 35:1 issue 10:8,12 70:4 issued 29:11 35:24 50:20 issues 65:19 item 47:14 51:8 items 34:5 36:19,22 38:9 38:19 39:13,13 40:2 46:13,17 46:20 57:5 iteration 69:1 itinerary 40:16</p> | <p>j j 1:20 jack 1:16 jacobs 2:2 5:16 jacobson 1:13 james 3:7 53:9 jeff 5:20 6:3 jen 1:21 15:1 jennifer 7:1 jersey 2:3,8 24:17,24 53:17 62:20 63:19 67:10 74:4,22 john 3:11 62:13 62:14,16 63:5 jug 34:10 41:17 jump 52:13 jumped 30:4 jurisdiction 6:13 21:4 23:20 63:21 jurisdictional 10:18 22:12 justify 59:20</p> |
| | | | <p>k k 11:3,7,14,19 11:20 12:18 14:16 15:8,15 15:17,20 16:1 16:7 18:5 22:2 22:6,13 23:6 27:7,21 32:2 kastell 5:6 kathryn 1:12</p> |

| | | | |
|--|--|--|--|
| <p>keep 15:5 kind 38:8 48:21 kinds 57:5 know 5:24 10:24 13:18 14:5 21:9 25:18 35:8 39:23 66:8,12 knowledge 64:11 known 22:23 22:24 26:17 43:1 kwaak 1:12 5:1 6:16 23:9,14 23:21 25:15 29:21,24 52:15 52:20,24 54:4 54:14,22 62:5 62:10 66:21,25 67:3,24 70:19 71:2 72:2,22</p> | <p>landscape 4:15 33:17,17 34:7 34:9,23 landscaped 49:1 lane 8:10,15,18 9:15,16,18 13:1 28:2,7 33:13 34:18,21 34:25 35:2,11 37:10 40:9 42:12,17 43:12 46:6 49:1,16 50:14 51:5,7 51:14 58:15 65:9,10 66:3,8 66:10,11 68:22 language 47:10 large 33:24 56:17 larger 28:14 40:21 57:20 lastly 40:15 43:16 latest 64:16 law 8:23 13:8 13:20,21 33:4 50:15,18,20 66:3 layers 41:2 leading 48:10 leads 48:15 leave 6:2 leaves 29:14</p> | <p>leaving 7:23 led 37:9 left 29:4 34:1 57:3 59:6 60:7 60:8 61:21 leg 41:23 letter 9:10 19:13 36:18 64:12,16,18,21 70:7 71:10 level 58:19 65:6 69:9 70:15 levels 65:3,4,17 69:3 license 25:4 40:17 53:21 67:11 74:23 licensed 24:23 53:17 62:19 67:9 light 37:14 lighting 37:7 37:10,11,13 lights 37:9 limit 48:11 69:15 line 4:23 40:7 58:3,7,10 lines 58:18 lisa 74:3 list 15:17 17:13 listed 46:14 49:7 little 11:1 33:19 38:24 55:6</p> | <p>67:14 live 7:7 living 7:10 loading 34:3,6 34:16,17,23 37:1,2,3 57:13 57:13 58:18 located 7:4,14 8:4 11:10 14:23 17:16 18:10 20:8 21:8,22 25:23 40:8 41:17 44:14 58:1 location 41:18 70:15 locations 61:13 logo 43:6,7,10 43:24 60:8,13 61:3,4 logos 59:23 60:19 61:25 lollipop 61:4 lollipops 61:25 long 66:24 70:14 longest 59:3 look 7:17 15:3 19:19 21:15 22:18 61:10,16 65:12 72:21 looking 22:16 34:1 59:24 61:22</p> |
| I | | | |
| <p>labeled 41:16 43:2 labels 41:5 lakewood 24:17 land 18:13,14 18:17 19:21 20:13 50:15,18 63:12,16 64:1 66:3 lands 7:3</p> | | | |

| | | | |
|---|---|---|---|
| looks 19:3 losing 15:10 lot 1:5 4:9,16 5:5 8:11,11,13 8:17,22 9:2 12:3,4,19,25 13:15,16,25 14:14,15,17 15:2,4,22 16:3 16:6,9,9,10,11 17:7,11,13 18:1,5,8,22,23 18:24 19:1,2,7 19:9,10,17,24 20:3,3,4,8,17 20:17,21,23 21:1,3,8,10,24 22:2,3,6,19,24 26:18 27:10,20 28:3,21 29:2 29:19 32:8 33:18 34:9 37:18,18,19,20 48:4,25 49:4,9 49:11,11,17,19 49:21 50:3,8 50:21 52:3 lots 9:17 11:7 11:10,13,18,18 12:14,16,16,20 12:22 13:10,14 14:16 16:21 17:5,16 18:1,4 18:5,7 20:24 23:5 27:21 | 31:25 47:8 48:15,24,24 50:19 lower 34:17 57:10 61:7 m madam 5:9,14 5:18 10:11 20:19 25:13 51:18 52:11 70:18,25 71:24 72:21 made 6:23 mail 72:11 main 41:17 42:11 45:2,4 72:14 major 5:3 27:3 majority 59:1 65:4 make 10:24 11:1,23 14:6 23:17,19 54:8 makes 70:10 making 72:3 management 8:15 33:7 manager 67:8 manalapan 1:1 1:5 4:3 5:2 6:5 25:2 26:8,20 32:1 36:17 38:17 42:13 51:13 72:5 | map 4:6 21:14 29:16 maps 19:3 mark 25:25 26:1 54:9 55:22 marked 30:1 57:1 60:3 market 4:12 40:4 marketing 47:16 markets 40:3 masonry 54:25 54:25 masters 62:24 matawan 2:3 match 29:7 matter 5:10,21 6:19,24 13:8 13:20 16:25 maximum 37:21 38:1 43:4,8,20,21,25 44:2,3 45:8,9 45:11 70:8 mcnaboe 1:16 mean 9:16 12:15 52:1 66:7 mechanical 58:11 medical 30:20 30:24 | meet 51:8 65:6 meeting 1:3 24:8 62:11 68:25 71:6,16 72:7,13,14,14 meets 66:5 members 5:15 24:1 25:21 mentioned 29:3 38:13 53:2 58:24 merchandise 39:10,11,12 45:18 merchandising 57:1,2,4,18 met 9:5 27:19 mezzanine 57:10 middle 61:4,7,8 61:21 millhurst 28:7 28:16 34:4,15 37:24 42:9 45:6 49:3 63:20 65:9,10 68:22 mind 6:14 mine 55:16,22 minimum 37:20 minor 5:4 45:24 46:4 47:4,9,12,24 69:20 |
|---|---|---|---|

| | | | |
|---|--|---|---|
| minute 30:5 62:6 | mulch 57:6 | new 2:3,8 10:3 10:7 24:17,24 31:4 32:18,25 33:21 36:4 43:1 44:13 48:4 53:17 62:20 63:18,18 64:5 67:10,12 74:4,22 | 10:9,19 11:18 13:15,22,24 14:3 15:9,16 17:1,7,24 18:2 18:7,15,22 20:22 22:1 61:3 72:8,11 72:12 |
| minutes 5:8 62:11 | multiple 5:11 29:14 63:1 65:24 | newark 67:17 | notified 9:13 9:15 |
| mistakes 19:7 | municipal 50:15,18 51:2 51:7,24 66:3,9 66:10,13 | nine 27:12 32:13,20 41:8 | notify 9:1 |
| mix 56:16 | muted 56:21 | ninety 27:12 32:13 | november 1:4 29:24 36:20,22 46:14 64:14,16 74:23 |
| mixed 12:12 15:21 20:4 26:21,23 27:9 32:12 37:17,19 41:6 42:19 45:3 47:6 49:12 | n | njdot 35:22 64:1 68:11,16 68:24 69:6,22 | number 9:13 9:13 15:4 18:2 18:24 40:23 |
| modification 33:6,24 | n 1:15 2:1 3:1 | njit 62:23 | numbers 16:6 41:16 |
| modifications 33:10 | name 3:2 5:18 6:17 24:15 42:25 | non 15:15 | numerous 53:19 59:19 |
| modify 29:5,6 48:7,12 | narrow 38:8 | nonresidential 11:16 47:21 | nutrition 59:21 60:12 |
| moment 63:25 | nature 46:4 66:17 | normal 72:19 | nutritional 59:21 |
| monmouth 63:20 64:3,9 64:22 | necessary 36:12 49:23 68:4 | norman 74:3 | nyu 62:24 |
| monument 61:20,22 | necessity 47:24 | north 35:8 | o |
| morning 65:5 | need 18:3 25:25 30:7 36:3 38:11 41:24 69:11 70:14 | northeast 34:4 | objection 6:7,9 6:22 25:12 |
| motor 39:7,8 | needed 32:24 | northeastern 34:16 | objections 6:12 6:25 25:10 53:25 |
| motorists 46:9 | needs 20:6 26:25 27:13 28:10,17 30:8 32:14 36:2 49:12 69:10 | notably 26:11 | objectors 2:9 |
| mounted 37:9 41:8,13 42:12 42:16,18,22 44:14,25 | neither 74:15 74:17 | notary 74:3,22 | |
| move 23:13,16 40:20 44:10 | never 12:7,12 | note 72:16 | |
| | | noted 5:7 27:8 32:11 70:7 | |
| | | notice 6:23 7:9 7:9,12 8:1,16 8:19 9:5,22 | |

| | | | |
|---|---|--|--|
| <p>obtain 47:25 63:18,20 obtained 27:4 27:19 obtaining 68:4 obviously 14:4 30:22 37:12 39:10 48:13 51:5 64:24 occasions 63:1 occupied 28:19 28:19 october 26:9 36:19 54:12 64:13,19 office 27:1 30:16,20,24 33:18 51:5,17 61:12 63:5 68:7,10 official 1:20 offsite 28:4 ok 62:5 66:21 72:1 okay 70:19 once 10:8 ones 54:17 onsite 43:19 65:18 opening 57:16 57:16 operate 64:25 operation 69:14</p> | <p>operational 38:23 operations 70:22,23 opinion 45:22 46:2,8 51:7 64:25 opportunity 53:19 opposite 7:7 19:22 34:22 57:8,11 order 60:9 62:11 ordinance 11:25 26:21 33:2 37:20 38:9,17,18,25 39:3,16,20 41:5,24 42:8 43:14,17,18 44:25 45:7,19 47:2,6,6,10,13 47:15 48:2 49:6 59:11 orientated 42:4 orientation 42:10 original 8:5 18:19 23:1 28:5 30:6,11 35:3,3,12 37:8 52:8 54:13 originally 22:10 26:17</p> | <p>37:15 outdoor 30:17 30:18 38:12,16 38:17 39:15 41:22 57:2,4 57:18 outdoors 45:15 outside 27:19 35:20 36:11,16 38:23 57:1 outweigh 46:3 overall 20:17 22:14 29:16,19 31:8,10,22,25 32:1 33:14,18 51:11 overlay 26:22 34:13 37:18 49:2,2 50:11 overwhelming 65:4 own 20:16 owned 7:6 owners 72:9 ownership 47:8 48:5</p> | <p>page 3:2 4:2 26:7 46:19 70:1 panels 55:1 56:17 paragraph 40:18 parapet 56:3 58:12 parapets 57:20 57:22,24 parcel 7:3,14 16:4 18:13,14 18:16,19 19:21 20:13 21:22 parcels 66:15 pardon 11:5 13:4 16:15 parking 27:16 32:20,22,23,24 33:1 34:19 48:12,12,14,17 48:18 49:21 65:23 part 8:5 12:12 12:18 13:10 20:17 22:13 33:14,23 41:9 42:23 43:23 45:1 47:5 49:3 49:15 50:7,9 participation 5:22 particular 6:24 9:20 10:2 41:6</p> |
| | | <p>p</p> | |
| | | <p>p 2:1,1 p.m. 62:8,9 73:1 package 25:20 31:9 54:13 55:4 packet 55:10</p> | |

| | | | |
|---|---|--|---|
| <p>parties 6:19 74:17</p> <p>party 5:20</p> <p>pat 1:15</p> <p>path 31:15</p> <p>pavers 35:4</p> <p>pds 24:12</p> <p>peak 65:5</p> <p>peddlers 40:15</p> <p>people 7:10 23:9 36:7 70:22</p> <p>percent 37:22 59:11,14</p> <p>perfect 61:9</p> <p>perfected 12:7 14:17 16:14,14 16:17,19,24 17:5,6 21:1 29:10</p> <p>perfection 20:21</p> <p>perimeter 7:18 19:10,19,20 20:23 21:21,23</p> <p>permanent 39:21,24 45:15 45:19</p> <p>permanently 39:7</p> <p>permit 35:23 50:20 64:21,22 69:19,24</p> <p>permits 35:24 47:7</p> | <p>permitted 14:1 37:22 38:6 40:3,13 41:14 43:15,20 44:1 49:8</p> <p>person 66:8,11</p> <p>perspective 33:11 35:10,20 36:16 37:16</p> <p>pharmacy 59:21 60:10</p> <p>phase 27:20,21 51:12</p> <p>photograph 4:3 26:7,8,9</p> <p>photographs 61:12</p> <p>physical 16:25</p> <p>pick 60:9</p> <p>picture 32:6</p> <p>piece 15:5,9,13 17:8</p> <p>pilasters 56:14</p> <p>pitch 57:23,25</p> <p>place 24:21 53:13 62:18 65:11 67:6 74:13</p> <p>placed 7:6 56:10</p> <p>plan 4:6,9,15 5:4 7:17 14:20 14:20 21:16,18 21:21 22:17 23:1 27:3 29:1</p> | <p>29:7,9,17,19 30:7,10,11,24 31:8,10,11,12 33:17 36:8 37:7 41:1 45:17 47:3,22 48:9 51:3,15 54:21 56:23,23 63:13,16 65:20</p> <p>planner 1:21 7:1 24:20,24 38:10 44:15</p> <p>planning 1:1 35:22 44:20 46:13,17 50:15 51:3,10,15,20 52:2,11 66:2 72:19</p> <p>plans 15:4 19:6 36:20 37:4 40:8 43:6 44:12 72:18</p> <p>plantings 34:9 34:14,23 35:6 35:7,8</p> <p>plat 27:20 51:4 51:9,12,16</p> <p>plaza 30:17</p> <p>please 5:7 14:7 23:10 24:21 25:14 26:5 31:7 53:14 55:6 61:18 62:18 67:7</p> | <p>plus 23:2</p> <p>pms 5:1</p> <p>pms11931 72:5</p> <p>pms193ts 5:2 72:6</p> <p>point 7:16 8:10 9:4,6 15:1 16:25 21:13 36:5 38:2,21 46:17 50:2 52:18 56:3,25 57:15</p> <p>pointed 44:16</p> <p>pointer 28:13</p> <p>points 40:22 42:16 64:23 65:24</p> <p>pole 37:9</p> <p>pollifrone 1:15</p> <p>portion 11:3,15 12:9,23 20:16 22:13 23:6 34:16</p> <p>position 7:12 8:1</p> <p>potential 34:7</p> <p>potentially 70:4</p> <p>pre 68:24</p> <p>prefabricated 54:25</p> <p>preliminary 5:3 6:22 27:3</p> <p>premarked 26:2</p> |
|---|---|--|---|

| | | | |
|---|---|--|---|
| <p>prepared 27:1 33:18 40:22 63:5 preparing 63:22 present 1:19 23:25 71:14 presented 12:2 53:19 presently 10:1 11:10 president 24:16 pretty 65:12,13 67:2 preview 52:1 previous 11:3,7 11:24 64:18 69:1 previously 10:13 33:7 41:18 48:8 54:9,11 prices 42:25 primary 56:3 63:17 principal 49:8 49:19 principals 65:22 prior 35:24 36:10 74:5 private 7:19,20 8:11 13:16 14:2,10,11,22 19:11 20:10,10</p> | <p>49:7 51:14 66:9,12,12 probably 22:20 40:21 51:22 problem 55:23 proceed 24:10 71:16 proceedings 1:4 process 23:17 33:20 products 39:22 45:20 professional 24:16,20,23 62:19 67:10 professionals 24:8 project 9:12 25:3 26:15 27:7,17,23 31:15 32:2,11 32:12 33:15 34:12 37:17 40:19,22 41:11 42:14 46:1 47:16 54:24 59:9 63:19,20 67:8 proofs 51:19 proper 65:21 properties 8:3 14:22 17:13 22:12 34:18 49:25</p> | <p>property 7:6,11 7:19,22,23,24 8:6,24,25 10:7 11:19,21 14:12 15:18,24 16:7 17:8 18:12 19:13 20:1,16 25:23 26:19 32:2 42:7 50:3 72:9 proposal 32:19 33:9 propose 37:23 38:6 proposed 4:12 10:3 16:3 26:10,12 31:5 31:23,25 32:15 34:3 35:11,14 36:7 37:7,14 39:20 40:19 43:3,11,22 44:7 45:12,14 46:5 48:13,15 48:22,23 50:6 50:22 63:8 68:11,15 69:5 proposing 4:6 29:17 31:4 39:8 40:3,13 40:17 41:8 42:1 45:5,9 47:17 48:6,22 68:17</p> | <p>provide 9:5 38:22 41:13 45:14 50:3,13 50:13 52:4 66:14 71:15,21 provided 18:3 27:5 34:19 35:4 36:21 48:14,19 provides 20:11 20:12 65:23 providing 8:24 33:1 71:20 public 7:25 23:9 24:2 26:15 31:15 46:8 50:4 54:15,23 66:6 74:3,22 pulled 29:15 pumpkins 57:5 purpose 47:7 47:18 48:3,4 purposes 10:24 47:17 put 10:19 34:21 34:23 35:6 51:19 67:14 pylon 41:17 45:2,4</p> |
| q | | | |
| <p>qualified 24:13 24:20 62:17 67:19</p> | | | |

| | | | |
|--|--|--|--|
| <p>qualify 53:10 61:11</p> <p>quantity 59:18 61:23</p> <p>question 18:13 21:7 22:9 23:5 50:12</p> <p>questions 24:2 24:3,5 25:7,8 52:12 53:24 54:3 67:22</p> <p>queue 70:9</p> <p>queuing 70:2</p> <p>quick 28:22 29:3,5,12,20 30:7,11 41:10 42:24,25 55:3</p> <p>quickly 37:18 38:19 40:2,20 41:12,14 44:24 47:14</p> <p>quite 27:24</p> | <p>read 7:1 44:23</p> <p>real 55:3</p> <p>really 6:20,25</p> <p>reappeared 28:25</p> <p>rear 37:1 40:6 56:7</p> <p>reason 55:24 68:2</p> <p>receive 72:12</p> <p>received 27:17 35:21,23 36:11 36:18 64:1,2,2 64:12 72:10</p> <p>recent 26:9 61:2</p> <p>recently 67:16</p> <p>recessed 56:17</p> <p>recommend 23:19</p> <p>recommendat... 21:3 51:19</p> <p>record 10:25 24:21 26:4 31:6 53:13 62:18 67:7,15</p> <p>recording 51:5 51:17</p> <p>records 31:19</p> <p>recreational 27:6</p> <p>recuse 5:7</p> <p>red 2:8 42:21</p> <p>reds 56:22</p> | <p>reduced 32:21 32:25 54:20</p> <p>refer 29:18 31:5 33:16 53:8 60:2</p> <p>reference 12:15</p> <p>referred 15:2 19:12</p> <p>referring 12:25 14:10,18 15:17 16:9 18:17,18 18:25 22:15 54:7 55:5 60:6</p> <p>refers 7:2 9:10</p> <p>reflects 28:13</p> <p>refuse 66:16</p> <p>regard 9:24 15:2 19:9 48:13</p> <p>regarding 11:17 68:11</p> <p>regular 1:3</p> <p>regulate 38:17</p> <p>relate 45:25</p> <p>relates 9:6 28:10 46:12</p> <p>relative 74:16 74:18</p> <p>relevance 16:19</p> <p>relief 10:14 39:19,24,25 59:24</p> <p>relieve 61:23</p> | <p>relocate 36:23</p> <p>relocating 33:11</p> <p>remain 33:8,22 33:23 45:5 49:3</p> <p>remains 27:2 30:22,25 41:18</p> <p>remember 51:10 70:25</p> <p>remote 36:23</p> <p>removal 32:17 63:14 66:16</p> <p>remove 41:23</p> <p>removed 35:5</p> <p>rendering 4:15 33:17 55:7</p> <p>repeat 22:8</p> <p>replace 48:11</p> <p>report 7:1 9:19 46:14,19 63:5 63:6,11 69:4,8 70:1</p> <p>reporter 74:4</p> <p>reports 72:18</p> <p>represent 5:20 6:18 53:16</p> <p>representative 38:22</p> <p>represents 55:7</p> <p>request 54:1 71:20</p> <p>requested 36:8</p> <p>requesting 61:24</p> |
| r | | | |
| <p>r 1:20 2:1</p> <p>raise 6:22</p> <p>raised 7:16</p> <p>ratio 38:6 69:16</p> <p>rea 3:11 52:6 62:13,14,15 66:20</p> <p>rea's 63:3</p> <p>reached 20:24 20:25</p> | | | |

| | | | |
|--|---|--|--|
| <p>requests 46:4 required 9:22 32:24 33:4,10 37:18 43:13 44:5,16 45:19 47:16 48:1 60:11 66:6 requirements 40:5,17 46:15 46:23 47:13 requires 43:19 50:19 52:2 64:8 residential 7:3 7:22,23 8:3,20 11:9,12,15 12:9 14:12,22 15:21 16:3,10 17:4,17 18:1 20:5,14 21:8 21:11,12 22:21 23:3 26:24 27:21 31:24 32:6 39:4,5 41:20 42:13,15 42:17 57:8 58:7,15 residing 7:10 resolution 27:18 respectively 46:7 respond 9:24 response 8:8,9</p> | <p>responsibility 68:4 restaurants 30:16 restricted 26:23 27:5 result 22:22 32:17 33:6 resulted 51:11 results 63:10 retained 6:18 retains 14:4 review 36:18 36:21 38:11 46:18 49:18 64:12,16,18,21 70:7 reviewed 65:22 revise 37:4 revised 36:19 right 12:17 14:5 19:15 20:4 22:3 34:11 35:17,17 36:6,6 40:6 44:15 51:21 52:6 57:3,7,10 63:7,7 68:5,5,6 70:10,11,12,13 rights 23:18 rise 6:15 rites 60:22 61:16 rizzo 1:20 64:14</p> | <p>road 7:8,19,20 7:25 8:11 12:24 13:16 14:2,10,11,23 19:12,15,16,19 19:20 20:10,10 20:20 21:21,23 28:7,16 34:4 49:3,7 51:14 51:23 63:20 65:9,11 roads 42:6 roadway 14:25 19:17 28:4 roadways 8:19 27:25 robert 53:15 roll 24:4 ron 5:19 6:17 25:6 ronald 1:21 roof 28:15 rooftop 57:19 rooftops 58:22 room 72:15 roughly 55:2 56:6 57:17,24 59:14 route 28:7 34:2 34:10,13 35:15 35:25 36:6,13 37:24 38:14 40:10 42:9 43:11 44:6,8 44:14 45:6</p> | <p>46:6 49:2 50:7 50:13 63:8 65:10 68:5,15 68:18 rs 2:8 rt 2:2 rules 23:22,24 rutgers 24:22 rwa 53:16</p> <hr/> <p style="text-align: center;">s</p> <p>s 2:1 4:1 safely 64:25 safety 46:9 sake 17:3 saker 36:7 53:16 68:3 sal 15:1,3 24:9 29:3 44:11 54:14 sale 39:4,7,15 39:18 40:4,14 sales 39:18 40:12 45:14,15 salvatore 2:3 5:15 satisfaction 37:5 saturday 65:5 saying 10:5 15:9 17:4,18 17:19,20 18:2 18:22 19:23 21:23 22:7 24:9 71:10</p> |
|--|---|--|--|

| | | | |
|--|--|---|---|
| <p>says 15:16,17 37:20 55:16</p> <p>scape 35:4,6</p> <p>scenic 34:13 49:2 50:11</p> <p>schematic 31:24</p> <p>screen 25:20 26:6 55:21 57:12,13,19 60:3</p> <p>scroll 60:14</p> <p>season 45:21</p> <p>seasonal 39:13 45:20 57:4</p> <p>seasonally 39:22 40:13</p> <p>seasons 15:24 35:9</p> <p>second 7:16 8:10 9:6 10:9 17:3,9 27:14 30:17,18 55:20 69:18,20</p> <p>secondly 69:11</p> <p>section 39:20 40:14 43:18,19 44:22 45:7 50:16,17 66:3</p> <p>see 7:18 18:4 19:19 33:24 34:14 55:17 58:21 61:6,8 65:20</p> | <p>seek 39:19 44:18</p> <p>seeking 24:19 29:1,13 31:13 32:4 41:12,23 43:1 44:21 45:2 46:24 62:16</p> <p>seem 12:18 22:15</p> <p>seen 42:9</p> <p>sell 39:11</p> <p>sense 70:10</p> <p>separate 11:11 13:14 35:16,25 40:17 49:17 68:18,18</p> <p>september 68:25</p> <p>series 25:19 56:18 58:7</p> <p>service 65:3,4,6 65:17 69:3,9 70:15</p> <p>services 24:17</p> <p>set 54:11 69:15 74:13</p> <p>setback 40:5,10 44:15,16,18</p> <p>setbacks 37:23</p> <p>sets 58:5 69:13</p> <p>seven 43:21 45:11 60:1 61:25</p> | <p>seventh 41:9 44:25</p> <p>several 63:18 67:12</p> <p>sewer 33:13</p> <p>sheet 15:4 59:1 59:1</p> <p>sheets 54:12</p> <p>shift 44:17</p> <p>shop 60:10,21 61:16</p> <p>shopping 43:7</p> <p>shoprite 5:5 20:8,9,15 36:7 36:12 38:22 39:14 43:6,24 44:7 45:9,18 46:6 53:4 54:24 59:23,25 59:25 60:1,8 60:11,13,18,20 61:3,6,13,23 65:1 68:3,20 69:22,25</p> <p>shoprites 38:14 53:16 61:1</p> <p>shorr 1:13 52:18 53:2</p> <p>show 25:20 28:14 31:23 44:14 58:8</p> <p>showed 44:12</p> <p>showing 29:17 31:22</p> | <p>shown 19:5 26:11 27:24 28:14 40:7 42:21 43:5 44:9 51:3,9,15</p> <p>shows 21:16,21 30:7,11 31:24 32:3 47:3 60:15 70:8</p> <p>shrinks 32:17</p> <p>side 7:8 10:14 10:16 19:10,22 28:21 40:6 56:25 57:4,8 57:11,12 58:14 58:15 59:4,5,6 59:11,23 61:21</p> <p>sided 41:19,25 42:1,3</p> <p>sides 45:5 56:5 56:13,14</p> <p>sign 4:18,20 40:25 41:9,17 41:18,19,19,20 41:23,25 42:1 42:3,9,10,18,18 42:21,22 43:5 43:8,9,18 44:4 44:6,7,12,14,17 44:18 45:1,2,4 45:5,7,8,9 46:5 59:20 60:1 61:22</p> <p>signage 41:7 43:16 58:23</p> |
|--|--|---|---|

| | | | |
|--|--|--|--|
| 59:11 signal 68:22 70:13 signals 28:6 signature 74:21 signed 65:7 signs 40:20,21 41:1,3,5,8,13 41:15 42:11,12 42:15,16,20 43:1,3,13,15,17 43:20,23,24,25 44:21,25 45:2 46:6,7 58:25 59:2,3,8,15,22 60:1,4,15,19,21 61:8,20,23 similarly 7:22 simple 23:4 56:20 simply 29:5 31:14,24 36:4 41:14,22 42:24 46:8 47:17 single 12:3 27:5 35:11 54:25 sit 6:14,16 site 4:9,23 5:4 7:17,21 9:4 14:20,23,24 19:18,22 21:16 21:18,21 22:14 22:24 27:3 28:8 29:1,6,7 29:19 30:6,9 | 31:8,10,11 35:10 36:25 37:6 40:8 43:6 45:16 46:10 47:21 48:9 58:2,7,10,18 six 41:5,8 43:15 44:25 48:23,23 57:22 58:1 59:21 sixth 48:25 size 52:19,25 skipped 44:11 48:21 slid 58:10 slight 69:17 slightly 36:24 small 36:22 smaller 38:9 soften 35:7 sold 39:13 40:7 solid 34:21,22 sorry 22:8 38:24 61:18 sought 31:1 39:25 40:1 south 67:17 southwest 34:2 38:13 spaces 27:16 32:20,22 33:2 33:3 57:3 70:7 speak 24:7 speaking 21:10 24:9 | special 20:6 26:25 27:13 28:10,17 30:7 30:8 32:14 49:12 specialty 62:21 specific 17:25 41:7,25 42:8 43:14,18 spent 28:4 34:8 spoke 10:21 spoken 71:11 spring 39:23 sprinklers 36:24 square 27:12 32:14,16,16,20 32:21 33:3,25 43:4,21,25 44:1 45:9,10 53:6 54:24 57:17 59:14,15 59:16,22 stacking 70:7 standard 9:5 42:1 61:22 66:18 standards 46:1 51:25 66:5,10 66:13 standing 6:8,10 25:4 53:21 58:9 67:11 standpoint 10:18 | start 5:12 38:7 56:23 started 23:22 27:22 60:7 starting 46:18 60:18 state 24:24 33:4 48:21 51:1,6 53:20 60:11,22 62:20 63:1 64:24 67:10,12 74:4 74:22 stated 49:18 statement 13:21 33:5 states 39:9 40:15 47:10,15 47:19 50:20 stating 13:20 39:17 steel 55:1 stenographic... 74:12 step 5:6 steps 41:4 stone 56:11 store 34:1 38:12,13,16 39:10,11 58:14 61:10 storefront 61:5 storm 8:14 33:6 story 30:13,15 30:20 38:3 |
|--|--|--|--|

| | | | |
|--|--|--|---|
| 54:25 58:17 street 2:7 40:6 40:11 50:4,19 50:22,23,24 51:2,2,4,7,9,15 51:16 66:6,9,9 66:12,13 stronger 21:25 study 63:17,22 64:4,7,11 stufsky 5:20 6:3,4 stufsky's 5:25 style 56:9 subdivided 11:10 12:6 16:12,20,21 subdivision 5:4 8:5,20 14:1,16 16:23 18:20 20:22,25 22:22 27:3 28:1 42:17 46:25 47:4,7,9,11,12 47:15,18,20,23 47:24 48:6,9 48:11,16,22 49:15 51:11 subdivisions 11:25 12:2 subject 7:11,19 8:12,25 19:25 26:14 27:11 40:16 | submission 63:23 submit 10:4 69:19 submitted 25:18 27:2 36:20 47:5,20 48:1 54:9,11 64:8 subsequent 65:2 subsequently 27:17 substantially 46:3 48:7 substructure 55:1 sufficient 25:16 54:5 67:25 suggested 69:6 sukowski 3:15 67:4 summarize 44:24 63:10 68:14 superimposed 26:10 supermarket 10:3,5 20:7,9 20:12 26:12 31:5,23 36:2 63:13 64:6 65:13,16 support 61:19 63:6,23 | supposed 44:7 sure 10:24 11:2 11:23 14:8 23:17 54:8 58:24 62:19 63:12,15 67:16 surrounding 34:18 surveying 24:25 surveys 19:4 sushi 59:21 60:13 sworn 6:3 24:13,14 53:9 62:14 67:4 74:6 system 8:15 61:6 | 21:19,20 23:5 54:23 55:25 61:19 talks 8:23 taller 57:20 tan 56:21 team 71:6 technical 5:4 11:25 12:2 14:1,16 45:25 46:15,18,23,25 47:7,11,13,15 47:20,23 48:6 48:11,16 49:14 technically 12:6 42:2 47:25 60:1 tell 13:7 temporary 39:16 40:12,14 44:22,23 45:14 45:18 tenant 29:6 39:14 60:13 61:8 tenants 59:19 59:20,20,22 tenths 69:18,20 terms 25:24 64:23 65:18 66:5 67:13 testified 25:1 62:25 67:11,16 67:17 |
| | | t | |
| | | t 4:1 t.v. 28:13 take 58:6 59:12 62:6 68:3 72:21 taken 61:12 74:12 talk 30:3 55:3 56:23 58:23 talking 11:2,6 14:14,15 15:5 15:20 16:6 17:24,25 18:1 18:11 19:14 20:2 21:12,13 | |

| | | | |
|--|--|--|--|
| testify 24:5 51:23 74:7 | 41:19,25 43:22 44:21 45:4 | tower 59:4,7,23 60:8,20 | true 74:11 |
| testimony 25:2 35:18 38:5,23 44:20 46:13 52:11 67:14 71:14 72:1,7 74:11 | 50:24 51:4 53:5 58:17 63:14 66:23 69:18,20 70:8 | towers 56:2 61:3 62:1 | truth 74:7,7,8 |
| thank 10:10 25:17 36:15 44:11 47:1 54:5 63:4 66:19 67:25 72:22,24 | thursday 1:4 | township 26:20 67:18 | trying 29:13 32:5 46:8 56:19 |
| thick 64:7 | time 5:5 10:2 11:11,12 17:23 22:20 28:4 34:9 62:5 63:25 70:9 74:12 | tract 4:3,6 8:4 10:9,10 11:11 14:19 17:9 26:8,17 29:4 29:16 51:11 | turn 37:2 57:6 |
| things 37:4 58:12 | times 23:12 | traditional 56:9,18 | twenty 26:19 59:14 |
| think 10:18,21 10:25 13:18,19 13:22 14:3 19:6 51:21 55:15 58:2,3 60:24 64:19 71:9 | today 10:22 31:16 36:21 | traffic 28:6 35:18 51:22 62:17,21,22 63:17,22 64:3 64:5,5,6,10 65:13,15,16 67:1,14,19 68:2 70:13 | two 6:25 9:13 30:13,15,20 35:13 36:10,22 41:2,13 42:1,3 42:16 43:1,13 43:20 44:1,4 45:5,8 46:5 50:6 51:2 55:14 57:3 58:5 59:3,10 60:15 64:7 68:2 |
| thinking 70:9 | today's 29:22 30:1 | transcript 1:3 71:15,20 74:11 | type 43:22 |
| third 27:14 41:3,20,23 45:7 57:21 | todd 1:14 | transfer 48:5 | typical 60:21 60:23 61:21 |
| thought 11:22 33:19 57:9 | told 22:5 28:18 | transportation 62:24 63:19 | typically 39:12 |
| thousand 27:12 32:13,19 33:3 53:5 | tonight 5:11 6:13 9:21 21:10 24:2 31:11 52:12 54:9 70:22 72:10 | traverse 46:10 | u |
| three 23:12 31:3 38:3 | took 21:1 | traversing 66:8 | unchanged 30:12,23,25 33:8,22,23 |
| | total 32:15 59:8 59:15,22 62:21 | treated 47:9,12 47:24 | under 13:13 28:24 33:2,4 35:12 38:1,10 38:15,18,19 39:16 43:18 44:22 45:3,7 45:13,15,23 |
| | totality 13:3,5 13:6 14:2 | trees 40:12,14 | |
| | towards 34:2,2 34:4 | tried 58:8 | |
| | | truck 37:1 | |
| | | trucks 57:14,14 66:16,16 | |

| | | | |
|---|--|--|--|
| <p>47:2,6,13,14 49:6 50:15 51:12 59:16 63:21 undergraduate 62:23 understand 10:23,25 13:19 31:21 46:10 understanding 5:10 6:12 12:1 29:11 unfortunately 28:13 unit 28:19 57:8 58:16 units 27:14 28:19 32:15 58:1,11 university 24:23 updated 64:3,4 updating 63:17 63:22 upper 61:7 use 10:2,3 12:12 15:21 20:4 26:21,23 27:9 32:12 37:17,19 41:6 42:19 45:3 47:6 49:10,12 49:20 50:15,18 63:13,16 64:1 66:3</p> | <p>uses 8:14 39:6 49:8 using 9:3 utilities 48:19 57:7 utilize 10:6 utilized 7:5,20 14:11,24 19:23</p> <p style="text-align: center;">v</p> <p>v.c. 41:5 vagaries 21:10 variance 9:9,10 9:18 41:13,24 42:2,23 44:4 44:18 45:25 50:15 51:20 52:2 66:2 variances 43:13 44:21 45:22,24 47:25 58:24 59:18 various 41:1 47:8 54:8 vehicle 70:9 vehicles 39:8,8 52:5 65:25 66:15 70:3,8 vendors 40:16 veneer 56:10 56:14,20 version 54:21 versus 45:23 vestibule 56:25 61:5</p> | <p>view 46:17 views 4:23 58:7 village 26:20 26:22 vinyl 61:4 violate 69:17 violation 69:20 visible 42:4 45:6 58:22 visually 34:7 35:8 voiced 69:3 voir 25:9 volume 69:16 69:17</p> <p style="text-align: center;">w</p> <p>w 53:15 wait 51:22 70:14 waiver 69:19 walk 31:14 56:24 59:13 walls 56:11 57:12 want 6:15 10:23 11:1 23:17 24:3 29:18 31:11 32:10 33:18 39:1 40:20 54:20 66:24 70:24 wanted 6:22 11:23 23:19 35:6</p> | <p>warehouse 56:20 warranted 45:23 water 8:15 33:7 33:13 way 9:13 19:2 40:6 42:4 44:15 64:4 70:23 we've 9:13,15 26:2 31:2 36:16 37:3 41:1,2 47:22 56:10 57:19,20 58:1 64:2,17 64:19 week 39:19 went 13:24 18:22 21:2 west 16:11 17:5 17:25 19:11 20:9 21:23 29:4 30:19 57:3 westerly 7:18 58:15 59:6 width 55:1 59:3 60:17 window 61:6 winslow 67:18 wish 72:17 wishes 71:17 witness 3:2 24:11 30:1</p> |
|---|--|--|--|

| | |
|---|---|
| 52:13 53:5,10 54:18 63:4 64:15 70:18 74:6 witnesses 24:1 66:22 70:20 71:15 work 28:5 36:2 worked 24:25 world 60:11 wrap 34:24 38:7 write 24:6 wrong 55:20 wrote 71:10 | zoned 26:19 zoning 37:16 39:1 46:1 54:11 |
| x | |
| x 3:1 4:1 | |
| y | |
| yeah 49:14 year 14:21 29:1 39:18 years 24:23,24 25:1 53:17 61:2 62:22 yellow 26:11 yellows 56:22 york 67:12 | |
| z | |
| zero 10:14,17 zone 26:22,23 26:25 34:3 37:18 38:2 39:5,5 41:6,6 45:3 49:6 | |