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1 TOWNSHIP OF TEANECK
 2 BOARD OF ADJUSTMENT
 3 THURSDAY, SEPTEMBER 5, 2019
 4 IN THE MATTER OF : TRANSCRIPT OF
 5 APPLICATION AND PUBLIC HEARING : PROCEEDING
 6 on Investigation and Adoption of :
 7 100 STATE STREET, LLC XB2016-08
 8 B E F O R E:

9 JAN MEYER, CHAIRMAN
 10 HARVEY ROSEN, VICE CHAIRMAN
 11 JERRY BARTA (RECUSED)
 12 EDWARD MULLIGAN
 13 DANIEL WETRIN
 14 MONICA HONIS
 15 ATIF REHMAN
 16 MARK MERMELSTEIN
 17 JENNIFER PRINCE

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1 CHAIRMAN MEYER: The next matter is, I
 2 believe, 100 State Street. So let's -- Ms.
 3 Berger, are you ready?
 4 MR. STEINHAGEN: We should swear in
 5 Charles, Joe, and Liz just for the calendar year.
 6 CHAIRMAN MEYER: Okay.
 7 MR. STEINHAGEN: Just typically they're
 8 sworn in for the year.
 9 CHAIRMAN MEYER: Go ahead.
 10 MR. STEINHAGEN: Mr. Olivo, Mr. Vince,
 11 and Ms. Leheny, please raise your right hand. Do
 12 you swear or affirm any testimony you will give
 13 before this board in any matter during the
 14 2019-2020 session of the zoning board of
 15 adjustment will be the truth, the whole truth, and
 16 nothing but the truth, so help you God?
 17 MR. OLIVO: Yes.
 18 MR. VINCE: I do.
 19 MS. LEHENY: Yes.
 20 MR. STEINHAGEN: Thank you. So they're
 21 sworn for the year.
 22 CHAIRMAN MEYER: Thank you. Good
 23 evening, Ms. Berger.
 24 AUDIENCE MEMBER: Could you use your
 25 mic, please?

4

1 CHAIRMAN MEYER: Yes, I can use my mic.
 2 Can you hear me now?
 3 AUDIENCE MEMBER: Absolutely.
 4 CHAIRMAN MEYER: Okay, good.
 5 MS. BERGER: Good evening, Mr. Chairman,
 6 and members of the board, I hope everyone had a
 7 lovely summer.
 8 We're here this evening to continue with
 9 the cross-examination and testimony of our
 10 witness, Mr. Lydon. He was previously sworn, I
 11 don't know if you'd like him sworn in again, but
 12 he was sworn, he's continuing --
 13 MR. STEINHAGEN: Mr. Lydon, I'm going to
 14 remind you that you're under oath from your prior
 15 testimony. The last time you were here was in
 16 June?
 17 THE WITNESS: June 20th, thank you, Mr.
 18 Steinhagen.
 19 CHAIRMAN MEYER: Before we do that, Ms.
 20 Berger, I believe I received an amendment to the
 21 application in my package.
 22 MS. BERGER: So I'd like to ask Mr.
 23 Lydon to talk about that.
 24 BY MS. BERGER:
 25 Q Mr. Lydon, did the Chairman ask

1 questions last meeting about the applicant
 2 presenting an alternate plan?
 3 **A** Yes, he did. At the very beginning of the
 4 hearing.
 5 **Q** And, unfortunately, we had to say no, we
 6 did not have one last time, correct?
 7 **A** That is correct.
 8 **Q** But we do have one tonight?
 9 **A** We have been busy beavers.
 10 **Q** And that plan has been circulated to the
 11 board and the board's experts; is that correct?
 12 **A** Correct.
 13 **Q** And that plan answers the Chairman's
 14 question; is that correct?
 15 **A** It answers the Chairman's questions
 16 affirmatively, yes.
 17 **Q** And it answers the Chairman's question
 18 in two different manners; is that correct?
 19 **A** Yes, it does.
 20 **Q** Could you please explain what -- how it
 21 answers the Chairman's question?
 22 **A** Certainly. The -- and --
 23 **Q** Maybe we'll mark the documents.
 24 **MR. STEINHAGEN:** Ms. Berger, I was going
 25 to ask Mr. Lydon to at least identify it. If

1 **MS. BERGER:** So A-20.
 2 **MR. STEINHAGEN:** So we're going to mark
 3 that as A-20. And that's sheet A-202B, Mr. Lydon?
 4 **THE WITNESS:** A-202B, yes.
 5 **MS. BERGER:** B as in boy.
 6 **MR. STEINHAGEN:** Yes.
 7 (Drawing A-202B is receive and marked
 8 A-20 for identification.)
 9 **A** And what this shows is an expansion of the
 10 on-site parking facilities, increasing the total
 11 number of on-site spaces from 100 to 113 and it
 12 does that by shifting the -- extending the upper
 13 level parking area closer to the rear line on the
 14 east side of the property.
 15 So what will happen is in the event this
 16 is approved by the board, instead of having 100
 17 on-site parking spaces, the applicant is proposing
 18 113 parking spaces on-site, 44 across State Street
 19 at the municipal property.
 20 **Q** And with regard to those additional
 21 parking spaces, 13, are they single spaces or are
 22 they tandem spaces?
 23 **A** We've added single spaces behind previously
 24 proposed, so the new spaces are in a tandem
 25 arrangement.

1 we're going to mark it, that would be fine.
 2 **MS. BERGER:** Yes.
 3 **A** Sure. Quick background. This application
 4 was submitted with 100 on-site parking spaces and
 5 an ancillary part of the application was the
 6 applicant had agreed to pave a Township of Teaneck
 7 lot across the street, across State Street and
 8 make that available for public parking. It is --
 9 **Q** For 44?
 10 **A** For 44 parking spaces. And that was going
 11 to be at the sole cost of the developer, as a part
 12 of this application. The board expressed some
 13 reservations with that parking supply. So what
 14 has happened is we used the hiatus from the June
 15 20th meeting to prepare two exhibits. The first
 16 one I'd like to talk to is identified as drawing
 17 A-202B and it bears a revision date of August
 18 20th, 2019. What this shows?
 19 **MR. STEINHAGEN:** Who prepared that, just
 20 for the record?
 21 **THE WITNESS:** That was prepared by RSC.
 22 **MR. STEINHAGEN:** So we're going -- I
 23 believe we're up to A-20. I'm looking at the
 24 transcript, the last thing you marked was A-19,
 25 so --

1 **CHAIRMAN MEYER:** Let me ask --
 2 **A** Those will be assigned to two-bedroom
 3 apartments. So it will function as a
 4 single-family house with a one car wide driveway.
 5 If you have two cars in there, someone's got to
 6 move the first car to get the second car out.
 7 **CHAIRMAN MEYER:** Two keys?
 8 **THE WITNESS:** Two keys or fobs. They
 9 will be assigned to two-bedroom apartments.
 10 **MR. ROSEN:** Just to be clear, you're now
 11 talking about the drawing marked semi-extension
 12 alternative?
 13 **MS. BERGER:** Yes, correct. If you look
 14 in the right hand corner, it says A-202B.
 15 **A** The drawing title, just to be --
 16 **CHAIRMAN MEYER:** The --
 17 **MR. ROSEN:** What's your intention of
 18 giving us two?
 19 **MS. BERGER:** Well, let us explain and
 20 we'll --
 21 **THE WITNESS:** That drawing you just made
 22 reference to, so the record is clear, is titled
 23 upper level parking plan. The second drawing --
 24 **MR. ROSEN:** Right.
 25 **THE WITNESS:** -- which you jumped ahead

1 on ME, Mr. Rosen is identified as A-202A.
 2 CHAIRMAN MEYER: Let me guess it has 125
 3 spaces.
 4 THE WITNESS: I can leave now. That
 5 plan is also dated August 20th, 2019, and was also
 6 prepared by RSC Architects and what this does --
 7 MR. STEINHAGEN: Ms. Berger, A-21?
 8 MS. BERGER: Yes.
 9 (Drawing A-202A received and marked A-21
 10 for identification.)
 11 THE WITNESS: And the difference between
 12 these two plans is this extends that upper level
 13 parking deck along the entire rear line of the
 14 building. And instead of adding 13 additional
 15 parking spaces to the previously proposed 100, it
 16 adds 25.
 17 CHAIRMAN MEYER: Remind me again how
 18 many two bedrooms do we have in this project as
 19 proposed?
 20 THE WITNESS: It's in my outline, which
 21 I can't find.
 22 MS. BERGER: 38, I believe.
 23 CHAIRMAN MEYER: Okay.
 24 THE WITNESS: Correct, 38.
 25 CHAIRMAN MEYER: 38 two-bedrooms.

1 colleagues on the board, need to make a decision
 2 on one, two, or three. We can't --I can't make a
 3 decision on the submitted one, knowing that this
 4 is in the back pocket. So I'd like to know what
 5 you're advocating to this board and what you want
 6 us to decide upon. It's not fair to us to say we
 7 got to choose A, B, or C, which one -- which one
 8 is the one that you're presenting to us for
 9 consideration?
 10 MS. BERGER: Well, we are presenting
 11 both because there was a question from the
 12 Chairman. And we are showing you two different
 13 drawings because frankly there is a variance
 14 required now because of lot coverage, one has more
 15 open to the other building next door, where we
 16 eliminated that parking, that's where there's a
 17 smaller residential building on one side than the
 18 larger apartment complex. So we thought the board
 19 might want that because clearly there's a higher
 20 wall that has to surround that level. And we
 21 thought if that was a consideration of the board,
 22 and the impact, that they might want to see that
 23 alternative.
 24 MR. ROSEN: Well, short of canvassing
 25 this board and seeing which one we want, which

1 MR. ROSEN: So which one are you
 2 advocating for? Which one are you -- you're
 3 asking us to choose one over the other? What's
 4 your intention?
 5 THE WITNESS: Well, Mr. Rosen, because I
 6 believe the prior testimony that these stalls
 7 really are not necessary for the development, I
 8 think the board would be well within its authority
 9 and power and wisdom to approve the first drawing
 10 with 100. However, because we're practical
 11 people, we are willing to do either one of them.
 12 The one with 113 or the one with 125.
 13 MS. BERGER: However --
 14 THE WITNESS: However, we do believe the
 15 100 spaces is adequate and appropriate and
 16 reasonable.
 17 Q If I could just? Does the expansion of
 18 the parking deck require an additional variance?
 19 A Yes, there's a slight increase in the
 20 building coverage, of course. And the back wall
 21 is 14 feet higher than it would have otherwise
 22 been. And it's closer to the rear property line.
 23 MR. ROSEN: I personally find it hard to
 24 make a choice. I see what you're doing and I
 25 thank you for it. But I, and I would imagine my

1 we're not going to do, and I -- I am appreciative
 2 of the effort to do this, it's still a matter of
 3 which application -- which rendering are you going
 4 to ask us to consider? Do we want to stick with
 5 the original application or are you going to say
 6 we're going to take -- I just don't know how to
 7 judge this in the long run. So, Mr. Chairman,
 8 maybe you could explain it?
 9 CHAIRMAN MEYER: I think it was my
 10 suggestion to see that since there was an expert
 11 in this matter, an architect who indicated to us
 12 that 125 spaces were able to be placed at the
 13 premise. And I think --
 14 MS. BERGER: And that was correct, that
 15 was the testimony.
 16 CHAIRMAN MEYER: And that was the
 17 testimony. I held them to it. I said, okay, make
 18 the plans in a way that we can get the
 19 maximized -- maximize the parking issue -- the
 20 spaces, maximize the efficiency, and removing an
 21 additional parking requirements that would
 22 otherwise spill over into the streets. The
 23 applicant, at the same time, also made an
 24 arrangement with the Township that in order to --
 25 as part of this approval, to pave and to prepare

1 the lot across the street as a concession or as a
2 package deal --

3 MS. BERGER: Under RSIS.

4 CHAIRMAN MEYER: Right, to make sure
5 that would also happen. So I had -- I am very
6 pleased that at least the applicant, in this
7 instance, volunteered to provide as much parking
8 as required and thereby we're basically -- what,
9 134 was required according to --

10 THE WITNESS: 132, Mr. Chairman.

11 CHAIRMAN MEYER: 132, so we're seven
12 spaces off.

13 MS. BERGER: And that's without even
14 counting street parking, which you can do for
15 RSIS.

16 CHAIRMAN MEYER: I understand that. And
17 in light of that, and I think in light of the
18 testimony that Mr. Lydon indicated, that actually
19 people living in apartments like this, close to
20 public transportation, it might not even be
21 necessary to have necessarily 132 spaces, I think
22 a good planning, because everything around these
23 other multifamily residential buildings have --
24 other than the new ones that are built, have no --
25 the old stock have no parking whatsoever.

1 least. So I think that's -- if that answers your
2 question?

3 MR. ROSEN: You've explained why -- and
4 I understand it, but I just want to know in the
5 final submission, are you going to submit the one
6 with the extra 25 spaces or are you going to stand
7 on your original application, and ask us to
8 consider, that's all I'm asking.

9 CHAIRMAN MEYER: I think the applicant,
10 and correct me if I'm wrong, Ms. Berger, the
11 applicant is saying we are willing to put 125
12 parking spaces on this lot. And I say thank you.

13 MR. ROSEN: Okay. Then I will accept
14 that offer and I believe we're all now considering
15 the updated offer with another 25 spaces.

16 MS. BERGER: Clearly, the applicant felt
17 that we had sufficient parking when we came in
18 with our 100 and the 44, because we met the code
19 requirement and we met RSIS requirements with that
20 proposal. It appeared that some of the board
21 members felt differently and felt we should
22 present an alternative, so we did.

23 We presented the 125, which we testified
24 to and we had it -- show a diagram that reflected
25 the testimony and that's what it did. But we also

1 So I want to be extra cautious when we
2 put a -- grant a variance for a building like
3 this, that there's no spillage. There's no
4 utilization of other people's parking spaces
5 outside this property. And everybody knows if you
6 have a reserved spot under your apartment, you're
7 not going to run around and try to find parking on
8 the street or fight for that or when there's snow
9 that has to be removed -- there has to be, you
10 know, where your car is locked in after the
11 snowplow has been there. So people are going to
12 utilize their own parking area as much as they
13 can. And it's very convenient, come in, you don't
14 have to worry about finding a spot.

15 So I welcome certainly and I think it's
16 a good reso -- not resolution, it's a good
17 proposal to maximize as much as they can with 125
18 spaces on the premises for the parking. And so if
19 the applicant is offering that, I'm sure it has
20 maybe an additional cost, that's not really my
21 worry and my concern or our concern. But
22 certainly it lends itself to, I think, a better
23 utilization of the space for purposes of getting
24 to the ultimate goal. And I think also lessens
25 the impact on the street for purpose of parking at

1 thought at the same time maybe it might be wise to
2 bring something that showed a little less because
3 it would -- we would cut down on the coverage
4 and --

5 MR. ROSEN: I get that completely. I
6 just want to know what, in the end -- you know,
7 when it comes time for us to consider this
8 application, be it tonight or future meetings,
9 what is the application? Is it for the amended
10 one with the extra 25, or what are you ultimately
11 asking us to consider?

12 MR. STEINHAGEN: Perhaps maybe I could
13 help. If the board were to take a vote tonight,
14 would you want the motion to be on A-202A, which
15 is A-21, A-202B, or the original plan?

16 MS. BERGER: Well, I mean we really --

17 CHAIRMAN MEYER: We're not going to play
18 that game.

19 MR. ROSEN: We will consider an
20 application --

21 CHAIRMAN MEYER: 125.

22 MR. ROSEN: -- as submitted or amended,
23 we're not going to --

24 MR. STEINHAGEN: Which one would it
25 be --

1 MS. BERGER: We would like you to
2 consider the 125.
3 CHAIRMAN MEYER: Okay.
4 MS. BERGER: Except we would also ask
5 that you then amend the application to include the
6 variance necessary because now we have building
7 coverages increases with the building coverage?
8 CHAIRMAN MEYER: But what is the
9 building coverage increase, do we have that?
10 THE WITNESS: Yes, we do.
11 MS. BERGER: We didn't get to that.
12 CHAIRMAN MEYER: Okay. It's de minimus
13 compared to what we have now?
14 MS. BERGER: Right, but it does -- it is
15 a requirement.
16 MR. ROSEN: I think it's a reasonable
17 request.
18 MR. REHMAN: Can you just clarify
19 something, Chairman? I think you mentioned
20 something about 132 and only being seven off now.
21 I thought that we didn't need a variance for
22 parking to begin with?
23 MS. BERGER: That's without considering
24 the lot across the street and without considering
25 the street parking.

1 that the drive aisle under the new amended
2 condition is 22 feet wide, so RSIS requires 24.
3 So that would be a de minimus exception.
4 THE WITNESS: We were going to get to
5 that once we went through the variances.
6 MR. STEINHAGEN: And also that a tandem
7 parking spaces doesn't have an aisle. For
8 instance --
9 MR. VINCE: I guess, technically, yes.
10 MR. STEINHAGEN: Tandem isn't
11 technically allowed, but you --
12 MS. BERGER: Well --
13 MR. STEINHAGEN: -- de minimus exception
14 to that.
15 CHAIRMAN MEYER: What do you mean, it's
16 not allowed?
17 MR. VINCE: The RSIS is says if you have
18 a parking space, you're supposed to have 24 feet
19 to back up. It doesn't discuss tandem parking.
20 MR. STEINHAGEN: But it doesn't have the
21 drive lane, so...
22 CHAIRMAN MEYER: Okay.
23 MR. STEINHAGEN: Fine.
24 CHAIRMAN MEYER: Okay. So 125 is the
25 application and let's hear how it increases.

1 CHAIRMAN MEYER: The street parking
2 across the street that they were going -- that
3 they are, if this application is approved, pave
4 and stripe and prepare, I believe had 44 spaces.
5 MS. BERGER: Correct.
6 MR. REHMAN: And I understood that, but
7 I thought that the across the street was not
8 factored into what you -- what was required. So I
9 thought the property, in and of itself, was fine
10 on parking.
11 MS. BERGER: No, because there's a
12 statute -- a regulation called RSIS that says you
13 could meet that parking requirement with certain
14 other parking in the area. And that's so that
15 there's just -- you don't have a lot of parking
16 lots that are not being used and more people could
17 share. That's really the reason for it. And
18 that's why we're doing the lot across the street.
19 So we need to give numbers.
20 MR. STEINHAGEN: Yes.
21 MS. BERGER: But I thought your engineer
22 wanted to ask something?
23 MR. STEINHAGEN: There's another
24 question I think Mr. Vince had.
25 MR. VINCE: I just wanted to bring up

1 BY MS. BERGER:
2 Q I'm going to give the numbers?
3 CHAIRMAN MEYER: The increase.
4 A Parking coverage increases by 14 percent, if
5 we include the 25 additional parking spaces.
6 CHAIRMAN MEYER: Right.
7 THE WITNESS: And for numbers, it goes
8 from 65.8 to 79.4 percent.
9 MR. ROSEN: Which -- what is that?
10 THE WITNESS: That's with the second
11 plan with the 25.
12 MR. ROSEN: The coverage?
13 THE WITNESS: The coverage goes from
14 65.8 to --
15 CHAIRMAN MEYER: The coverage is the
16 same.
17 THE WITNESS: To 79.4.
18 MS. BERGER: No, the building coverage.
19 This is the building coverage.
20 THE WITNESS: We're over it, but Mr.
21 Melfi made a determination that we would still
22 need to increase the building coverage.
23 MR. ROSEN: You haven't changed the
24 footprint?
25 THE WITNESS: That's correct.

1 MS. BERGER: Because the parking below
2 is not considered above grade. So therefore it's
3 not counted in the building coverage. Now
4 we're --

5 CHAIRMAN MEYER: It's a technicality.
6 Basically the footprint is going to be the same,
7 it's --

8 MS. BERGER: Right.

9 MR. ROSEN: Now I understand.

10 MS. BERGER: But that explains and also
11 the wall height?

12 THE WITNESS: The wall height in the
13 back increases by about 14 feet.

14 CHAIRMAN MEYER: Why?

15 THE WITNESS: To add the second level.

16 CHAIRMAN MEYER: Okay.

17 THE WITNESS: But there's a variance
18 there. And that's on the worst part of it, other
19 places are less because it's driving into the
20 ground.

21 Q Does it go from approximately 5 feet up
22 to approximately, I think it's 13 or 14 feet?

23 A I believe that's the numbers, yes.

24 Q Depending on the slope of the --

25 A On where you are.

1 MS. BERGER: So I'm going to move my
2 stuff from the podium, so the public can come back
3 and continue, unless any of your experts had
4 anything on this?

5 CHAIRMAN MEYER: Okay. Does any expert
6 have anything to ask Mr. Lydon about these 125
7 spaces that is now a part of the application? No.
8 Anyone from the board have any questions regarding
9 the 125, okay? All right.

10 So let's do the following: The public
11 wants to ask Mr. Lydon some questions, please do
12 not repeat your questions from last time if you
13 had an opportunity last time. And just please
14 stand, get in line, so we can, you know, move this
15 along. And let's see if we can get questions for
16 Mr. Lydon.

17 Good evening, ma'am. Come on up, tell
18 us your name, please.

19 MS. BELCHER: Good evening, Denise
20 Belcher, 703 Cedar Lane.

21 MR. STEINHAGEN: Can you repeat your
22 address, I've got to write it down. Seven?

23 MS. BELCHER: 703 Cedar Lane.

24 CHAIRMAN MEYER: How are you?

25 MS. BELCHER: Thank you. Okay. I have

1 MS. BERGER: Just for the record, so you
2 have numbers.

3 CHAIRMAN MEYER: So these percentage
4 increases, it's not really percentage increase,
5 the building footprint is the same, it's just a
6 different way of calculating it, which does --

7 MS. BERGER: But Mr. Melfi said that --

8 CHAIRMAN MEYER: Fine.

9 MS. BERGER: -- he made that

10 determination that we had to --

11 CHAIRMAN MEYER: It's easy for Mr.
12 Melfi, he's not here tonight.

13 MR. STEINHAGEN: He's very sick.

14 THE WITNESS: In all other regards, the
15 application remains the same.

16 CHAIRMAN MEYER: Okay. Next.

17 MS. BERGER: That was the addition to
18 the testimony. We were in the portion of the
19 proceeding where there were questions by the
20 public.

21 CHAIRMAN MEYER: Okay.

22 MS. BERGER: This was to answer your
23 question and we didn't have the information last
24 time.

25 CHAIRMAN MEYER: Good.

1 a question --

2 MS. BERGER: I'm sorry, maybe you just
3 want to put that a little higher.

4 MS. BELCHER: Is that better?

5 MS. BERGER: Yes.

6 CHAIRMAN MEYER: Get closer to it,
7 almost too close.

8 MS. BELCHER: Okay, great.

9 Regarding the new proposed 125 spaces, I
10 understand, based on your testimony, that the
11 footprint remains the same, but how does it impact
12 the height of the building?

13 MS. BERGER: Let us show you the plans
14 so you know what we're talking about.

15 THE WITNESS: It doesn't really impact
16 the height of the building because the parking is
17 extended to the rear at one level. And that was
18 almost subterranean in some areas. So the parking
19 in the back that we're adding will be --

20 CHAIRMAN MEYER: Can we have a little
21 quiet in --

22 THE WITNESS: -- in fact not impact the
23 building --

24 CHAIRMAN MEYER: Mr. Lydon, I think our
25 microphones are picking up chatter in the back.

1 THE WITNESS: I'm sorry.

2 CHAIRMAN MEYER: It's very important
3 that we keep it quiet in the back so the recording
4 works and we have a good record and it doesn't
5 disturb the court reporter as well.

6 AUDIENCE MEMBER: The microphones do the
7 work.

8 CHAIRMAN MEYER: Go ahead. I'm sorry,
9 ma'am, did you get his --

10 THE WITNESS: So it won't affect.

11 MS. BELCHER: So it would not affect the
12 height, the new proposed 25 spaces would not
13 impact the height of the building at all?

14 THE WITNESS: That's correct.

15 CHAIRMAN MEYER: Thank you, ma'am. Good
16 evening. Questions for Mr. Lydon.

17 MS. ELIYAHU: Hi.

18 CHAIRMAN MEYER: Your name please.

19 MS. ELIYAHU: Debra Eliyahu,
20 E-L-I-Y-A-H-U.

21 CHAIRMAN MEYER: Good evening.

22 MS. ELIYAHU: Good evening, to all of
23 you, Mr. Chairman, and members of the board and
24 everybody else.

25 On May 16th, page 109, line 17, and

1 again on page 109, line 23, you refer to
2 conditions in the city, when speaking about
3 conditions as they relate to Teaneck. For
4 example --

5 CHAIRMAN MEYER: Hold on, what page
6 again?

7 MS. ELIYAHU: Page 109.

8 THE BOARD SECRETARY: What transcript?

9 CHAIRMAN MEYER: May 16.

10 MS. BERGER: Page what?

11 MS. ELIYAHU: 109, line 17 and 23, you
12 speak about traditional city lots, for example.

13 Are you -- when planning this, are you fully aware
14 that Teaneck is a suburban township and the
15 development in Teaneck needs to be appropriate for
16 a suburban environment?

17 THE WITNESS: Yes.

18 MS. ELIYAHU: You then go on to discuss
19 how odd shaped -- an odd shaped lot in the city,
20 which may require many adjustments in a crowded
21 and cramped city environment affect a building
22 proposed in an area -- how does that affect a
23 building proposed in an area with low density
24 multifamily residences?

25 THE WITNESS: I don't think that's what

1 I was referring to.

2 CHAIRMAN MEYER: What page are you
3 reading from?

4 MS. ELIYAHU: Same page?

5 CHAIRMAN MEYER: 109?

6 MS. ELIYAHU: Yes. You said how they
7 need to adjust to the kind of lot that they have?

8 THE WITNESS: What I was referring to,
9 and maybe I did it poorly, was a lot often times
10 will provide the shape for a dwelling. So on a
11 50-foot-wide lot, they usually have a narrower
12 dwelling, that's longer, because a 50 foot wide
13 lot usually has 100 feet depth. What I was doing
14 was contrasting that with this lot. This
15 particular lot has a depth of -- bear with me, a
16 depth of only 115 feet, but it's 300 feet wide.
17 So instead of having a somewhat narrow, long
18 building, this building flips that model and is
19 wider, but narrower.

20 MS. ELIYAHU: Okay.

21 THE WITNESS: So I was trying to relate
22 it to the property it sits on.

23 MS. ELIYAHU: Okay. You mentioned
24 affordable housing numerous times, I counted 19,
25 if you'd like me to tell you all of them?

1 CHAIRMAN MEYER: No, no, go ahead. We
2 believe you.

3 MS. ELIYAHU: Are you aware that
4 affordable housing applications are not only open
5 to Teaneck residents and not five towns, but five
6 counties in a heavily populated area, thus making
7 is somewhat unlikely that Teaneck residents would
8 be accepted.

9 CHAIRMAN MEYER: Let me say this, I
10 don't think this is the witness for that issue as
11 who gets picked. There's a third party -- and
12 this is how it works. And I don't know why, I
13 agree with you, it should be there's a public, you
14 know, low income housing and people live in
15 Teaneck, they should have a preference, but that's
16 not up to me or to you.

17 MS. ELIYAHU: I understand. However,
18 Mr. Lydon was putting this forth, I counted 19
19 times as a great benefit to the residents of
20 Teaneck.

21 CHAIRMAN MEYER: No, it's a great
22 benefit to the public at large. And that's what
23 it's about, it's about doing, I guess, the wisdom
24 of having low income housing is so everybody has
25 an opportunity to have a good housing stock for

1 affordable price. And it benefits everyone. So
2 let me explain to you how it works.

3 MS. ELIYAHU: I know how it works.

4 CHAIRMAN MEYER: Okay.

5 MS. ELIYAHU: I understand that.

6 CHAIRMAN MEYER: But I don't think this
7 witness can explain why the legislators and the
8 courts in their wisdom made this rule the way it
9 is.

10 MS. ELIYAHU: I understand and I agree.
11 And I think there should be affordable housing.
12 It just sounded to me like it was being expressed
13 as a great benefit to Teaneck residents who needed
14 affordable housing.

15 CHAIRMAN MEYER: So ask Mr. Lydon when
16 you referred to affordable housing, did you
17 specifically mean that the affordable housing
18 would be something that would benefit only Teaneck
19 residents.

20 MS. ELIYAHU: Or mainly Teaneck
21 residents?

22 THE WITNESS: In a legal sense, you're
23 both correct in the sense that you have to have a
24 lottery. There are a lot of ways to run a
25 lottery. And you can do it so that the people who

1 CHAIRMAN MEYER: Not by your client?

2 THE WITNESS: I'm sorry, I don't know.

3 MS. ELIYAHU: On June 20th, page 171,
4 lines 4 and 5.

5 MS. BERGER: Could you give us a second,
6 we have to pass that over.

7 CHAIRMAN MEYER: What page again?

8 MS. ELIYAHU: Page 171, lines 4 and 5.

9 CHAIRMAN MEYER: That's the middle of a
10 sentence.

11 MS. ELIYAHU: Well, I will explain.

12 CHAIRMAN MEYER: Why don't you ask --
13 okay.

14 MS. ELIYAHU: You called it a blight,
15 I'm just trying to focus on the word blight?

16 CHAIRMAN MEYER: Yeah, but you have
17 to --

18 THE WITNESS: I was describing the
19 existing building.

20 MS. ELIYAHU: Okay. Are you aware that
21 until 2016, it's condition was really quite good,
22 maybe obsolete, but it was not overgrown to the
23 extent that it is today. Did its intentional
24 neglect --

25 CHAIRMAN MEYER: Whoa, one question at a

1 are most likely to respond to a lottery are local
2 residents. Either having a family member living
3 in town or they lived here themselves at one time
4 or there's a work connection.

5 It does need to be affirmatively
6 marketed throughout the region. And I'm sure
7 Teaneck and its administrative agent will do that.
8 But you can still run a lottery so that the
9 probability of having a high percentage of
10 township residents accepted in that building is
11 quite high.

12 CHAIRMAN MEYER: Okay. But I guess
13 that's not up to the applicant either. I know I
14 heard that over on Avalon, there was 8,000
15 applications for 34 apartments. It's ridiculous.

16 THE WITNESS: That just shows you the
17 need.

18 CHAIRMAN MEYER: Yes, I agree.

19 MS. ELIYAHU: I just wanted to make it
20 clear.

21 CHAIRMAN MEYER: Thank you.

22 MS. ELIYAHU: What year was the building
23 on 100 State Street purchased by your client?

24 THE WITNESS: Early '60s, I believe it
25 was something like --

1 time.

2 MS. ELIYAHU: No, this is --

3 CHAIRMAN MEYER: Okay.

4 MS. ELIYAHU: Did its intentional
5 neglect make it the blight that needs to be
6 replaced?

7 THE WITNESS: I can't answer that
8 question.

9 MS. ELIYAHU: Okay. On June 20th, on
10 page 27, line 7.

11 CHAIRMAN MEYER: Hold on.

12 MS. ELIYAHU: I'm sorry, page 80, line
13 15.

14 CHAIRMAN MEYER: 80, line 15?

15 MS. ELIYAHU: Yes.

16 CHAIRMAN MEYER: Go ahead.

17 MS. ELIYAHU: You were asked whether or
18 not you were aware that Senator Weinberg had a New
19 Jersey Transit bus board to discuss in Teaneck
20 public transportation. And you said no, I missed
21 that. Have you attempted to find out about the
22 forum held with Senator Loretta Weinberg and the
23 representative from New Jersey Transit earlier
24 this year?

25 THE WITNESS: No.

1 MS. ELIYAHU: Do you know who Michael
2 kill coin is?

3 THE WITNESS: No.

4 MS. ELIYAHU: Do you know who the
5 vice-president and manager of bus operations at
6 New Jersey Transit is?

7 THE WITNESS: No.

8 MS. ELIYAHU: Do you know who Paul
9 Wyckoff is?

10 THE WITNESS: No.

11 MS. ELIYAHU: Do you know who's the
12 chief of government and external affairs in the
13 office of the president and CEO of New Jersey
14 Transit?

15 THE WITNESS: Can't say that I do.

16 MS. ELIYAHU: Okay. You also said on
17 June 20th, page 27, line 7, and I have copies for
18 the --

19 CHAIRMAN MEYER: We have it.

20 MS. ELIYAHU: Well, I'm going to ask to
21 enter this as evidence?

22 CHAIRMAN MEYER: No, no, this is how --
23 let me help you. Page 27?

24 MS. ELIYAHU: Yes, but I have a response
25 from New Jersey Transit?

1 cross-examine and --

2 MS. ELIYAHU: I'm willing to be sworn
3 in.

4 CHAIRMAN MEYER: I'm sorry?

5 MS. ELIYAHU: I'm willing to be sworn
6 in.

7 CHAIRMAN MEYER: That doesn't help, you
8 can't ask questions if the person who wrote the
9 letter had the intent or the person had the --
10 maybe they were talking about something else --

11 MS. ELIYAHU: If you hear this --

12 CHAIRMAN MEYER: One person at a time.
13 Not because you and I cannot have a conversation,
14 but there's a lovely lady sitting to my left here
15 and she can only take person at a time.

16 So those are the rules of evidence. And
17 we can't do anything about it. But that's the
18 process. And, you know, if you need to bring a
19 witness, you can bring a witness. And I think
20 maybe if you want to have something included, you
21 can maybe read it at the comments, at the end the
22 case. If you feel that is the appropriate time
23 for that. But in order to have it entered in the
24 case as to counter something or to use it, you
25 need a live witness.

1 CHAIRMAN MEYER: You know, here's how --

2 MS. BERGER: This is questions.

3 CHAIRMAN MEYER: Questions of this
4 witness. If you want to bring New Jersey Transit
5 and testify, you're more than welcome.

6 MS. ELIYAHU: I have the response from
7 there -- the office of the president?

8 CHAIRMAN MEYER: So we can only have a
9 live witness that can talk, a piece of paper
10 cannot say much. So if you have -- if you want to
11 bring a witness to oppose this application or
12 bring something forth in your -- either
13 furtherance of the case or, I guess, in this case
14 maybe your opposing the case, the applicant's
15 application, then you got to bring a witness.

16 MS. ELIYAHU: I cannot bring the
17 president of New Jersey Transit. However, I have
18 a response --

19 CHAIRMAN MEYER: Yeah, but -- hello? I
20 understand and I appreciate you got a letter back.
21 But that's not really -- we cannot -- the
22 applicant, in fairness of the applicant, you bring
23 something and it says, you know, the sky is blue
24 because it says in the letter, the answer, the sky
25 is blue on Tuesday. The applicant cannot

1 MS. ELIYAHU: Okay.

2 CHAIRMAN MEYER: Same -- go ahead.

3 MS. ELIYAHU: Is it possible --

4 MR. STEINHAGEN: I'd also like to add --

5 MS. ELIYAHU: I have a question though.

6 MR. STEINHAGEN: Hold on one second.

7 And to supplement what Chairman Meyer said,
8 there's a case, I don't know if Ms. Berger is
9 looking for it --

10 MS. BERGER: Yes, I have Seburg versus
11 Dover Township.

12 MR. STEINHAGEN: Well, there's also
13 Exxon versus Bernardsville.

14 MS. BERGER: That was going to be my
15 next one.

16 MR. STEINHAGEN: There's a case
17 involving a gas station in Bernardsville. And the
18 objector brought in a written document and asked
19 the board to consider it. The board did consider
20 it, the board denied the application, and the
21 applicant appealed the decision. And the court
22 said the board was out of its jurisdiction to
23 consider a written document that the applicant
24 couldn't ask questions about to its author.

25 MS. ELIYAHU: I think that it may be --

1 I don't know, I haven't asked the office of the
 2 president and CEO of New Jersey Transit to come
 3 here. I can try to do that. Would it be
 4 acceptable if he would directly send
 5 correspondence?
 6 CHAIRMAN MEYER: No, because they cannot
 7 cross-examine.
 8 MR. STEINHAGEN: Here's the example. If
 9 the applicant presented a written testimony from
 10 its planner saying here are the reasons why you
 11 should grant a variance and the public wasn't able
 12 to ask questions of the planner, that wouldn't be
 13 fair. That's the same position that you're
 14 putting applicant in by saying here's this letter
 15 from New Jersey Transit, with whatever fact we
 16 want to establish. That's the legal problem that
 17 is being posed by the attempt to offer this into
 18 evidence.
 19 CHAIRMAN MEYER: Why don't you ask --
 20 I'll give you a trick, okay. I'm going to help
 21 you.
 22 MS. ELIYAHU: Please.
 23 CHAIRMAN MEYER: So you have something
 24 that the person -- I don't know who it is --
 25 wrote. So why don't you ask -- put that in a

1 point when you're done with your application.
 2 MS. BERGER: But I know --
 3 CHAIRMAN MEYER: But it has to be
 4 relevant. I agree it has to be relevant
 5 questions. If Mr. Lydon hasn't testified --
 6 MS. BERGER: And he has no knowledge of
 7 it.
 8 CHAIRMAN MEYER: Well, that's one way to
 9 ask.
 10 MR. STEINHAGEN: Let's let the question
 11 be asked.
 12 CHAIRMAN MEYER: And then you can
 13 object, put your objection on the record. If it's
 14 relevant, I'll rule on it.
 15 MS. BERGER: Thank you.
 16 MS. ELIYAHU: Okay. Thank you and thank
 17 you. On page 27, line 7?
 18 MR. STEINHAGEN: What day?
 19 MS. ELIYAHU: The same day, June 20th.
 20 Mr. Lydon stated, as we tried to move commuters
 21 out of cars and off the carbon cycle --
 22 CHAIRMAN MEYER: Wait.
 23 MS. BERGER: Where?
 24 CHAIRMAN MEYER: 27.
 25 MS. ELIYAHU: Page 27, line 7.

1 question. Are you aware, Mr. Lydon, that blah,
 2 blah, blah, blah, blah. And then he'd have to say
 3 yes or no.
 4 MS. ELIYAHU: Okay. Are you --
 5 MS. BERGER: May I just -- before you
 6 proceed, I'm going to put an objection on the
 7 record. Because the objection is the questioning
 8 has to be on his direct testimony.
 9 CHAIRMAN MEYER: I know we're going to
 10 give a little leeway.
 11 MS. BERGER: His direct testimony was
 12 that he had no knowledge of this.
 13 MS. ELIYAHU: Okay. But I will --
 14 MS. BERGER: If I may --
 15 CHAIRMAN MEYER: One second, Ms.
 16 Belcher, one second. Ms. Berger wants to put
 17 something on the record.
 18 MS. BERGER: I understand --
 19 CHAIRMAN MEYER: -- she has every right
 20 to do that. And then I will review it.
 21 MS. BERGER: Also, I'm going to ask the
 22 board, as I understood, there's a policy of
 23 limiting the amount of time of each questions --
 24 CHAIRMAN MEYER: No, no, that's only on
 25 the good and welfare, which we'll get to at some

1 CHAIRMAN MEYER: That's not what it
 2 says. And I don't think -- I think it's wise not
 3 to overlook --
 4 MS. ELIYAHU: Yes, yes. I went a little
 5 further down.
 6 MR. STEINHAGEN: 17.
 7 MS. BERGER: 17?
 8 MS. ELIYAHU: I was trying to --
 9 MR. STEINHAGEN: Page 27, line 17.
 10 MS. ELIYAHU: -- make it a little
 11 faster.
 12 I think it's wise not to overlook the
 13 introduction of new housing units close to
 14 businesses, which can support those businesses as
 15 I mentioned earlier and also public transit.
 16 There are literally bus stops in State Street
 17 right in front of this development. There are
 18 additional bus stops on Teaneck Road which do
 19 provide express turnpike services to New York City
 20 during rush hour. So as we try to move commuters
 21 out of cars and off the carbon cycle, we need to
 22 provide reasonable alternatives for them to
 23 commute to work. And having a bus stop right at
 24 the doorstep literally achieves that purpose.
 25 CHAIRMAN MEYER: Question.

1 MS. ELIYAHU: Okay. But it ties in with
2 the next citation. And then you were asked on
3 page 80, line 15, you mentioned the proximity of
4 public transportation. And I was wondering if you
5 were aware of the ability for the public
6 transportation in the area to absorb any
7 additional people, commuters, to New York City.
8 And your answer was it can, it can do that because
9 New Jersey Transit has the ability to adjust
10 routes and adjust locations of bus stations. And
11 that is part of their reason for existence and
12 they do that on a regular basis.

13 MS. ELIYAHU: Now, my question is: Are
14 you aware that New Jersey Transit, Mr. Paul
15 Wyckoff, and the chief of government and external
16 affairs says, New Jersey Transit is highly
17 constrained in our ability to provide additional
18 bus service. And I'll provide --

19 CHAIRMAN MEYER: Mr. Lydon, are you
20 aware of that?

21 THE WITNESS: Generally speaking.

22 MS. ELIYAHU: Are you aware that he also
23 says we are --

24 MS. BERGER: Says where?

25 MS. ELIYAHU: In response to these --

1 MS. BERGER: In response to what? I
2 object to the --

3 CHAIRMAN MEYER: Yeah, it's -- you can
4 say are you aware that New Jersey Transit is not
5 able to accommodate things or --

6 MS. ELIYAHU: Thank you.

7 MR. STEINHAGEN: What he said is a
8 problem.

9 MS. ELIYAHU: Thank you for --

10 CHAIRMAN MEYER: You can't quote someone
11 else.

12 MS. ELIYAHU: Are you aware that New
13 Jersey Transit is already operating as many buses
14 as their staff and fleet can handle?

15 THE WITNESS: I am not aware of that as
16 a fact, but aware of the fact that there's still
17 ability to move assets and resources to
18 underserved areas from less underserved areas.

19 MS. ELIYAHU: Are you aware of the fact
20 that they now have no more capacity at the Port
21 Authority?

22 THE WITNESS: No, I'm not aware of that
23 fact.

24 CHAIRMAN MEYER: It's a hard question
25 for Mr. Lydon to be aware of where the Port

1 Authority -- you know, it's somewhat
2 objectionable, but we give you all the leeway we
3 can. And, you know, I think the board is smart
4 enough to understand what is admissible evidence
5 or what evidence is okay.

6 MS. ELIYAHU: Okay. I tried to make my
7 point.

8 CHAIRMAN MEYER: I understand. And you
9 made a very well point and a good point. And I'm
10 sure -- and you did very well.

11 MS. ELIYAHU: I'll see what I can do to
12 get them here.

13 CHAIRMAN MEYER: Okay. Thank you.
14 Anything else?

15 MS. ELIYAHU: Yes. Did you make an
16 effort to verify the veracity of your data
17 suggesting only six children would reside in the
18 building at one time as you stated in response to
19 a question by Mr. Rosen on May 16th, page 144,
20 line 18?

21 MS. BERGER: I'm going to object to the
22 question because you're asking him to verify what
23 he said under oath. So he made a statement under
24 oath, he stands by the statements he makes under
25 oath.

1 MS. ELIYAHU: Okay. Do you have data on
2 age distribution of tenants in suburban rental
3 developments, such as the proposed development?

4 MS. BERGER: Can you say that again?

5 MS. ELIYAHU: Do you have data on age
6 distribution of tenants in suburban rental
7 developments, such as the proposed development?

8 THE WITNESS: Not with me, no, but there
9 may be census data covering that.

10 MS. ELIYAHU: Do you envision that a
11 large percentage of the residents will be young
12 couple or young families?

13 THE WITNESS: I don't -- depends on what
14 you mean by large percentage. I don't think you'd
15 see 85 percent of the people being young couples.
16 I think you're going to see a lot of people moving
17 from Teaneck or the immediately surrounding area.
18 I think there will be a cross section of age
19 groups.

20 MS. ELIYAHU: Okay, thank you.

21 What data do you have on the
22 distribution of family size to number of bedrooms
23 in multi-family units?

24 CHAIRMAN MEYER: What's the question
25 again?

1 MS. BERGER: What's the --
 2 MS. ELIYAHU: What data do you have on
 3 the distribution of family size to number of
 4 bedrooms in multi-family units?
 5 MS. BERGER: I'm going to object because
 6 it's such a general question.
 7 CHAIRMAN MEYER: And how is that
 8 relevant to this application? The application
 9 talks about -- the place is made of a certain
 10 amount of bedrooms, one bedroom, two bedrooms, and
 11 a certain amount of three bedrooms.
 12 MS. ELIYAHU: Well, it's population
 13 distribution.
 14 CHAIRMAN MEYER: Don't people -- I guess
 15 nine people is not going to come into a
 16 one-bedroom, right? If you have four kids, you're
 17 going to go into one-bedroom --
 18 MS. ELIYAHU: No, I was wondering how
 19 many people, let's say, who don't have children
 20 would move into a three-bedroom, how many people
 21 that have two children would live in a
 22 three-bedroom?
 23 CHAIRMAN MEYER: I don't think it's
 24 relevant --
 25 MS. ELIYAHU: If there's data on that.

1 on that data published by Rutgers, that was
 2 published last year, to estimate the number of --
 3 or to divine the number of estimated school-aged
 4 children that the Rutgers data would suggest would
 5 live in this particular building.
 6 CHAIRMAN MEYER: Okay.
 7 MS. ELIYAHU: Thank you.
 8 CHAIRMAN MEYER: It was a good question.
 9 MS. ELIYAHU: Thank you.
 10 On June 20th, page 46, line 12, in
 11 response to a question from Mr. Wetrin --
 12 MS. BERGER: Just wait a second, until
 13 we get to the page.
 14 MS. ELIYAHU: The next few are about
 15 cars...
 16 MS. BERGER: Okay, we're here.
 17 MS. ELIYAHU: You said as far as
 18 autonomous vehicles, I think that that's going to
 19 happen. When it happens, it's going to reduce the
 20 amount of parking that residential buildings will
 21 demand because I envision it being a service. Are
 22 you proposing this building on current conditions
 23 and current technology in use or what you envision
 24 at some point?
 25 THE WITNESS: The building, in its

1 CHAIRMAN MEYER: And I think also it has
 2 something to do how much money you have in your
 3 pocket, right?
 4 MS. ELIYAHU: I don't know, that's why I
 5 was wondering.
 6 MR. ROSEN: It's really not relevant.
 7 MR. STEINHAGEN: It's not an appropriate
 8 land use consideration.
 9 THE WITNESS: No. But now that I
 10 understand the question, now that it's been
 11 evolving a little bit, I was looking in census
 12 data because I thought she was looking for
 13 specific numbers. There may be specific census
 14 data number, I don't think so. But there's a
 15 publication that Rutgers put out November 2018,
 16 which breaks down -- break down is probably not a
 17 good term, which exams occupancy of different
 18 types of housing units. And they assign a
 19 generalized number to that unit.
 20 So if you have a three-bedroom condo
 21 above market value, they would suggest to you that
 22 X number of people are going to live in there
 23 compared to a one-bedroom rental apartment, below
 24 market value. And I used -- to answer the
 25 question that's been asked yet, I used and relied

1 original design, with 100 on-site spaces had
 2 sufficient parking to meet the demands of that
 3 building in my opinion and the opinion of the
 4 engineers who have reviewed it. The point about
 5 autonomous vehicles was the number of vehicles
 6 that this building will demand or the residents of
 7 this building will demand is going to drop in the
 8 future, not rise.
 9 So I think that this board can be very
 10 comfortable with the idea that the maximum amount
 11 of parking that's demanded by this building is
 12 going to happen when it first opens. And it will
 13 drop as the building ages.
 14 MS. ELIYAHU: I see.
 15 MS. BERGER: Did that answer your
 16 question?
 17 MS. ELIYAHU: One of them.
 18 MS. BERGER: Okay.
 19 MS. ELIYAHU: On page 48, line 12, also
 20 in response to a question from Mr. Wetrin, you
 21 noted that there would not be charging stations
 22 for electric cars in the parking garage because,
 23 of the cars in New Jersey, fewer than 1 percent
 24 are electric. What data do you have on how many
 25 self-driving cars or autonomous vehicles are

1 currently in New Jersey?

2 THE WITNESS: Oh, there aren't any.

3 MS. ELIYAHU: Also on page 46, line 24,
4 you stated that with the advent of autonomous
5 vehicles, it will reduce the number of vehicles
6 people own and will reduce the need for parking in
7 multifamily buildings. Since tenants are expected
8 to move in before autonomous vehicles become the
9 norm, how would you suggest that the parking --
10 okay. You already answered that one with your new
11 layout.

12 CHAIRMAN MEYER: Next question.

13 MS. ELIYAHU: Yes. Well, this one is
14 already -- I'm going through things that were
15 answered within the plan.

16 Now, is it conceivable that concrete
17 planning for the possibility of widespread use of
18 autonomous vehicles may be planning -- may be like
19 planning for the future of hovercrafts, the use
20 of --

21 MS. BERGER: I object to the question.

22 CHAIRMAN MEYER: What?

23 MS. BERGER: It's not relevant to the
24 direct testimony.

25 MS. ELIYAHU: Well, his testimony was

1 based on autonomous vehicles and there are other
2 crafts that --

3 CHAIRMAN MEYER: So are you advocating
4 they should have less parking spaces?

5 MS. ELIYAHU: No. What I'm saying is
6 that to build on what may or may not be in the
7 future is -- and what doesn't exist today as a
8 norm -- is also kind of irrelevant. I've
9 travelled on a hovercraft, go find one today.

10 THE WITNESS: That's a
11 mischaracterization of my testimony, I might add.

12 CHAIRMAN MEYER: I think we're outside
13 of the scope of his direct testimony. Let's try a
14 little more focused, a little better, you know...

15 MS. ELIYAHU: Okay.

16 CHAIRMAN MEYER: Let's focus on the key
17 issues that has something to do with planning.

18 MS. ELIYAHU: Okay. What data do you
19 have on the ratio of people to cars in suburban
20 areas like Teaneck?

21 CHAIRMAN MEYER: Well, I think it's
22 already discussed with respect to the ratio of
23 required parking.

24 MS. ELIYAHU: Okay.

25 CHAIRMAN MEYER: I mean we're beating a

1 dead horse.

2 MS. ELIYAHU: Okay.

3 CHAIRMAN MEYER: You know, now, there's
4 proposed of 125 spaces, where 132 is required.
5 And his testimony, Mr. Lydon's testimony was you
6 need even less, but the standard is 132.

7 MS. ELIYAHU: Okay.

8 CHAIRMAN MEYER: Go ahead.

9 MS. ELIYAHU: As far as the lot
10 coverage, what is your reason for justifying an
11 increase of almost 400 percent over the allowable
12 by zoning? Aside from the fact that you simply
13 want a much larger building?

14 THE WITNESS: We were asked to increase
15 the amount of parking to meet a theoretical need.

16 MS. ELIYAHU: What data -- what are your
17 data on the environmental impacts of such an
18 increase in lot coverage?

19 MS. BERGER: This is not -- he's not an
20 environmental engineer.

21 MS. ELIYAHU: Okay. Is an increase of
22 over 200 percent a customary deviation -- of
23 building height, is it a customary deviation from
24 the building code?

25 MS. BERGER: I'm going to object to the

1 question. It has no relevance as to what's
2 custom. The board doesn't move forward on custom
3 or hear applications based on custom.

4 CHAIRMAN MEYER: Sustained. Next
5 question.

6 MS. ELIYAHU: Would this building height
7 not cause the building to tower over its
8 neighbors?

9 THE WITNESS: No.

10 MS. ELIYAHU: Okay. Can you name other
11 instances in which you have been granted variances
12 where the property setbacks have been reduced by
13 50 percent, as well as, to zero in the same
14 project?

15 MS. BERGER: I'm going to object.

16 CHAIRMAN MEYER: I'm going to sustain
17 the objection. Every application stands on its
18 own. So it's really not relevant if Mr. Lydon had
19 a project he worked in Morristown and it received
20 this application or that variance, it is not
21 relevant to what we're here for today. Next
22 question.

23 MS. ELIYAHU: Okay. Have you or anybody
24 else spoken with the neighbors behind the proposed
25 building, particularly any long time or elderly

1 residents about a building that will be located
2 mere feet from their homes?

3 MS. BERGER: Just it's not the
4 appropriate person to ask that question.

5 CHAIRMAN MEYER: Why not?

6 MS. BERGER: But I just wanted to add if
7 you were here at the first hearing, I put on the
8 record that I represent the owner of the property
9 behind this building. And they know about the
10 whole project that was proposed.

11 CHAIRMAN MEYER: But that's not the
12 question. Did Mr. Lydon speak to anyone who lives
13 in back?

14 THE WITNESS: The answer is no.

15 CHAIRMAN MEYER: Okay. Next question.

16 MS. ELIYAHU: What are the relevant data
17 for such impact in suburban areas with low density
18 multifamily housing units on the long-term
19 residents or elderly residents when such a
20 building is --

21 CHAIRMAN MEYER: Do you know, Mr. Lydon?

22 THE WITNESS: I don't believe there is
23 any such data.

24 CHAIRMAN MEYER: Okay. Next question.

25 MS. ELIYAHU: That's pretty east much

1 it.

2 CHAIRMAN MEYER: Thank you very much.

3 MS. ELIYAHU: Thank you.

4 CHAIRMAN MEYER: Next person.

5 MR. SELOVE: Hi, David Selove. You got
6 my letters, right?

7 CHAIRMAN MEYER: I did not get any
8 letters.

9 MR. STEINHAGEN: Sir, can you spell your
10 last name for me?

11 MR. SELOVE: S-E-L-O-V-E.

12 CHAIRMAN MEYER: Mr. Selove, you tried
13 to call my office, I asked you -- and you didn't
14 get through to me. I would ask you not to call my
15 office.

16 MR. SELOVE: Okay. I did it because I
17 sent a letter to somebody, John, the buildings
18 department said he was going to send my letter to
19 each of you.

20 CHAIRMAN MEYER: We don't accept
21 letters.

22 THE BOARD SECRETARY: I got those
23 letters, I'm not allowed to give them to the
24 board. Any questions you have or any comments you
25 make have to come when the application appears.

1 I'm not allowed to give that out. That's giving
2 testimony or asking --

3 MR. SELOVE: It's nothing to do with an
4 application --

5 CHAIRMAN MEYER: Mr. Selove, if you want
6 to send a letter to the board, sent it to Ms.
7 McLean and she'll make a --

8 MR. SELOVE: Well, Rosiland, if you
9 got --

10 CHAIRMAN MEYER: Excuse me.

11 THE BOARD SECRETARY: I made a decision.

12 CHAIRMAN MEYER: Mr. Selove, one person
13 at a time, okay, please? Mr. Selove, you want to
14 send a letter to the board, send all the letters
15 to the board. We don't accept letter that have
16 nothing to do with an application. Or even if it
17 has something to do with an application, you send
18 it to the board secretary. Don't call my office,
19 don't waste my staff's time. It is highly
20 inappropriate that you try to get to me and don't
21 leave a message or anything and want to talk to
22 me. It is highly inappropriate. And I did not
23 take your call. Please, do not call my office
24 ever again.

25 MR. SELOVE: I was under the

1 interpretation that you had gotten the letter, I
2 apologize.

3 THE BOARD SECRETARY: They didn't.

4 CHAIRMAN MEYER: I don't have your
5 letter, I don't want to talk about to you about
6 the applications, I don't want to talk to you
7 about anything. If there's anything that has to
8 be spoken about, it is in this forum. Please,
9 follows those --

10 MR. SELOVE: I'll go --

11 CHAIRMAN MEYER: And the other rules is,
12 please one person at a time.

13 MR. SELOVE: Okay.

14 CHAIRMAN MEYER: Please follow those
15 rules.

16 MR. SELOVE: Understood.

17 CHAIRMAN MEYER: Don't call my office
18 about anything to do with the board. Thank you.

19 MR. SELOVE: All right.

20 CHAIRMAN MEYER: What are your questions
21 of Mr. Lydon?

22 MR. SELOVE: So, Mr. Lydon, this is for
23 you.

24 MS. BERGER: Wait, wait. I object.

25 MR. SELOVE: It is relevant.

1 MS. BERGER: No, I objected the time
2 before --

3 MR. STEINHAGEN: The issue is that
4 there's a witness on the -- who's testifying.

5 MS. BERGER: On his feet.

6 MR. SELOVE: He may be able to --

7 MR. STEINHAGEN: Hold on, if you're
8 going to ask questions of Mr. Lydon, that's
9 appropriate. If you have comments for the board,
10 that would be at a later time.

11 MR. SELOVE: And then I'll phrase it as
12 a question to Mr. Lydon and company.

13 Have you ever considered projecting
14 these drawings or this data in such a way that the
15 entire audience can see the information and not
16 just the first six people in the first row? All
17 of the massing meetings that I've ever been to in
18 my 40 years as a commercial banker, those -- that
19 data has been put up on a screen. And everybody
20 gets to see the statistics and the pictures.
21 Here, he get to see nothing?

22 MS. BERGER: We present the evidence in
23 the manner as required by the board.

24 CHAIRMAN MEYER: They're available in
25 the clerk's office -- in the secretary's office.

1 THE BOARD SECRETARY: People call, come
2 in all the time, emails, say can I come see the
3 plans, can I see the comments. I've given several
4 people here copies of the letter of refusal and
5 all the comments that go along with the
6 application. So if anybody -- you've been in,
7 so...

8 MR. SELOVE: Right. But that's on a
9 one-by-one basis. When you have the community at
10 large looking at the information and trying to ask
11 intelligent questions, it's really helpful to have
12 the information in front of them. And rather than
13 having 5,400 people walk into Roz's office --

14 THE BOARD SECRETARY: I don't mind, I
15 love the company.

16 CHAIRMAN MEYER: Mr. Selove, your next
17 question please.

18 MR. SELOVE: You're familiar with the
19 report of Mr. Preiss, did you --

20 MR. ROSEN: Who are you asking?

21 THE WITNESS: Which report?

22 MR. SELOVE: There's a report that
23 was --

24 MR. STEINHAGEN: It's what the --

25 MR. SELOVE: A question by the Phillips

1 Preiss to discuss the effects of all the building
2 in the area in the northeast section of Teaneck.

3 THE WITNESS: That wasn't my testimony.

4 MS. BERGER: That wasn't his testimony.

5 MR. SELOVE: So you never saw that
6 report?

7 THE WITNESS: It wasn't my testimony.

8 MR. SELOVE: I know it wasn't your
9 testimony.

10 THE WITNESS: You're supposed to ask
11 questions about my testimony.

12 MR. SELOVE: I'm asking if you ever saw
13 that report.

14 THE WITNESS: It wasn't about my
15 testimony. That question has nothing to do with
16 my testimony.

17 MR. SELOVE: It has to do with the
18 effects of your testimony.

19 CHAIRMAN MEYER: Next question.

20 MR. SELOVE: I think that's pretty much
21 it.

22 CHAIRMAN MEYER: Thank you, next person.
23 Mr. Rose. And the next person wants to be -- if
24 there's any questions, please stand behind Mr.
25 Rose, so we can move along. Otherwise, I assume

1 that nobody else wants to ask anything.

2 MR. ROSE: Good evening. My
3 congratulations regarding your organization
4 meeting. It's nice to see a township board that
5 has unanimous support for its elected officials.
6 I'm speaking tonight as a resident.

7 CHAIRMAN MEYER: Howard Rose.

8 MR. ROSE: I'm sorry, Rose, R-O-S-E.

9 MR. STEINHAGEN: That I got.

10 MR. ROSE: I'm speaking as a resident,
11 not as a member of the board of adjustment, nor as
12 a member of the Teaneck planning board. And my
13 question to you, sir, is from your testimony, am I
14 to understand that the town is acting as an agent
15 leasing its property for the use of these
16 potential, I guess it's 44 parking spaces?

17 THE WITNESS: I'm not aware of the --
18 I'm not familiar with the mechanism by which it's
19 to occur.

20 MR. ROSE: Would it be a fair
21 presumption that whatever the mechanism is, it's
22 in perpetuity for as long as the building exists?

23 THE WITNESS: I can't answer that
24 question, Mr. Rose.

25 MR. ROSE: Okay. What is the impact in

1 terms of the use of other spaces, the spaces that
2 are required in addition to what you're providing
3 on the impact of neighbors, should they in the
4 future have a desire to increase the utilization
5 of their properties for building purposes or
6 whatever?

7 CHAIRMAN MEYER: I'm not sure that's
8 relevant.

9 MS. BERGER: He's not the traffic
10 expert, he's a planner.

11 CHAIRMAN MEYER: He's a planner.

12 MR. ROSE: I thought that was part of
13 planning, I apologize then. I don't have a six
14 page list of questions. Thank you very much for
15 your time.

16 CHAIRMAN MEYER: Thank you, Mr. Rose.
17 Next.

18 MR. SOHN: Alan Sohn, S-O-H-N. Mr.
19 Lydon --

20 CHAIRMAN MEYER: Just one second, Mr.
21 Sohn. Anyone wants to speak after Mr. Sohn?
22 Okay. So just thank you.

23 MR. SOHN: On May 16th, page 110, lines
24 9 through 11.

25 MS. BERGER: Could you give us a second,

1 we have to get that transcript.

2 MR. SOHN: Absolutely.

3 THE WITNESS: 110?

4 MR. SOHN: May 16th, page 110, lines 9
5 through 11.

6 MS. BERGER: Okay, we got it.

7 MR. SOHN: Quote, it's an old obsolete
8 and I call them dead office building. You
9 continue on line 17 and 18 stating that, quote,
10 it's been abandoned by the marketplace.

11 Mr. Lydon, when did it die? Who killed
12 it? When was it abandoned by the marketplace?

13 CHAIRMAN MEYER: One question at a time,
14 Mr. Sohn, you know that.

15 MR. SOHN: It's all one question.

16 CHAIRMAN MEYER: One question at a time.

17 MR. SOHN: It's all one big question.

18 THE WITNESS: I'm not sure and I don't
19 know if it's necessarily relevant as to why it was
20 abandoned by the marketplace, it is the current
21 status of the property. There was testimony that
22 it's not ADA compliant. And although I'm not an
23 architect, my understanding is it's very difficult
24 and expensive to bring non-ADA buildings into
25 compliance.

1 MR. SOHN: When your client asked for
2 lifting the deed restriction in April 2015, was
3 the building still very much alive?

4 THE WITNESS: I have no idea, I have no
5 knowledge.

6 CHAIRMAN MEYER: You weren't on council
7 at that time, Mr. Sohn?

8 MR. SOHN: Yes, I was.

9 CHAIRMAN MEYER: So you know better
10 about that than anyone else.

11 MR. SOHN: I'm not --

12 CHAIRMAN MEYER: Isn't that true?

13 MR. SOHN: I'm not questioning myself.

14 CHAIRMAN MEYER: I'm questioning you
15 because I'm asking --

16 MR. SOHN: I'm not under oath.

17 CHAIRMAN MEYER: You're not under oath,
18 but that doesn't matter. You want to be under
19 oath? We could swear you in.

20 MR. SOHN: I could be.

21 CHAIRMAN MEYER: But by you asking a
22 question you know much more about it yourself.

23 MR. SOHN: Again, the question is not
24 whether I know the answer --

25 CHAIRMAN MEYER: I'm just asking.

1 MR. SOHN: It's whether Mr. Lydon knows
2 the answer.

3 CHAIRMAN MEYER: I understand.

4 MR. SOHN: That's why I'm asking the
5 question.

6 CHAIRMAN MEYER: Okay, go ahead. I'm
7 also asking questions.

8 THE BOARD SECRETARY: Please be quiet in
9 the audience. I know you want to laugh and do
10 everything, but not now.

11 MR. SOHN: Mr. Lydon, would it be safe
12 to say that your client killed the functioning
13 office building at 100 State Street, that your
14 client abandoned the functioning businesses at the
15 site, and now your client, the killer, wants
16 exceptional levels of mercy in the forms of
17 arrogance?

18 MS. BERGER: I'm going to object to the
19 question, this is being argumentative with the --

20 CHAIRMAN MEYER: Sustained. Next
21 question.

22 MR. SOHN: Would you agree, again, that
23 it was your client that was responsible for ending
24 the functioning office building?

25 THE WITNESS: I don't know that that was

1 true. I do not it was a nonconforming use. I do
2 know it's an older building. And I do know it was
3 non-compliant for ADA purposes.

4 MR. SOHN: The use -- you spoke about
5 the 2007 master plan. Again, including on May
6 16th, page 112, lines 5 to 9.

7 THE WITNESS: Yes.

8 MR. SOHN: And there was, I apologize,
9 there was the master plan that was prepared by the
10 planning board in 2007, it explicitly called for
11 encouraging an expansion of multifamily housing
12 when there's no detriment to impacts on certain
13 neighborhoods, it says single family
14 neighborhoods.

15 Mr. Lydon, is it correct if you want --
16 if your client wants to be allowed to be able to
17 build a multifamily building, because the 2007
18 master plan specifically encourages multifamily
19 development?

20 THE WITNESS: I can't speak to my
21 client's motivations.

22 MR. SOHN: This is in an RM zone, and
23 your client and you have testified you're seeking
24 to build in the RM zone?

25 THE WITNESS: Okay. That's true.

1 question. If I don't understand it --

2 MR. STEINHAGEN: Asking for a variance.

3 MR. SOHN: Okay.

4 THE BOARD SECRETARY: Please be quiet,
5 you can speak when your turn comes.

6 CHAIRMAN MEYER: Next.

7 MR. SOHN: In your May 16 testimony
8 again, page 113, line 6. You say that you'd
9 improve economic vitality, quote you put wallets
10 on the street. You make a variant of the
11 statement a little bit lower down --

12 CHAIRMAN MEYER: What page is that?

13 MR. SOHN: 113, May 16th, further down
14 on lines 18 to 21, you say you put feet on the
15 streets, wallets on the street. Mr. Lydon --

16 CHAIRMAN MEYER: Hold on, let's get it
17 in context. We can't just take two words out of
18 the --

19 MR. SOHN: You can, but I'm just looking
20 at the wallets on the street.

21 CHAIRMAN MEYER: But let's understand
22 what Mr. Lydon -- we can ask what do you mean by
23 that.

24 MR. SOHN: Mr. Lydon, what do you mean
25 by that and are all wallets created equal?

1 MR. SOHN: Section 3324 of the township
2 code, the zone district requirements, specify
3 dwelling units per acre of 12, building coverage
4 of 20 percent, lot coverage of 65 percent, and
5 building height, principal building of 35 feet.

6 Mr. Lydon, would you agree that if you
7 comply, if your client complied with the
8 requirements established by the zoning ordinance,
9 there would be no one in the audience, as a matter
10 of fact, there would certainly be no variances
11 needed?

12 MS. BERGER: I'm going to object to the
13 question. He's talking about whether other people
14 would be in the room and asking Mr. Lydon to make
15 a statement on that?

16 MR. STEINHAGEN: I guess, Ms. Bergen, if
17 there was no variance, we wouldn't be here. You
18 would be at the planning board.

19 MS. BERGER: It wouldn't be in this
20 room.

21 MR. SOHN: I think we're in agreement.
22 Mr. Lydon, as you seek to remedy the functionally
23 obsolete medical office building, why not comply
24 with the RM zoning ordinance?

25 CHAIRMAN MEYER: I don't understand the

1 CHAIRMAN MEYER: I'm objecting to that
2 question. Okay, that's -- first of all, if you
3 want to be smart about the questions, ask one
4 question at a time and not a compounded, which
5 means two questions at once. Because you can't
6 answer that.

7 So let's -- Mr. Lydon, what did you mean
8 about the wording that you said feet on the
9 street?

10 THE WITNESS: Yeah. Real short history.
11 Since the recession of 2008 or thereabouts, and
12 the advent of online delivery services, merchants
13 downtown, brick and mortar merchants, like Mr.
14 Rose, although I'm not talking about his business,
15 throughout Bergen County in particular have
16 struggled. Our offices are in downtown Westwood.
17 During the previous recessions before 2008, we
18 never had vacancies. We still have vacancies from
19 that recession. And Westwood is not dissimilar
20 from Teaneck, from Rutherford, from Englewood,
21 from Ridgewood. The merchants are under attack,
22 if you will.

23 Planners have been trying to figure out
24 how to respond to the loss of economic vitality in
25 the downtowns. One of the ways we're trying to

1 make them more viable is by reinserting housing
2 into downtown environments. And that is an
3 alternate promise for being able to rehabilitate,
4 rejuvenate these downtown areas. We happen to be
5 about 300 feet from State Street, we happen to be
6 about 900 feet or so from Teaneck Road to --

7 CHAIRMAN MEYER: You mean Queen Anne.

8 THE WITNESS: Queen Anne, thank you.

9 Not Queen Anne.

10 CHAIRMAN MEYER: Queen Anne on one
11 side --

12 THE WITNESS: Yes.

13 CHAIRMAN MEYER: And Teaneck on the
14 other side.

15 MR. SOHN: Yes. We happen to be
16 boxed -- have commercial developments, traditional
17 format, on both sides of us in very close walking
18 distances. So the idea of allowing more people,
19 more wallets, may very well have an economic
20 impact on downtown Queen Anne and Teaneck Road.
21 Can I guarantee it, no. But it's something that
22 planners are trying to achieve across the country.
23 That's what I mean by wallets on the street. It's
24 an economic development tool.

25 MR. SOHN: Understood. On again, May

1 testimony is one. We're trying to rehab and help
2 the experts. If he made a mistake, change it. I
3 don't understand why you're asking questions like
4 that.

5 MS. BERGER: So there's a question here
6 and there was an answer. So are you asking him
7 what his answers was? I don't know, I'm not
8 following.

9 CHAIRMAN MEYER: I don't understand.

10 MR. SOHN: I'm simply confirming the
11 calculation of the number of vacancy rates in
12 Teaneck is related to the vacancy rate?

13 MS. BERGER: The number he gave is the
14 number of his testimony.

15 MR. SOHN: Okay.

16 THE WITNESS: Let me explain that. That
17 was from the American fact finder census data for
18 2017.

19 MR. SOHN: Can you be more specific?

20 MS. BERGER: Then telling you the date
21 of the publication?

22 MR. SOHN: Are you referring to the
23 Census Bureau American Community Survey, the 2013
24 to 2017, DP-04 table?

25 THE WITNESS: That's a very specific

1 16th, page 118, lines 2 to 3, you state that your
2 rental vacancy rate is 0.6 percent, you don't have
3 any vacant rental housing in this community. In
4 the same vein, you repeat that on June 20th, page
5 51, lines 22 to 25. On June 20th, page 52, lines
6 110 to 2, Mr. Rosen replies -- -

7 CHAIRMAN MEYER: Wait, wait, that's
8 not -- one second. Let's ask the question, not
9 about Mr. Rosen.

10 MR. SOHN: Both of them are tied
11 together.

12 MS. BERGER: We're kind of losing, so if
13 you could ask a question.

14 CHAIRMAN MEYER: You can't so let me ask
15 Mr. Rosen what he said.

16 MR. SOHN: Mr. Rosen states so that
17 means about 20 apartments turn over every year, is
18 that right. To which you largely agree in lines 3
19 to for. Is that correct, is your testimony --

20 CHAIRMAN MEYER: Testimony is --

21 MS. BERGER: That's what we're trying to
22 explain to you. We need a moment to look from one
23 to another.

24 MR. SOHN: Take your time.

25 CHAIRMAN MEYER: Mr. Sohn, it's -- the

1 question and I think it sounds right. I'm trying
2 to see if I brought that table with me tonight,
3 DP-04 --

4 MR. SOHN: Other housing
5 characteristics.

6 THE BOARD SECRETARY: You're going to
7 have let me him answer or talk, because two people
8 at the same time, I don't know how she's going to
9 do it.

10 THE WITNESS: I'm trying to answer your
11 question. It asked what -- it states for 2017,
12 under housing occupancy, rental vacancy rate. And
13 the estimate is 0.6 percent. And then Mr. Rosen,
14 who's better at math -- better than me at math,
15 did the quick calculations. And they sounded
16 right, on the fly, standing after a long night of
17 testimony. If they're wrong, I apologize.

18 MR. SOHN: We'll get to the question.

19 MS. BERGER: Wait, that's the purpose of
20 this. The purpose of this is to question, not for
21 making statements and reading the transcript.

22 MR. SOHN: I'm not making a statement.
23 On 128, lines 8 through 9, again May 16th, you
24 stated that there were 3,542 apartments. That
25 also comes from that same DP-04, ACS 2013 to 2017

1 data?

2 MS. BERGER: I object. You're making a

3 statement. There's no question you've raised.

4 Again, Mr. Chairman.

5 CHAIRMAN MEYER: What is the?

6 MR. SOHN: On May 16th, page 118, lines

7 4 to 5, you state, according to the U.S. Census

8 American Community Survey, 5 percent is considered

9 a normal, healthy operating ratio or percentage.

10 MR. ROSEN: Is there a question in our

11 future anywhere?

12 MR. SOHN: If we have 3,542 rental

13 units, how many more units would Teaneck need to

14 get to the normal healthy operating ratio or

15 percentage of 5 percent?

16 MS. BERGER: I'm going to object to the

17 question.

18 CHAIRMAN MEYER: I don't think that's a

19 question for a planner.

20 MR. SOHN: So if I do the math

21 correctly --

22 MS. BERGER: Well, I'm going to object,

23 there's no testimony from this witness. It's a

24 period of time in which you're allowed to ask

25 questions, not to be reading just the transcript

1 this township at any point, and it doesn't help

2 us.

3 MR. SOHN: Given the 128 units on the

4 development that's already completed in Teaneck

5 Square, 228 --

6 CHAIRMAN MEYER: Wait.

7 MR. SOHN: 228 Teaneck Road and 248 at

8 AvalonBay and 36 at 140 State Street, that's

9 another 630 units. Would that be adequate to meet

10 the 5 percent ratio?

11 MS. BERGER: I object to the question.

12 CHAIRMAN MEYER: Well, can Mr. Lydon

13 answer the question?

14 THE WITNESS: Well, I think the question

15 presumes that none of the vacant -- none of the

16 occupied units will become vacant. And I don't

17 think that's a realistic assumption. And I don't

18 know if I could possibly answer that question.

19 CHAIRMAN MEYER: Next question.

20 MR. SOHN: Okay. Again, you state, May

21 16th, page 112, lines 19 to 20, that they also

22 seek to strengthen the vitality of commercial

23 districts. You cited the 2007 master plan, which

24 on page 19, objective 3, encourages the long-term

25 vitality of commercial districts, encouraging the

1 back of the prior testimony.

2 MR. SOHN: Based on data from --

3 MS. BERGER: I'm going to object.

4 MR. SOHN: From --

5 CHAIRMAN MEYER: Mr. Sohn.

6 MR. SOHN: So from --

7 MS. BERGER: I'm objecting again.

8 MR. SOHN: I haven't asked a question,

9 wait until I ask a question before you --

10 CHAIRMAN MEYER: I'll --

11 MR. SOHN: Based on --

12 CHAIRMAN MEYER: Mr. Sohn, Mr. Sohn --

13 MR. SOHN: From the master --

14 MS. BERGER: It's based upon his direct

15 testimony, the questioning.

16 CHAIRMAN MEYER: Ms. Berger, let me

17 handle it. Mr. Sohn, try to phrase a real,

18 concrete --

19 MR. SOHN: I am.

20 CHAIRMAN MEYER: No, you're not. Try to

21 come up with a question that's real concise, that

22 is tight, so the man can answer your question.

23 Otherwise, we can do this all night and read the

24 transcript again and again. And it doesn't serve

25 you at any point, it doesn't serve the citizens of

1 development of appropriately scaled multilevel

2 mixed use structures. The 2017 master plan

3 re-examination, page 36 cites mixed use

4 development on State Street. Is there any mixed

5 use development in the building proposed at 100

6 State Street?

7 THE WITNESS: No.

8 MR. SOHN: On May 16th, page 132, lines

9 14 to 18, you state you've heard that the

10 resolution requires that we restripe State Street.

11 Right now, it's parallel parking spaces that would

12 be 70 or so, and then a wide drive aisle, both

13 east and west.

14 MR. ROSEN: What's the question?

15 MR. SOHN: Resolution 218-2016, which is

16 the agreement under which the parking lot would be

17 developed states in the third whereas clause --

18 MS. BERGER: Wait a second. I'm not

19 sure what you're reading from or what you're

20 talking about.

21 MR. SOHN: Resolution 218-2016, which

22 was introduced an exhibit at the previous meeting.

23 MS. BERGER: Are you asking a question

24 or you're making a statement?

25 MR. SOHN: Mr. -- the statement was

1 made, again Mr. Lydon said that there would be
 2 restriping of State Street done. The resolution
 3 states --
 4 MS. BERGER: Wait, wait.
 5 CHAIRMAN MEYER: Ms. Berger, what
 6 resolution are we talking about, the one --
 7 MR. SOHN: Resolution 218 --
 8 CHAIRMAN MEYER: -- approved the 44,
 9 repavement and recondition of the property, is
 10 that the one, Mr. Sohn?
 11 MR. SOHN: Includes and to layout --
 12 CHAIRMAN MEYER: Mr. Sohn, is that --
 13 MR. SOHN: Yes. And to layout and
 14 restripe angled parking along State Street at the
 15 developer's sole cost and expense.
 16 CHAIRMAN MEYER: So what's the question?
 17 MR. SOHN: Will both of those be done as
 18 part of this project?
 19 CHAIRMAN MEYER: I think that's
 20 stipulated to already.
 21 MR. STEINHAGEN: It's an agreement.
 22 CHAIRMAN MEYER: They will do it as part
 23 of the agreement, correct?
 24 MS. BERGER: Yes.
 25 CHAIRMAN MEYER: Yes.

1 CHAIRMAN MEYER: Three questions?
 2 MR. SOHN: More than three questions.
 3 CHAIRMAN MEYER: Okay. We'll take a
 4 break now.
 5 THE BOARD SECRETARY: Give her a break
 6 now then.
 7 (A short recess was taken.)
 8 CHAIRMAN MEYER: Next question.
 9 MR. SOHN: Mr. Lydon, you were asked a
 10 question on May 16th, on page 148, starting on
 11 line 7 from board member Mr. Rehman. I'm just
 12 wondering, based on your experience, do you know
 13 why when there's such a compelling argument for
 14 this type of development, why towns don't change
 15 the ordinances, so it can be used as opposed to
 16 having dead areas? On line 17 of that page, you
 17 respond, I think -- and I think part of it is that
 18 the planning board is partly responsible for doing
 19 the master plan. And they have certain things
 20 they would like to say, typically to the plan use
 21 policy. There are a host of things where mayor
 22 and council need to review it. First and foremost
 23 is the budget personnel. As borough attorneys
 24 will tell you, it takes some time for two things
 25 to happen. One to build a consensus, and two, to

1 MR. SOHN: The question's raised whether
 2 that will be done.
 3 CHAIRMAN MEYER: There's no question.
 4 That's part of the application, they're going to
 5 adhere to that resolution that you just --
 6 MS. BERGER: That's part of the
 7 application.
 8 CHAIRMAN MEYER: -- discussed. And I
 9 guess the application at the moment, you know, is
 10 for 125 spaces on the premises and the other
 11 things that they have promised over this
 12 application, so it's all inclusive. Believe me,
 13 I'm not, you know -- I'm making sure -- we're
 14 making sure that whatever they said they were
 15 going to do in this application, when we vote on
 16 it is what will be in the approval.
 17 MR. ROSEN: I think it would be
 18 appropriate to find out whether Mr. Sohn --
 19 CHAIRMAN MEYER: How long do you have,
 20 Mr. Sohn, because we have a court reporter who
 21 needs to take a break?
 22 MR. SOHN: Just about --
 23 CHAIRMAN MEYER: One question, two
 24 questions?
 25 MR. SOHN: It's more than --

1 go through the process.
 2 Mr. Lydon, are you arguing that the
 3 township council has been too busy to make changes
 4 to the master plan?
 5 THE WITNESS: No.
 6 MR. SOHN: Are you aware that four of
 7 the seven current council members have served on
 8 the planning board?
 9 THE WITNESS: No.
 10 MR. SOHN: Are you aware that Yitz
 11 Stern, a former council member, here this evening
 12 serves on the planning board?
 13 THE WITNESS: Yes.
 14 MR. SOHN: Are you aware that the mayor
 15 and two deputy mayors have an additional zoning
 16 subcommittee that meets privately with the planner
 17 and members of the planning board to consider
 18 zoning issues?
 19 THE WITNESS: No.
 20 MR. SOHN: Are you aware that since 2007
 21 when our most recent full master plan was created,
 22 that there have been more than 300 council
 23 meetings, 150 planning board meetings, and other
 24 meetings of zoning --
 25 CHAIRMAN MEYER: I'm go to --

1 MS. BERGER: I --

2 CHAIRMAN MEYER: Let him ask the

3 question. Finish the question.

4 MR. SOHN: -- where zoning and

5 development are regular topics of discussion?

6 MS. BERGER: I object to the question.

7 It has no relevance --

8 CHAIRMAN MEYER: I understand it has no

9 relevance. Do you know that?

10 MR. SOHN: Are you aware --

11 CHAIRMAN MEYER: Wait, wait, wait. I

12 want an answer. Do you know that?

13 THE WITNESS: No.

14 CHAIRMAN MEYER: Okay. Next question.

15 MR. SOHN: You certainly are aware that

16 since the 2007 master plan, there have been three

17 re-examinations in 2011, 2014, and 2017. You've

18 testified --

19 THE WITNESS: Is there a question?

20 MR. SOHN: Yes. Are you aware?

21 THE WITNESS: I'm aware.

22 MR. SOHN: Are you aware that in all

23 those re-examinations, which you testified you

24 reviewed, the council and planning board have

25 never backed off the long-standing specifications

1 looked at other nearby sites and has not changed

2 those characteristics of the RM zone. Would

3 should your client grant variances based on

4 rezoning and variances granted at other sites?

5 MS. BERGER: I'm going to object. I

6 don't even understand what he's asking.

7 MR. SOHN: Mr. Lydon has cited the

8 precedent of other --

9 CHAIRMAN MEYER: Mr. Sohn.

10 MR. SOHN: -- at 70 feet. I'm

11 questioning again, he's using that precedent as a

12 basis for an argument for being granted this

13 variance. And I'm questioning on what basis that

14 precedent -- Mr. Meyer, you have stated that each

15 application is looked at on its own merit. And

16 Mr. Lydon has argued that the other approvals

17 granted by this board should be used as a

18 precedent. That's the question I'm asking.

19 THE WITNESS: That's again a

20 mischaracterization of my testimony.

21 CHAIRMAN MEYER: Okay. So that's the

22 answer. But, listen, have you lost it there. The

23 first part of the question I thought was a good

24 question. And then you totally lost me there.

25 But I guess the witness understands the question

1 of the RM zone of 12 units per acre and 35 feet in

2 height?

3 CHAIRMAN MEYER: Objection.

4 MS. BERGER: I'm going to object.

5 CHAIRMAN MEYER: I'll sustain the

6 objection. This is -- what council takes of

7 action has no relevance to this witness.

8 MR. SOHN: On June -- again, Mr. Lydon

9 had testified regarding the planning board and the

10 township council inactivity. On June --

11 THE WITNESS: That's a

12 mischaracterization of my testimony. I object to

13 that.

14 MR. SOHN: Okay. On June 20th, page 55

15 starting on line 3, in response to Ms. Leheny's

16 concern about the size and scope of the project,

17 you responded, quote: I would first say that the

18 mayor and council have had an opportunity to zone

19 the nearby properties. And when they have, they

20 have selected 70 feet as an appropriate number in

21 some cases, a 70-foot-building height, they have

22 selected five stories as being an appropriate

23 height. And the density and impervious coverage

24 are also similar.

25 Mr. Lydon, the township council has

1 and he answered.

2 MR. SOHN: You talk about Exhibit A-19,

3 on June 20th, page 17, on lines 15 and 16, where

4 you describe, quote: The next photograph is 1475

5 Palisade Avenue. You cite this as one of several

6 buildings that are as tall or taller than 100

7 State Street; is that correct?

8 THE WITNESS: Yes.

9 MR. SOHN: 1475 Palisade Avenue has 128

10 units on a lot covering of 1.77 acres --

11 MS. BERGER: Wait, wait, are you

12 testifying now?

13 CHAIRMAN MEYER: He's asking a question.

14 Let him ask the question.

15 MR. SOHN: So it has 72 units per acre?

16 CHAIRMAN MEYER: Whoa, whoa, now you're

17 testifying.

18 MS. BERGER: Now he's testifying.

19 CHAIRMAN MEYER: Now you're testifying.

20 Before you just stated a fact that it may be or

21 may not be true, I don't know because you're not

22 sworn. And this is a question for Mr. Lydon, this

23 is a time of questions of Mr. Lydon and not of

24 you.

25 So let's try to be a little more

1 poignant with your questions so Mr. Lydon has a
2 fair chance to at least answer your question.

3 MR. SOHN: While you used the building
4 as precedent for height, are your setbacks and
5 density at 100 State Street consistent with other
6 properties in Teaneck?

7 CHAIRMAN MEYER: I think it's -- well,
8 if you can answer, I think it's a highly
9 objectionable question.

10 THE WITNESS: I don't think I think
11 answer the question, Mr. Chairman.

12 CHAIRMAN MEYER: You cannot?

13 THE WITNESS: No.

14 CHAIRMAN MEYER: Okay. Next question.

15 MR. SOHN: Again, about that picture on
16 page 20, June 20th, line 17 to 25, Mr. Rosen asks
17 I get that. My question: What's the intent of
18 this picture? What are you trying to state by
19 this? And you respond, quote: I was showing that
20 the introduction of height in the neighborhood is
21 not a new phenomenon. You addressed height. Have
22 you offered any evidence for density --

23 THE WITNESS: Yes.

24 MR. SOHN: -- for this project?

25 THE WITNESS: Yes.

1 testified that way.

2 MR. SOHN: On June 20th, page 22, lines
3 3 to 5. You state the third reason is there are
4 similar heights nearby. And I think this is an
5 interesting portion of the testimony --

6 MS. BERGER: Wait, wait.

7 CHAIRMAN MEYER: Quotes, is that the
8 quotes?

9 MR. SOHN: That's a quote.

10 CHAIRMAN MEYER: Okay. What's the
11 question?

12 MS. BERGER: What's the question?

13 MR. SOHN: You've only focused on
14 height. Again, do you have any corresponding
15 properties to offer as comparables in this
16 township based on density?

17 THE WITNESS: I didn't offer them as
18 comparables, but I offered them as examples of the
19 changing neighborhood.

20 MR. SOHN: And, again, has the
21 neighborhood changed in terms of density or only
22 in height?

23 THE WITNESS: Both.

24 MR. SOHN: Can you offer -- you've
25 offered examples of height, you've shown pictures

1 MR. SOHN: As precedent? Other projects
2 that are precedent for density?

3 THE WITNESS: You're mischaracterizing
4 my testimony. I'm not offering them as precedent.
5 I'm using them to describe the evolving nature of
6 the neighborhood.

7 MR. SOHN: Mr. Lydon, I would argue that
8 the --

9 MS. BERGER: Wait, wait.

10 CHAIRMAN MEYER: If you have a question,
11 ask a question.

12 MR. SOHN: Mr. Lydon, what is the
13 difference between not a new phenomenon and
14 precedent?

15 THE WITNESS: The precedent -- first of
16 all, I don't think that's an appropriate question.

17 CHAIRMAN MEYER: Let's see if you can
18 answer it.

19 THE WITNESS: The changing neighborhood
20 is reflected in the buildings that are either
21 built, under construction, or will soon about be.
22 The precedential value is saying a board approved
23 this application because of this, we have a
24 similar situation, I get the same thing. That's
25 not what I was testifying to and I've never

1 of examples of height. Can you offer or have you
2 offered in your testimony any examples of projects
3 that are as dense --

4 THE WITNESS: Yes.

5 MR. SOHN: -- as this project is?

6 THE WITNESS: I'm sorry, yes.

7 MR. SOHN: And those are?

8 THE WITNESS: You have to go back
9 through the -- probably the first transcript I
10 testified at.

11 MR. SOHN: You're saying that you did
12 testify that there are projects that have the same
13 86 units per acre?

14 THE WITNESS: Similar densities.

15 MR. SOHN: How do you define which
16 properties are of similar density?

17 THE WITNESS: It's my testimony. I
18 don't recall that right now. That was back in --
19 whatever month it was.

20 MR. SOHN: N.J.S.A., you referred to
21 this 44:55D-70 statement, no variance or other
22 relief may be granted under the terms of this
23 section including a variance or other relief
24 involving an inherently beneficial use without a
25 showing that such variance or other relief can be

1 granted without a substantial detriment to the
2 public good and will not substantially impair the
3 intent and the purpose of the zone plan and zoning
4 ordinance.

5 Your client has asked for a density of
6 86 units per acre. The zoning ordinance will
7 permit 12 units per acre, seven times -- more than
8 seven times the density permitted; is that
9 correct?

10 THE WITNESS: I got in trouble for
11 agreeing with Mr. Rosen's calculations earlier, so
12 I'll say I don't know.

13 MR. SOHN: In your -- given the
14 precedent that this property would set and given
15 the future applicants before this board, just as
16 you have, will cite the variance granted here, is
17 it not correct that this project will indeed
18 substantially impair the intent and purpose the
19 zone plan and zoning ordinance?

20 THE WITNESS: I think, first of all,
21 speculative and then my definitive answer is no.

22 MR. SOHN: Thank you very much.

23 CHAIRMAN MEYER: Thank you. Mr. Powers,
24 go ahead.

25 THE WITNESS: Isn't it Dr. Powers?

1 DR. POWERS: It is Dr. Powers, thank
2 you.

3 THE WITNESS: You're welcome.

4 DR. POWERS: Can I?

5 MS. BERGER: Would you like me to move
6 down?

7 DR. POWERS: I need little more space,
8 if that's possible. Whose stuff is this?

9 MS. BERGER: That is mine. We've been
10 here a lot of months and I accumulated --

11 DR. POWERS: I have as much as you.

12 CHAIRMAN MEYERS: Okay. Go ahead.

13 DR. POWERS: My name is Chuck Powers, I
14 live at 1374 Academy Lane in Teaneck. And I have
15 a few questions for you, Mr. Lydon, beginning with
16 your statement on the 20th of June line 1 -- page
17 157, line 20 to 22 and you're responding about
18 what boards of adjustment do, you say boards of
19 adjustment, generally speaking, are fairly busy
20 because there's nothing wrong with taking an
21 application to a board of adjustment, in fact
22 that's why a board of adjustment was created, was
23 to hear applications presented by developers.
24 What evidence do you have for that statement?

25 MR. STEINHAGEN: I mean that --

1 MS. BERGER: I'm going to object.

2 MR. STEINHAGEN: I think Mr. Lydon was
3 referring to the term developers in the Municipal
4 Land Use Law, which is a person who submits an
5 application, that's it.

6 DR. POWERS: And I'm asking what,
7 related to the powers as defined in the Municipal
8 Land Use Law of the State of New Jersey, verifies
9 that the purpose is, in fact, that's why a board
10 of adjustment was created was to hear applications
11 presented by developers?

12 MR. STEINHAGEN: Mr. Powers --

13 DR. POWERS: That's what his statement
14 is.

15 CHAIRMAN MEYER: So what's your
16 question?

17 DR. POWERS: My question is what
18 evidence do you have --

19 MR. STEINHAGEN: That's what the statute
20 says.

21 DR. POWERS: In the statute, in the
22 code, or anywhere else that says that is why they
23 were created?

24 MR. STEINHAGEN: The powers of the
25 zoning board of adjustment are set forth in

1 N.J.S.A. 40:55D --

2 DR. POWERS: Sir, I'm going to --

3 MR. STEINHAGEN: So it's -- hear and
4 decide appeal, hear and decide requests for
5 interpretation, and hear and decide requests for
6 variances.

7 CHAIRMAN MEYER: That's what you are
8 reading out of the --

9 MR. STEINHAGEN: Municipal Land Use Law.

10 DR. POWERS: And my question is --

11 MR. STEINHAGEN: That's the power --

12 DR. POWERS: -- does that get

13 characterized by Mr. Lydon, what evidence does he
14 have that a board of adjustment was created --

15 MS. BERGER: Those --

16 MR. STEINHAGEN: Those --

17 DR. POWERS: -- by developers?

18 CHAIRMAN MEYER: Mr. Lydon, can you
19 answer that question or not?

20 THE WITNESS: I thought --

21 CHAIRMAN MEYER: Can --

22 THE WITNESS: I wanted to get done
23 sometime this year, but the municipality cannot
24 have a zoning ordinance if you don't have a board
25 of adjustment. A board of adjustment, unlike a

1 planning board -- a planning board has policy
 2 making roles and responsibilities, a board of
 3 adjustment doesn't. It hears applications,
 4 developers is a defined term and simply means
 5 someone who files an application. So the board of
 6 adjustment exists to hear applications.
 7 CHAIRMAN MEYER: Next question.
 8 DR. POWERS: I'm very much interested to
 9 have us understand from you your understanding of
 10 the portions of the master plan. I want to read
 11 to you --
 12 CHAIRMAN MEYER: Wait.
 13 DR. POWERS: -- direct comments that you
 14 made and ask you specifically how you can justify
 15 them.
 16 CHAIRMAN MEYER: Mr. Powers --
 17 DR. POWERS: First, on June 20th --
 18 CHAIRMAN MEYER: June 20th, what page
 19 and line?
 20 DR. POWERS: Page 10, line 20?
 21 CHAIRMAN MEYER: June 20th, okay. Hold
 22 on.
 23 DR. POWERS: First way to show site
 24 functions well is whether or not there's
 25 consistency with the master plan. And in this

1 CHAIRMAN MEYER: Do you have exhibits?
 2 Let's mark them. If you have exhibits, we want to
 3 show --
 4 DR. POWERS: It's the master plan. It's
 5 the plan of the Township of Teaneck?
 6 CHAIRMAN MEYER: We want to see what
 7 you're reading from, right?
 8 DR. POWERS: Everybody can --
 9 CHAIRMAN MEYER: What are you reading
 10 from?
 11 DR. POWERS: I am reading from the
 12 master plan of the Township of Teaneck, 2007.
 13 CHAIRMAN MEYER: So what's the question?
 14 DR. POWERS: My question is: Is that --
 15 is what you just declared to be the intent of the
 16 master plan verified by what is found on the goals
 17 of the master plan on page 1, number 2 and number
 18 3? Can you read them for me, please?
 19 CHAIRMAN MEYER: What is the date of the
 20 master plan?
 21 DR. POWERS: 2007, I have them all.
 22 MS. BERGER: So this is not his direct
 23 testimony, so we're asking --
 24 DR. POWERS: It's not his direct
 25 testimony?

1 case there is. The master plan's intent here in
 2 Teaneck is to encourage -- not just to allow, but
 3 to encourage the explanation of all --
 4 CHAIRMAN MEYER: Expansion, the
 5 expansion.
 6 DR. POWERS: -- the expansion of
 7 multifamily housing, where it doesn't impinge upon
 8 single-family neighborhoods. Then you also in
 9 discussion on page 21, 15 through 24, I'm glad you
 10 asked that, Mr. Chairman. First, there are no
 11 single-family dwellings nearby. That's important
 12 because your master plan calls for encouraging
 13 multifamily houses developments, if single-family
 14 dwellings are not in the neighborhood. I would
 15 define this neighborhood as one that does not have
 16 single-family neighborhoods, so it encourages and
 17 furthers the goals of the master plan. Do you
 18 believe that you have actually properly understood
 19 and declared the actual intent of the master plan
 20 in relationship to its position on expansion of
 21 multifamily housing?
 22 THE WITNESS: Yes.
 23 DR. POWERS: All right. Can we take a
 24 look then at the master plan from 2007, page 2,
 25 goals 2 and 3.

1 CHAIRMAN MEYER: One second, one second.
 2 One person at a time. We have all night, don't
 3 get finished by at least sometime later.
 4 MS. BERGER: It's my understanding that
 5 the purpose of the questions was to question his
 6 testimony, not to question -- bring in --
 7 CHAIRMAN MEYER: This is
 8 cross-examination of testimony. But if you --
 9 what are you -- what section of the master plan
 10 are you quoting from?
 11 DR. POWERS: I'm quoting from goals
 12 number 2 and 3, on pages 1 and 2 of the 2007
 13 Teaneck master plan, which is its master plan, its
 14 sole master plan.
 15 CHAIRMAN MEYER: There was the master
 16 plan reexamination.
 17 DR. POWERS: There was a reexamination.
 18 But as Mr. Lydon very clearly indicated, it is a
 19 special case and it is not actually the master
 20 plan itself.
 21 CHAIRMAN MEYER: What? The
 22 reexamination is not part of the master plan?
 23 MR. STEINHAGEN: It's a report on it.
 24 CHAIRMAN MEYER: It's a report.
 25 DR. POWERS: Am I correctly

1 characterizing your testimony, Mr. Lydon?
 2 MS. BERGER: I'm going to direct him not
 3 to answer any questions at this time.
 4 DR. POWERS: What I am reading you is
 5 that he says the master plan's intent here in
 6 Teaneck is to encourage -- not just to allow, but
 7 to encourage the expansion of multifamily housing
 8 where it doesn't impinge upon single-family
 9 neighborhoods.
 10 CHAIRMAN MEYER: Mr. Lydon, do you know
 11 if that is true or not?
 12 THE WITNESS: That is a true statement.
 13 DR. POWERS: Okay. Can you therefore
 14 show me where in the master plan you derived that
 15 intent, including the full statement of the goal
 16 where from which that's taken?
 17 CHAIRMAN MEYER: Isn't more than just
 18 the goals he has to look at in order to get the
 19 whole --
 20 DR. POWERS: Where is he deriving it
 21 from?
 22 MS. BERGER: So would you give him the
 23 master plan?
 24 DR. POWERS: Happy to because --
 25 MS. BERGER: That's not -- his testimony

1 objectives of the land use plan element are two.
 2 One, provide zoning protection for existing
 3 multifamily housing and encourage its expansion --
 4 to encourage its expansion.
 5 DR. POWERS: Only --
 6 CHAIRMAN MEYER: Wait, let him answer.
 7 DR. POWERS: Keep reading, keep reading.
 8 MS. BERGER: Mr. Powers, he's testified
 9 testifying, not you.
 10 CHAIRMAN MEYER: Ms. Berger, please
 11 stop.
 12 THE WITNESS: Only in areas where it
 13 would not have a detrimental effect on existing
 14 single-family residential neighborhoods.
 15 DR. POWERS: What is the first portion
 16 of what you just read?
 17 THE WITNESS: How many times am I going
 18 to read it? Provide zoning protections for
 19 existing multifamily housing and encourage its
 20 expansion, only in areas where it would not have a
 21 detrimental effect on existing single-family
 22 residential neighborhoods.
 23 CHAIRMAN MEYER: Okay.
 24 DR. POWERS: Provide zoning
 25 protection --

1 in general --
 2 DR. POWERS: Can you read me the
 3 entirety of goal number 2?
 4 CHAIRMAN MEYER: That's not the
 5 question.
 6 MS. BERGER: That's not the question.
 7 CHAIRMAN MEYER: That's not the
 8 question.
 9 DR. POWERS: It's my next question.
 10 MS. BERGER: Well, are we going to take
 11 them in order?
 12 DR. POWERS: Let's take them in order.
 13 CHAIRMAN MEYER: Patience, Mr. Powers,
 14 patience.
 15 DR. POWERS: I would appreciate it if
 16 you read the entire goal --
 17 CHAIRMAN MEYER: Mr. Powers, give the
 18 man an opportunity to -- you have prepared these
 19 questions. And you know what page and what, you
 20 know, you want to --
 21 THE WITNESS: Chapter 3, Mr. Chairman,
 22 to answer Dr. Powers' question, is entitled land
 23 use plan elements. And it also has goals and
 24 objectives. And it has a section entitled the
 25 goals of the land use plan, element R2. The

1 MS. BERGER: Wait, wait, wait.
 2 CHAIRMAN MEYER: Mr. Powers, you asked
 3 the question and he answered.
 4 DR. POWERS: And the answer --
 5 CHAIRMAN MEYER: So if you don't like
 6 his answer, that's a different --
 7 DR. POWERS: I will follow that
 8 question.
 9 CHAIRMAN MEYER: Okay.
 10 DR. POWERS: So you took --
 11 CHAIRMAN MEYER: Let me help you, Mr.
 12 Powers. So I think what Mr. Powers would like to
 13 state is: Isn't it true that it always says
 14 something and something on page -- section 2 of
 15 the Municipal Land Use Law -- plan? Fair?
 16 DR. POWERS: He is reading --
 17 CHAIRMAN MEYER: I'm asking is that your
 18 question. Is that your next question?
 19 DR. POWERS: My question is why he takes
 20 only half of that goal, when the first half of it
 21 points at a completely different direction with
 22 respect to the project he's talking about. And so
 23 I'm asking him why he --
 24 CHAIRMAN MEYER: Mr. Powers -- so, Mr.
 25 Lydon, why did you only read part B instead of

1 part A?

2 THE WITNESS: Because I was answering
3 his question and a mischaracterization of my
4 testimony is I only read part of the objective. I
5 read the entire objective, not once, but twice.

6 CHAIRMAN MEYER: Next question, Mr.
7 Powers -- Dr. Powers.

8 DR. POWERS: Are you aware of the fact
9 that that same goal, with the same provision,
10 provide zoning protection for existing multifamily
11 housing and encourage its expansion, only in areas
12 where it would not have detrimental effect on
13 single-family residential neighborhoods appears as
14 exactly quoted just then, in the 2011, 2014, and
15 2017 master plan reexaminations?

16 THE WITNESS: As I stand here tonight, I
17 can't testify to that.

18 DR. POWERS: I can. Do you want me to
19 read it?

20 MS. BERGER: Whoa --

21 CHAIRMAN MEYER: Wait, wait, wait.

22 DR. POWERS: I can provide you with the
23 information.

24 MS. BERGER: I'm going to object.

25 DR. POWERS: You want the information?

1 MS. BERGER: This is based upon his
2 direct testimony, the cross-examination. He
3 answered you, that he can't give you that answer.
4 So now you're arguing with him?

5 DR. POWERS: He can't give me what
6 answer?

7 CHAIRMAN MEYER: Whatever you asked
8 about, I guess he doesn't have the document in
9 front of him.

10 DR. POWERS: I have the documents.

11 MS. BERGER: But that's not the question
12 what you have. The question is what he knows.

13 DR. POWERS: And he -- is it true that
14 you cite the 2011, 2014, and 2017 master plans as
15 supportive of precisely what you just said about
16 the intent of the master plan --

17 THE WITNESS: No.

18 DR. POWERS: -- in relationship to?

19 THE WITNESS: Sorry.

20 DR. POWERS: -- in relationship to
21 multifamily housing, whereas in every case the
22 word only is the encouragement. And the reference
23 to existing multifamily housing is --

24 MS. BERGER: I'm going to object.

25 DR. POWERS: Is it not the case that

1 that is a relevant portion to understanding what
2 the intent of the master plan is about multifamily
3 housing?

4 THE WITNESS: I can't possibly answer or
5 follow that question, I'm sorry.

6 DR. POWERS: You can't follow --

7 CHAIRMAN MEYER: Next question.

8 DR. POWERS: Is -- do you believe that
9 the master plan, in relation to multifamily
10 housing, that you cite in all of those four
11 iterations of master plan and master plan
12 reexamination, always begins the statement
13 affirming multifamily housing units by saying
14 provide existing -- provide zoning protections for
15 existing multifamily housing?

16 MS. BERGER: I'm going to object. The
17 testimony doesn't matter belief, we're not
18 testifying on belief here.

19 DR. POWERS: I didn't say about belief?

20 MS. BERGER: Yes, you did. You started
21 your question do you believe.

22 CHAIRMAN MEYER: I think we're going
23 outside of the scope of this examination or
24 cross-examination. Are you trying to say that in
25 the 2014 reexamination report that goals in there

1 say provide zoning protection for existing
2 multifamily housing, and encourage its expansion
3 only in areas where it would not have detrimental
4 effects on single-family residential
5 neighborhoods. Is that what you wanted?

6 DR. POWERS: That is -- I'm asking him
7 whether or not that is not on --

8 CHAIRMAN MEYER: Is that the goals and
9 objectives?

10 DR. POWERS: Is that not a clear
11 statement? The only absolutely clear statement in
12 all of those master plans examinations, is it not
13 also the case that every time the issues that you
14 are citing in terms of encouragement are always
15 linked to providing protection for existing
16 multifamily housing?

17 CHAIRMAN MEYER: Single-family housing?

18 DR. POWERS: Single-family. No, no,
19 multifamily. That's the point, Mr. Chairman.

20 CHAIRMAN MEYER: Then I lost it.

21 MS. BERGER: I'm going to object --

22 DR. POWERS: The point is --

23 MS. BERGER: -- because he's now making
24 statements and that's not the purpose of this.

25 DR. POWERS: Is it not the case that

1 every time this -- any master plan of which you
2 are aware talks about encouragement, it always
3 includes the word only in respect to single-family
4 housing and always is prefaced by providing zoning
5 protection for existing multifamily housing?

6 MS. BERGER: I'm to object because you
7 asked him before if he knew if these words were in
8 each of these reports. And he said to you he
9 could not -- he cannot definitely answer if these
10 words were in each of these reports. You didn't
11 like his answer, so you've asked the same question
12 again. I'm going to object and direct my witness
13 not to answer.

14 DR. POWERS: I have, Mr. Chairman, I
15 have all -- I have two copies of each of these
16 master plan reexaminations. If it's inappropriate
17 for him to review them and see whether or not
18 every -- is it not the case that every time --

19 CHAIRMAN MEYER: It's not --

20 DR. POWERS: -- that word is used, the
21 word --

22 CHAIRMAN MEYER: Mr. Powers.

23 DR. POWERS: The word only was never
24 included in what you talked about.

25 CHAIRMAN MEYER: Dr. Powers.

1 we'll see.

2 MS. BERGER: Well, I would like first,
3 if Mr. Powers could refer to the transcript as to
4 the testimony of Mr. Lydon on the 2011 report?

5 CHAIRMAN MEYER: You could ask.

6 MS. BERGER: Because we're limited to
7 cross examining him on what his direct testimony
8 was.

9 CHAIRMAN MEYER: In other words, I think
10 Mr. Powers -- Dr. Powers is trying to use your
11 expert as his expert.

12 MS. BERGER: Correct. And that's not
13 what we're doing here.

14 CHAIRMAN MEYER: That's why
15 cross-examination is done the way
16 cross-examination is done. So you have to bring
17 your own expert if you want to elicit it
18 something --

19 DR. POWERS: I'm not --

20 CHAIRMAN MEYER: Listen to me, I'm not
21 finished -- out of the outside the direct
22 testimony by this witness. However, I will give
23 you a little leeway, okay. Because I understand
24 the differences between a professional who does
25 this on a regular basis and somebody who I would

1 DR. POWERS: I'm sorry.

2 CHAIRMAN MEYER: If you have something
3 you want to show and board and show the expert,
4 then let's do it that way, slowly.

5 DR. POWERS: Here they all are.

6 CHAIRMAN MEYER: Wait, wait, wait.

7 MR. STEINHAGEN: One at a time.

8 CHAIRMAN MEYER: One at a time.

9 DR. POWERS: Which one?

10 MR. STEINHAGEN: Start with the first.

11 DR. POWERS: Start with 2011?

12 CHAIRMAN MEYER: I don't know. I think
13 they all have to be read together.

14 MR. STEINHAGEN: You should pick which
15 one he wants to ask a question about first.

16 CHAIRMAN MEYER: Go ahead.

17 DR. POWERS: Is it --

18 MR. STEINHAGEN: Identify the document.

19 CHAIRMAN MEYER: Tell us what document,
20 give us a copy of it here --

21 MS. BERGER: So is this --

22 CHAIRMAN MEYER: One second, Ms. Berger.

23 Give Mr. Lydon a copy. And then let's see if you
24 can ask a question regarding the particular
25 document that you want to talk about. And then

1 say does it on a regular basis, but not a
2 profession as to this particular subject.

3 So let's do the following. Identify the
4 document you want to speak about, which I think
5 you did, the reexamination report of what date?

6 DR. POWERS: 2011.

7 CHAIRMAN MEYER: What date?

8 DR. POWERS: Which one, meaning --

9 CHAIRMAN MEYER: Which date?

10 MR. STEINHAGEN: The cover page.

11 DR. POWERS: Adopted by the Teaneck
12 Planning Board on May 25th, 2011.

13 CHAIRMAN MEYER: May 25th, 2011, give us
14 a copy up here, give Mr. Lydon a copy. And let's
15 see if --

16 (Reexamination report adopted 5/25/11
17 received and marked Powers 1 for identification.)

18 MS. BERGER: Well, I want to know where
19 Mr. Lydon testified to it first.

20 CHAIRMAN MEYER: We'll get there.

21 MS. BERGER: Because otherwise I'm going
22 to object to it being brought in.

23 CHAIRMAN MEYER: And then Mr. Lydon gets
24 a copy as well, correct, Dr. Powers?

25 MR. STEINHAGEN: Are we marking this?

1 CHAIRMAN MEYER: Yes, not for evidence,
 2 but --
 3 MR. STEINHAGEN: We're going to call it
 4 Powers 1, 2007 master plan first?
 5 CHAIRMAN MEYER: No, he didn't -- he
 6 didn't show anyone, I don't know --
 7 MR. STEINHAGEN: So Powers 1 is the --
 8 CHAIRMAN MEYER: May --
 9 MR. STEINHAGEN: 2011 reexamination.
 10 CHAIRMAN MEYER: This is not for
 11 evidence, for identification. Just so we know
 12 what we're taking about. Okay.
 13 Now, Mr. Powers just give that to Mr.
 14 Lydon. Dr. Powers also, before you ask this
 15 question, I would like to know where did this
 16 testimony appear on direct, that you're trying to
 17 solicit or question about?
 18 MS. BERGER: I'm going to object to
 19 this. Look at the cover sheet.
 20 DR. POWERS: Not the cover sheet they
 21 have, the cover sheet they have says -- it is the
 22 one.
 23 MS. BERGER: So you're giving me a
 24 different document?
 25 DR. POWERS: Well, I have -- do we need

1 CHAIRMAN MEYER: No questions about it.
 2 MR. STEINHAGEN: Powers 2.
 3 (Reexamination report adopted 3/13/14
 4 received and marked Powers 2 for identification.)
 5 DR. POWERS: Am I correct --
 6 CHAIRMAN MEYER: Wait, let's identify
 7 the document first. What is the document you'd
 8 like to identify as Powers 2 with today's date for
 9 identification only?
 10 MS. BERGER: Dr. Powers, what is that?
 11 DR. POWERS: I'm sorry, that --
 12 CHAIRMAN MEYER: Identify --
 13 DR. POWERS: I don't have a third copy,
 14 it was introduced on --
 15 CHAIRMAN MEYER: You're introducing it
 16 now.
 17 DR. POWERS: I'm introducing --
 18 CHAIRMAN MEYER: For identification
 19 only, I'm not saying going in as evidence.
 20 DR. POWERS: Adopted March 13th, 2014.
 21 CHAIRMAN MEYER: Master plan
 22 reexamination report, adopted March 13th, 2014, as
 23 Exhibit Powers 2. Now, do you have a copy of that
 24 now, Ms. Berger?
 25 MS. BERGER: Yes.

1 to make a copy of that?
 2 CHAIRMAN MEYER: It's a little late to
 3 make a copy.
 4 MR. STEINHAGEN: What's the issue, Ms.
 5 Berger?
 6 MS. BERGER: The one he gave us said
 7 proposed.
 8 MR. STEINHAGEN: You can't ask him a
 9 question about a proposed document.
 10 DR. POWERS: It is the same --
 11 MR. STEINHAGEN: That's out of order.
 12 MS. BERGER: It's not the same.
 13 THE WITNESS: It's --
 14 MR. STEINHAGEN: This one doesn't say
 15 proposed. It's clearly not the same document,
 16 irrespective of the comments behind it. First,
 17 it's a different document --
 18 DR. POWERS: Go to 14.
 19 CHAIRMAN MEYER: Go to --
 20 MR. STEINHAGEN: So that one is not
 21 going to be admitted.
 22 CHAIRMAN MEYER: Not for --
 23 MR. STEINHAGEN: It's not -- he marked
 24 it for identification, but there's not going to be
 25 questions about it.

1 CHAIRMAN MEYER: Does Mr. Lydon have a
 2 copy of that?
 3 MS. BERGER: Yes.
 4 CHAIRMAN MEYER: Now. Now, that you
 5 have that, let me --
 6 MR. STEINHAGEN: Does she have an
 7 objection to it? Do you have an objection to it?
 8 MS. BERGER: I don't have an objection
 9 to it being a master plan reexamination report, I
 10 may have an objection --
 11 MR. STEINHAGEN: You objected to the
 12 prior document, I want to make --
 13 MS. BERGER: And I'm not sure all the
 14 pages are there, I did not check.
 15 CHAIRMAN MEYER: Let's check.
 16 MS. BERGER: To be honest with you.
 17 MR. STEINHAGEN: One, two, three, four,
 18 five, six, seven, eight, nine, ten, eleven,
 19 twelve, thirteen, fourteen, fifteen.
 20 CHAIRMAN MEYER: Fifteen pages.
 21 MS. BERGER: This one is fifteen pages.
 22 CHAIRMAN MEYER: Do you have one with
 23 fifteen pages?
 24 MR. STEINHAGEN: Not including the cover
 25 page.

1 MS. BERGER: Correct.

2 CHAIRMAN MEYER: Now, let me ask Mr.
3 Powers, just so we understand what's going on,
4 where in Mr. Lydon's direct examination did he
5 talk about this master plan reexamination report,
6 dated March 13, 2014?

7 DR. POWERS: That will take me a minute
8 on respond to that question, Mr. Chair.

9 CHAIRMAN MEYER: Sure, we'll wait.

10 DR. POWERS: Do you remember, Mr. Lydon,
11 referring to the 2014 --

12 CHAIRMAN MEYER: No, no, I'm asking you,
13 just so we can get that on the record. So then
14 you have a better stab at asking Mr. Lydon about
15 this report.

16 How we doing there? Mr. Powers, do you
17 need a few minutes?

18 Let's take the next person, maybe we
19 will have him take a break --

20 DR. POWERS: Thank you.

21 CHAIRMAN MEYER: Ma'am, come on up. I
22 think you were here before, but come again, ask a
23 question.

24 MS. BELCHER: Okay. This is going to be
25 short and sweet. Denise Belcher, 703 Cedar Lane.

1 My question has to do -- B-E-L-C-H-E-R. I'm not
2 here representing the planning board in any way,
3 shape, form or fashion. But I do have a question
4 after reading your testimony and that has to do
5 with it seems like a large part of your planning
6 kind of depended upon general data. For example,
7 you reference a lot of like Rutgers real estate
8 data tables and studies and so forth. And I know
9 that's probably what a planner does. But what
10 percentage of your overall plan depended upon
11 property specific data as opposed to general data?

12 THE WITNESS: Well, I think the Rutgers
13 2018 demographic, study although it's general, is
14 very specific to the properties that it analyzed
15 and how it provided information. I think the
16 census data is very specific to Teaneck that I
17 quoted. I think the enrollment history that
18 Teaneck has experienced since 2010, I think I
19 used, I think maybe 2009 -- I forget the years,
20 but I think that is very specific to Teaneck. I
21 think my characterization of the neighborhood was
22 very specific to properties.

23 So I think I blended both general
24 planning theory, general observations that are
25 published by learned institutions like Rutgers and

1 I used the Teaneck master plan to blend with the
2 site specific neighborhood.

3 MS. BELCHER: Okay. I guess what I'm
4 specially asking is did you depend on -- what
5 percentage did you depend upon impact studies that
6 were specific to 100 State Street?

7 THE WITNESS: The team had a traffic
8 study done, and I believe a parking study was part
9 of that. So I would say those were impact
10 statements on the particular property.

11 MS. BELCHER: Okay. So that would be
12 transportation like New Jersey Transit?

13 THE WITNESS: No, it was estimates of
14 how many cars are going to be drawn to the site,
15 what the peak hour traffic will be, how many
16 parking spaces might be an appropriate number. So
17 it was estimates and based on specific data that
18 the industry uses as to what the likely impacts of
19 this development might be on the neighborhood.

20 MS. BELCHER: Okay. But was it more
21 general data as opposed to specific data?

22 THE WITNESS: I think there's specific
23 data, just like I think the census data is
24 specific, just like I think the Rutgers data is
25 specific. It's not for a property in Teaneck, but

1 you can apply it the way it's presented to a
2 specific property in Teaneck.

3 MS. BELCHER: Thank you.

4 THE WITNESS: You're welcome.

5 CHAIRMAN MEYER: You asked already
6 questions, right? Let's see if somebody else
7 wants to. Dr. Powers, are you ready?

8 DR. POWERS: I have some references to
9 2014, but it's certainly case that he referred to
10 it and saw it as being consistent with the, but --

11 CHAIRMAN MEYER: So there you have your
12 answer, I guess.

13 AUDIENCE MEMBER: I have a question.

14 CHAIRMAN MEYER: Please.

15 MS. BEAL: Sharon Beal, 33 Hamilton
16 Road.

17 CHAIRMAN MEYER: Slow down, what's your
18 last name?

19 MS. BEAL: B-E-A-L, Beal, Sharon, 33
20 Hamilton Road. In reference to the date -- this
21 is my first meeting, so I apologize if I ask
22 something that's not appropriate.

23 In reference to you saying the
24 neighborhood, what exactly encompasses the
25 neighborhood? Because while I'm not directly on

1 State Street, I live in the neighborhood, so the
2 traffic directly impacts upon me. So I'm just
3 wondering what do you consider to be in the
4 neighborhood?

5 THE WITNESS: State Street.

6 MS. BEAL: That's the only neighborhood?
7 All of the rest of the neighborhoods that
8 encompass the other blocks that encompasses the
9 neighborhood, the neighborhood is only State
10 Street?

11 THE WITNESS: State Street.

12 MS. BELCHER: And with the council, I
13 don't mean a question for him, per se, my block,
14 Hamilton Road --

15 CHAIRMAN MEYER: This is only
16 questions --

17 MS. BELCHER: I can only ask him?

18 CHAIRMAN MEYER: There will be time
19 later for everyone to say whatever they want.

20 MS. BELCHER: Thank you.

21 CHAIRMAN MEYER: You're welcome.

22 MS. EDWARDS: Good evening, how are you?
23 Therise Edwards, I'll spell it. Last name is
24 easy, E-D-W-A-R-D-S, first name is T-H-E-R-I-S-E.

25 Okay. Following up on the questions

1 that Ms. Belcher just asked you a little while
2 ago. You said you relied upon the traffic study?

3 THE WITNESS: Yes.

4 MS. EDWARDS: Okay. Did you take the
5 traffic study as is or did you probe it in any way
6 to make -- did you just take the traffic study as
7 it was presented to you?

8 THE WITNESS: And I discussed it with
9 Mr. Staigar, who was the gentleman who prepared
10 it.

11 MS. EDWARDS: Okay.

12 THE WITNESS: There are traffic reports
13 that are also produced by the township experts, I
14 don't believe I checked with them.

15 MS. EDWARDS: Okay. So my question is
16 since you're saying -- your testimony is that you
17 relied upon this, the information that was
18 presented in terms of background data and
19 everything was accepted as presented, without
20 question?

21 MS. BERGER: We had a traffic expert
22 that did speak on -- the town's traffic expert did
23 do a report. He actually, the town's traffic
24 expert, did testify at one point during the
25 hearing. I don't remember if it was the first or

1 second.

2 MS. EDWARDS: It was the first one,
3 which was, unfortunately, the one meeting I could
4 not make.

5 MS. BERGER: They did have colloquy
6 about it and discuss it. He did not prepare it,
7 so --

8 MS. EDWARDS: No, I understand. I
9 understand he didn't prepare it. But you are
10 stating that you did rely upon it?

11 THE WITNESS: Yes.

12 MS. EDWARDS: And you continue to rely
13 upon it?

14 THE WITNESS: Yes.

15 MS. EDWARDS: Okay. Thank you.

16 THE WITNESS: You're welcome.

17 CHAIRMAN MEYER: Anyone else from
18 members of the public? You already went once.
19 Yes, please.

20 DR. RAGGIO-ASHLEY: Good evening. My
21 name is Tanya Pagan Raggio-Ashley and I live at 33
22 West Tryon Avenue.

23 MR. STEINHAGEN: Would you spell your
24 last name for us?

25 DR. RAGGIO-ASHLEY: Pagan is P-A-G-A-N,

1 the next name is R-A-G-G-I-O, and the last name
2 is -- the rest of the name is Ashley, A-S-H-L-E-Y.

3 MR. STEINHAGEN: Thank you very much.

4 DR. RAGGIO-ASHLEY: You're welcome. I
5 just want to -- good evening. I just want to go
6 over your testimony that you just said regarding
7 the fact that you were only using State Street.
8 The last time I spoke with you and asked you about
9 what areas you were talking about in terms of
10 defining the neighborhood as not having
11 single-family houses, you had stated on multiple
12 occasions that you walked throughout the area and
13 you reviewed the area and that there were no
14 single-family houses in the area. But you hadn't
15 limited it to State Street.

16 So I'm asking you -- again, I realize
17 that someone else just asked you, how did you
18 define the area as not having single-family
19 housing because when you go one block away from
20 State Street -- and this is based on the previous
21 evidence that you showed, you had showed
22 diagrams --

23 CHAIRMAN MEYER: Why don't you ask him a
24 question instead of testifying.

25 DR. RAGGIO-ASHLEY: I'm sorry, I'll try

1 again. So are you aware that one block from State
 2 Street going towards Bergenfield, that on
 3 Amsterdam Avenue, you have all single-family
 4 homes? And are you aware that as you go up Queen
 5 Anne Road and it turns into Tryon Avenue, which is
 6 one block over, so now two blocks from State
 7 Street, that those are all single-family homes?
 8 If you go in the opposite direction -- no, I'm
 9 almost done. I'm trying to --

10 MS. BERGER: Just we're trying to
 11 follow, that's all.

12 DR. RAGGIO-ASHLEY: Okay. So let me --

13 MR. STEINHAGEN: That was a question.
 14 There's a question. Are you aware of
 15 single-family housing on Amsterdam?

16 THE WITNESS: Yes. We did an
 17 application that bordered on Amsterdam, yes. The
 18 1500 Teaneck Road property goes out to Amsterdam
 19 Road. It does, trust me.

20 DR. RAGGIO-ASHLEY: Am I going to be
 21 allowed to speak? I was --

22 MR. STEINHAGEN: That was the first
 23 question. There's another question coming.

24 DR. RAGGIO-ASHLEY: Okay. At the
 25 time -- are you aware that at this point in time

1 that building has not been completed yet and no
 2 one lives there yet?

3 THE WITNESS: If we're talking about
 4 1500 Teaneck Road, yes, I'm aware of that.

5 DR. RAGGIO-ASHLEY: Okay. Are you aware
 6 that on Tryon Avenue, all the homes on Tryon
 7 Avenue going up to Teaneck Road, not crossing
 8 Teaneck Road, are single-family homes?

9 THE WITNESS: Yes. I've done a number
 10 of application on Palisades and I'm very familiar
 11 with Tryon Avenue. And I have traversed it on
 12 numerous occasions.

13 DR. RAGGIO-ASHLEY: Okay. Are you aware
 14 that on West Englewood Avenue, that most of the
 15 homes on West Englewood Avenue between Queen Anne
 16 Road and Teaneck Road are single-family homes,
 17 most of the homes, not all the homes?

18 THE WITNESS: Can't say I'm that
 19 familiar with West Englewood Avenue to have an
 20 opinion one way or the other.

21 DR. RAGGIO-ASHLEY: Fair enough. It's a
 22 couple of blocks going towards Route 4?

23 THE WITNESS: I know where it is, but I
 24 don't know if I've driven down and studied it.

25 DR. RAGGIO-ASHLEY: Thank you very much.

1 CHAIRMAN MEYER: You're welcome. Anyone
 2 else, members of the public? Mr. Powers? Dr.
 3 Powers? Let's see if you can finish with this
 4 witness.

5 DR. POWERS: I have certainly found many
 6 references to the fact that you talk about 2014
 7 and 2017. Let me sort of direct attention toward
 8 this little discussion because I never understood
 9 what you were talking about.

10 MS. BERGER: I'm going to object --

11 CHAIRMAN MEYER: Ms. Berger.

12 DR. POWERS: How can you object until I
 13 ask the question?

14 MS. BERGER: Because you're
 15 characterizing that you don't understand his
 16 testimony. That's why.

17 CHAIRMAN MEYER: I understand. We
 18 understand, Ms. Berger, patience. Everybody,
 19 patience. Everybody calm down. Dr. Powers.

20 DR. POWERS: In your 5/16 --

21 CHAIRMAN MEYER: I'm still speaking, you
 22 don't hear me.

23 THE WITNESS: 116, line 4?

24 DR. POWERS: In your May testimony?

25 THE WITNESS: 116, line 4.

1 DR. POWERS: In 2017 -- this is your
 2 testimony. And the question I'm going to ask you
 3 is how in the world you can justify what you say
 4 here because you have -- I do not believe you can
 5 find the places you are referring to.

6 I know 2014 because it really dealt with
 7 a different portion of the township. But in 2017,
 8 unclear what you're doing there, but the master
 9 plan of the planning board saw fit to put a new
 10 land use element. And in identified range of
 11 problems was in finding non-residential real
 12 estate base, the Amazon effect, and the empty
 13 office space. It also identified outdated zoning
 14 and the need to provide affordable housing. One
 15 of the big problems identified in the master plan
 16 land use element was the prevalence of vacant
 17 office space, creating a negative impact to the
 18 surrounding neighborhoods.

19 That this site -- that this site -- in
 20 the quote -- they could have been talking about
 21 this particular site. And it goes on after that
 22 to acknowledge and it mentioned the difficulties
 23 these office buildings can create. It says and
 24 this is, I think, unusual language in a master
 25 plan. And we write and read a lot of master

1 plans. It says, it was incumbent -- there was a
 2 responsibility upon Teaneck to evaluate zoning
 3 policies to include a wider range of
 4 reincarnations -- re -- scenarios for vacant and
 5 underperforming office properties. That's pretty
 6 strong language. It puts affirmative burden on
 7 and suggests there's an affirmative burden on the
 8 township to address them and to address the sites
 9 that fit our site to a T. Would you explain to
 10 me, Mr. Lydon, when we did a word search of the
 11 2017 reexamination, we found none of the words or
 12 even concepts cited in that last paragraph?

13 MS. BERGER: I object to the question.
 14 I can't answer why Dr. Powers couldn't find
 15 something.

16 CHAIRMAN MEYER: Mr. Lydon, do you
 17 understand the question?

18 THE WITNESS: I do, but I stand by the
 19 testimony.

20 CHAIRMAN MEYER: Next question.

21 DR. POWERS: Do you believe it's
 22 possible to find, in the 2017 master plan
 23 reexamination, the language you just quoted there?

24 CHAIRMAN MEYER: I think the question
 25 was asked and answered, but you can answer it

1 CHAIRMAN MEYER: Well --

2 MS. BERGER: Again, I --

3 CHAIRMAN MEYER: You can't ask Mr.
 4 Lydon --

5 DR. POWERS: I'm asking him --

6 CHAIRMAN MEYER: Where -- one second.

7 DR. POWERS: If the --

8 THE BOARD SECRETARY: Hold on. One
 9 person at a time, please.

10 CHAIRMAN MEYER: It doesn't help you to
 11 talk over me, I'm trying to help you here. So
 12 don't. Here's my point I'm trying to make. If
 13 you ask Mr. Lydon if he paraphrased, and it's his
 14 interpretation how he paraphrased it, you can't
 15 ask him afterwards whether or not he uses the
 16 language as you read it in whatever document
 17 you're reading from, you go the other way, right?

18 DR. POWERS: Do you have any idea --

19 CHAIRMAN MEYER: Do you understand what
 20 I'm saying?

21 DR. POWERS: Do you have any idea where
 22 in the 2017 master plan reexamination I can find
 23 anything remotely --

24 THE WITNESS: I think the Chairman was
 25 saying something.

1 again.

2 DR. POWERS: Is it not a quote?

3 CHAIRMAN MEYER: Dr. Powers, I'm just --
 4 I'm helping, I'm trying to help you, okay. So,
 5 Mr. Lydon, was it the same question as before?

6 THE WITNESS: This wasn't a quote, it
 7 was paraphrased. And yes, it's in that document.

8 DR. POWERS: That suggests an
 9 affirmative burden? Is affirmative burden your
 10 term or the one from 2017?

11 THE WITNESS: It's my term.

12 DR. POWERS: And is it puts an
 13 affirmative burden on -- or the township to
 14 address sites that fit our site to a T or it was
 15 incumbent upon -- there was a responsibility upon
 16 Teaneck to evaluate zoning policies which include
 17 a wider range of rescenarios for vacant and
 18 underperforming office properties. Are those
 19 quotes, sir?

20 THE WITNESS: No.

21 DR. POWERS: They're just your
 22 interpretation of the 2017 master plan without
 23 being able to cite where that came from?

24 MS. BERGER: Wait, wait --

25 DR. POWERS: I can't find it.

1 CHAIRMAN MEYER: I'm trying to help you
 2 here. If you're trying to figure out what is in
 3 the master plan or Mr. Lydon's understanding, ask
 4 him that question, not the other way around. It
 5 doesn't work. I think that would help you.

6 DR. POWERS: I'm asking --

7 CHAIRMAN MEYER: To drive your point
 8 home.

9 DR. POWERS: From where the 2017 master
 10 plan you have -- you're quoting or paraphrasing
 11 something that, it seems to me you have no basis
 12 for, therefore I'm asking you to show us where in
 13 the 2017 master plan you got that concept? Even
 14 if it's only a paraphrase.

15 CHAIRMAN MEYER: Mr. Lydon, is there
 16 somewhere in the master plan -- did you examine
 17 the master plan, 2017?

18 THE WITNESS: Yes.

19 CHAIRMAN MEYER: In there, is that
 20 master plan, and the goals and objectives, and
 21 everything else that's in that entire master plan,
 22 from page 1 to finish, is that -- does that
 23 support what you paraphrased before and your
 24 testimony in this planning -- your planning
 25 testimony?

1 THE WITNESS: Yes, it does.
 2 DR. POWERS: Where?
 3 MS. BERGER: If it paraphrases, it
 4 wouldn't be exactly word for word.
 5 DR. POWERS: But where does the concept
 6 get carried forward that you're talking about, Mr.
 7 Lydon?
 8 MS. BERGER: Is that your interpretation
 9 of the 2017 master plan, that what he's
 10 proposing --
 11 THE WITNESS: Yes.
 12 DR. POWERS: It's your interpretation,
 13 but you can't cite anything -- but you're citing a
 14 document. When you cite a document --
 15 CHAIRMAN MEYER: Now, you're arguing.
 16 MS. BERGER: You're arguing.
 17 DR. POWERS: You expect us to be able to
 18 find it.
 19 CHAIRMAN MEYER: Now, you're arguing
 20 with the witness. Ask him a poignant question.
 21 DR. POWERS: My question is -- my point
 22 is --
 23 CHAIRMAN MEYER: I get your point.
 24 You're saying that Mr. Lydon is not citing to
 25 something, he's paraphrasing something --

1 MR. STEINHAGEN: That's my only concern
 2 for posterity, we know that the 2017 reexamination
 3 report adopted by the Township of Teaneck Planning
 4 Board on April 27th, 2017, is going to be marked
 5 for identification only at this time as Powers 3.
 6 (Reexamination report adopted 4/27/17
 7 received and marked Powers 3 for identification.)
 8 DR. POWERS: I want to remind you, Mr.
 9 Lydon, that the question I'm asking is where you
 10 would have gotten something that justifies your
 11 statement that this site -- they could be having
 12 writing about this particular site. And it goes
 13 on, after it acknowledges and mentions the
 14 difficulty these office buildings can create, it
 15 says -- and this is, I think, unusual language in
 16 the master plan, and we write and read a lot of
 17 master plans, it said it was incumbent, there was
 18 a responsibility upon Teaneck to evaluate zoning
 19 policies to include a wider range of these
 20 scenarios for vacant and underperforming office
 21 properties. From whence in 2017 were you talking
 22 about?
 23 THE WITNESS: This my paraphrasing of
 24 the document.
 25 CHAIRMAN MEYER: What page and what are

1 DR. POWERS: No.
 2 CHAIRMAN MEYER: -- therefore his
 3 testimony is no good.
 4 DR. POWERS: And he's -- no, I'm saying
 5 he's not only paraphrasing, there ain't anything
 6 like that --
 7 CHAIRMAN MEYER: That's your --
 8 DR. POWERS: I'm asking him to show
 9 us --
 10 MR. STEINHAGEN: Hold on -- hold on,
 11 sir. The first thing we need to do is we need to
 12 put a marking on this for the record for
 13 identification.
 14 CHAIRMAN MEYER: He didn't show it.
 15 MR. STEINHAGEN: He's giving us the
 16 2017.
 17 CHAIRMAN MEYER: But there's no question
 18 regarding to the witness. But whatever, you're in
 19 charge.
 20 MR. STEINHAGEN: No, I think it's
 21 appropriate. He's talking about and he's asking
 22 the witness about a document. We should mark it
 23 so --
 24 CHAIRMAN MEYER: We know what we're
 25 talking about.

1 you citing from a transcript?
 2 THE WITNESS: Yes. Page 116, most of
 3 the page.
 4 CHAIRMAN MEYER: Which one?
 5 MS. BERGER: Which is what --
 6 CHAIRMAN MEYER: June 20th?
 7 THE WITNESS: I believe so.
 8 CHAIRMAN MEYER: What is the first --
 9 THE WITNESS: Line 4 through 22 or so.
 10 CHAIRMAN MEYER: That's a different one.
 11 DR. POWERS: And thus, Mr. --
 12 CHAIRMAN MEYER: One second, one second.
 13 May 16th.
 14 THE WITNESS: It's May 16.
 15 MS. BERGER: I'm sorry, where?
 16 CHAIRMAN MEYER: It starts in 2017?
 17 THE WITNESS: Yes.
 18 CHAIRMAN MEYER: Okay. That's from the
 19 May 16th transcript, 2019, page 116, line 4.
 20 THE WITNESS: So on line 20, for
 21 instance, it says I think --
 22 DR. POWERS: It says --
 23 CHAIRMAN MEYER: It says that's what the
 24 quotes --
 25 THE WITNESS: This is, I think, unusual

1 language in the master plan. That's clearly me
 2 paraphrasing the master plan and what it says. It
 3 was incumbent, there was a responsibility on
 4 Teaneck to evaluate zoning policies to include a
 5 wider range of rescenarios for vacant and
 6 underperforming office spaces. That was me
 7 paraphrasing what the master plan speaks about.
 8 DR. POWERS: And where can you find what
 9 you're paraphrasing, sir?
 10 THE WITNESS: And I go on -- before I
 11 answer your question. That's pretty strong
 12 language, clearly that's me speaking. It puts an
 13 affirmative -- it suggests there's an affirmative
 14 burden on the township to address them and address
 15 the sites that fit our site to a T. Clearly,
 16 that's me paraphrasing what's in the master plan.
 17 DR. POWERS: It said --
 18 CHAIRMAN MEYER: So what is your
 19 question?
 20 DR. POWERS: My question is where can
 21 you finding anything to support your paraphrase of
 22 it says: And this is, I think, unusual language
 23 in the master plan. It said -- that's not
 24 paraphrased language, it said and it was
 25 incumbent, there was a responsibility upon Teaneck

1 the rehabilitation and restoration of brown fields
 2 and other contaminated buildings and land.
 3 DR. POWERS: Is this a brown field?
 4 MS. BERGER: Did you want him to answer
 5 the whole question?
 6 DR. POWERS: Yes, I did.
 7 MS. BERGER: Okay. Number 13, in the
 8 same set of objectives on page 3 is promote a
 9 diversified economic base. Number 14 writes focus
 10 economic development efforts on existing
 11 commercial, industrial, and office districts and
 12 provide support and reenforcement to the four
 13 business districts to improve their viability.
 14 Under B, major problems, 1, declining
 15 non-residential tax ratable base. On page 4, the
 16 first line refers back to the subsequent 2011 and
 17 2014 master plan reexaminations. And line 2, it
 18 says, the township had seen an overall erosion of
 19 the non-residential tax base since the 1970's.
 20 DR. POWERS: And, Mr. Lydon, what in the
 21 world do you think substantiates your description
 22 that I just read form your testimony?
 23 THE WITNESS: Excuse me, I haven't
 24 finished my answer.
 25 DR. POWERS: Go forward.

1 to evaluate zoning policies to include a wider
 2 range of rescenarios for vacant and
 3 underperforming office properties?
 4 THE WITNESS: I don't have the document
 5 in front of me, the 2017 reexamination report, so
 6 I can't point to a page.
 7 CHAIRMAN MEYER: Is that the same one?
 8 MS. BERGER: I assume.
 9 CHAIRMAN MEYER: April 27, 2017.
 10 THE WITNESS: I assume it's the same
 11 one.
 12 CHAIRMAN MEYER: It was marked as Powers
 13 3.
 14 DR. POWERS: This is what --
 15 CHAIRMAN MEYER: One second, one second.
 16 One question at a time. Patience, patience,
 17 patience.
 18 THE WITNESS: On page 2 of that
 19 document, objectives, item number 3.
 20 CHAIRMAN MEYER: Hold on, slow down.
 21 THE WITNESS: Sorry. Page 2, objectives
 22 number 3. And this is under the heading of major
 23 problems and objectives of the 2014 master plan
 24 reexamination. Number 3 writes, encourage the
 25 revitalization of vacant buildings and encourage

1 THE WITNESS: Under the same category,
 2 B, major problems, on page 5, there's a number 5,
 3 economic development in the retail districts. At
 4 the time of the writing of the 2014 master plan
 5 reexamination, there had been little to no new
 6 commercial development in the township since the
 7 adoption of the 2011 master plan reexamination.
 8 Development was essentially limited to minor
 9 renovations of existing buildings.
 10 On page 9, Mr. Chairman, number 3,
 11 heading number 3, extent to which problems or
 12 objectives from the last master plan have been
 13 reduced or increased and significant changes in
 14 assumptions, policies, and objectives underlying
 15 the plan. Under 1, the first heading, is decline
 16 in the non-residential tax ratable base. The very
 17 last paragraph says on the third line from the
 18 bottom, still remains a need to identify further
 19 opportunities for the private market to develop
 20 vacant sites or redevelop marginal or
 21 underutilized sites to increase the township's tax
 22 ratable base, due to the decline in municipal
 23 revenues and state aid. That was extent of the
 24 problems.
 25 I can go on, Mr. Chairman, but there

1 seems to be a problem with the document that was
2 handed to me. Page 12, if you're looking along.

3 CHAIRMAN MEYER: Yes, we're looking
4 along.

5 THE WITNESS: Page 12, there's a
6 heading, 9 community services, and there's nothing
7 below that. But the top of page 13 starts off and
8 says windows and lentils will be replaced in older
9 parts of the municipal building.

10 CHAIRMAN MEYER: It's the same on the
11 website. Let me just ask you, Mr. Lydon, what
12 about the goals on page --

13 THE WITNESS: Before I get to that, Mr.
14 Chairman, I'd like to flip over to page 25.

15 CHAIRMAN MEYER: Page 25.

16 THE WITNESS: Yes.

17 CHAIRMAN MEYER: Go ahead.

18 THE WITNESS: It talks about on page 25,
19 in the middle paragraph towards the bottom of the
20 paragraph, it talks about previous -- the 2017
21 master plan reexamination reports recommend the
22 sites be rezoned for two uses -- not this site
23 though. But then it goes on, currently however,
24 and for the foreseeable future, demand for office
25 uses, especially on a property of that size is

1 lacking. So there is a suggestion in this
2 document that the economic conditions that the
3 township is experiencing were causing some
4 struggles. And I think I could go on, but it's
5 getting late.

6 CHAIRMAN MEYER: That's okay, we have
7 all --

8 DR. POWERS: Mr. Lydon, I'm going to ask
9 you are you saying that what you have just --
10 trying to draw from the 2017 master plan
11 reexamination is a way of saying what you say here
12 and it goes onto acknowledge and it mentions the
13 difficulties these office buildings can create.
14 It says -- and this is I think unusual language in
15 the master plan, and we write and read a lot of
16 master plans. It said it was incumbent, there was
17 a responsibility upon Teaneck to evaluate zoning
18 policies to include a wider range of rescenarios
19 for vacant and underperforming office properties.
20 I do not think that the seven different things
21 that you read, which took us all over the place
22 from ratables to everything -- I'm trying to
23 figure out how you think that that is a good
24 summary -- but maybe you do -- do you think that
25 was a good summary of what you told us the 2017

1 master plan said?

2 THE WITNESS: Yes.

3 CHAIRMAN MEYER: Next question.

4 DR. POWERS: All right.

5 CHAIRMAN MEYER: That's his testimony.

6 DR. POWERS: That's his testimony.

7 CHAIRMAN MEYER: Anything else?

8 DR. POWERS: Yeah. Actually I want to
9 ask him, but this -- I'm not sure how long we want
10 to spend on this, but I do think we need to remind
11 ourselves of what he very early -- on page --

12 MS. BERGER: I'm going to object to the
13 characterization of what we need to remind --

14 DR. POWERS: Page 10, line 15 and 16.

15 MS. BERGER: Which date?

16 MR. STEINHAGEN: What date?

17 DR. POWERS: 6/20, page 10, lines 15 and
18 16. You are characterizing the variances and then
19 you say then, of course, you always have to show
20 the negative criteria for every variance. Mr.
21 Lydon, does your testimony in any way provide us
22 with negative -- the negative criteria?

23 THE WITNESS: Yes.

24 DR. POWERS: You believe it does?

25 THE WITNESS: Yes.

1 DR. POWERS: Is it true that the only
2 two variances to which your testimony refers are
3 height and density?

4 THE WITNESS: I don't believe that's
5 true.

6 DR. POWERS: Can you cite me anywhere
7 else in your testimony? I can't create testimony
8 you didn't give.

9 MS. BERGER: I'm going to object to it,
10 arguing with the witness.

11 CHAIRMAN MEYER: It's inappropriate Dr.
12 Powers. Just ask the question, don't argue with
13 the witness.

14 DR. POWERS: Did you tell us where we
15 can find that you have shown the negative criteria
16 for every instance, for every variance?

17 CHAIRMAN MEYER: That's a different
18 question.

19 MR. STEINHAGEN: You're asking him to
20 verify his testimony. I think it's beyond -- it's
21 not really appropriate.

22 MS. BERGER: It's not appropriate.

23 CHAIRMAN MEYER: Next question.

24 MR. STEINHAGEN: If Mr. Powers want to
25 contend when he gives a statement that it's not

1 there, that's fine.
 2 DR. POWERS: Is it true, Mr. Lydon, that
 3 you give us a flurry of legal cases to explain why
 4 you are handling variances the way in which you
 5 do?
 6 MS. BERGER: I'm going to object to the
 7 question.
 8 DR. POWERS: You want to the quotation?
 9 MS. BERGER: No, I'm going to object
 10 to -- that's not a question.
 11 MR. STEINHAGEN: Yeah. There's a
 12 standard for the variances set forth in cases.
 13 Mr. Lydon testified based on the standards in the
 14 cases. And I think that that's all that really
 15 matters, he gave testimony.
 16 DR. POWERS: Can you explain your use of
 17 the Coventry case, sir?
 18 MS. BERGER: That's not a question.
 19 What are you asking him to explain?
 20 DR. POWERS: I'm asking --
 21 MS. BERGER: He cited --
 22 DR. POWERS: He cites the Coventry case.
 23 MS. BERGER: Exactly, that's what --
 24 MR. STEINHAGEN: Maybe --
 25 DR. POWERS: I'm trying to understand.

1 is not germane to Mr. Lydon's testimony.
 2 DR. POWERS: Is it --
 3 MR. STEINHAGEN: The facts of that case
 4 are not relevant.
 5 DR. POWERS: But are you -- you thought
 6 we shouldn't -- it was unrelated to this case, Mr.
 7 Lydon?
 8 MS. BERGER: I'm going to object. He's
 9 asking him legal questions now that have no
 10 bearing on his testimony. I'm objecting to the --
 11 DR. POWERS: Mr. Lydon decided that he
 12 was enough of a lawyer to cite the cases?
 13 MR. STEINHAGEN: That's not what he did.
 14 MS. BERGER: He didn't. That's not what
 15 he did.
 16 MR. STEINHAGEN: He gave testimony based
 17 upon the variances requested here based upon the
 18 applicable standards. What kind of variances an
 19 applicant thought -- an applicant required in
 20 another case is the not relevant. The relevant
 21 part of the case is the holding. The holding says
 22 this is what is required for a height variance, a
 23 D6 height variance. This is what's required for a
 24 density variance. The cases that set those rules
 25 up, cite to the holding in Coventry Square, what

1 MR. STEINHAGEN: So, Mr. Powers, the
 2 Coventry case is a case decided by the Supreme
 3 Court of New Jersey, I believe in 1994, about
 4 conditional use variances.
 5 The Supreme -- later, the appellate
 6 division, in Drum versus Lotauer and Grasso versus
 7 Spring Lake Heights, said the standard of proof
 8 for a density variance or for a floor area ratio
 9 variance or for an exceptional height variance --
 10 the floor area ratio is a different case, I
 11 believe it's Commercial Realty. It's the same
 12 standard of proof as in Coventry. And I believe
 13 that's why Mr. Lydon was citing it.
 14 DR. POWERS: And are the variances which
 15 the associates in the Coventry case were having to
 16 defend in any way, shape, or form related to those
 17 use variances?
 18 MS. BERGER: I'm going to --
 19 DR. POWERS: I'm asking a question.
 20 MS. BERGER: But I'm objecting.
 21 MR. STEINHAGEN: Mr. Lydon, this isn't
 22 the appropriate witness for that. He gave
 23 testimony as to why he believes that the variances
 24 sought here can be granted under the requirements
 25 of the Municipal Land Use Law. What a case says

1 was required in Coventry Square is not germane to
 2 this proceeding.
 3 DR. POWERS: I have one more question
 4 and it goes back to my questioning Mr. Lydon about
 5 his use of the master plan. And on page 170, line
 6 7 through 12.
 7 MS. BERGER: Date, please.
 8 DR. POWERS: Of the 6/20, did you cite
 9 the State Street inventory study in that
 10 testimony?
 11 MS. BERGER: I'm sorry, could you say
 12 the page and the line?
 13 DR. POWERS: Page 170, lines 7 through
 14 12.
 15 THE WITNESS: Yeah, I'm confused and I
 16 don't understand the question.
 17 DR. POWERS: Did you reference that
 18 impending study?
 19 THE WITNESS: What impending study?
 20 DR. POWERS: Well, what it says is --
 21 CHAIRMAN MEYER: No, no, wait. What are
 22 you quoting, please?
 23 DR. POWERS: I'm quoting --
 24 CHAIRMAN MEYER: What page and line?
 25 DR. POWERS: Page 170 of the 6/20?

1 CHAIRMAN MEYER: Page 170, line what?
 2 DR. POWERS: This is in response to Mr.
 3 Savitz, who's asking about impact. He says it may
 4 not have looked at the other ones, but they
 5 weren't done in isolation. And the Teaneck
 6 Township Council has authorized a cumulative study
 7 of the projects that the developments that you and
 8 I are discussing, which I understand is in the
 9 works right now. Do you understand it to be still
 10 in the works right now?
 11 THE WITNESS: I believe there was a
 12 draft study prepared.
 13 DR. POWERS: Have you had a chance to
 14 read that draft study?
 15 THE WITNESS: No.
 16 DR. POWERS: Are you --
 17 THE WITNESS: I didn't testify about it
 18 either.
 19 DR. POWERS: You did not testify to its
 20 content, you made reference to it --
 21 MS. BERGER: No. The reference was that
 22 there was a study that was going to be done. He
 23 didn't reference the study.
 24 DR. POWERS: Well, we will return to the
 25 page, Roman Numeral 6 of that study completely

1 was in fact a --
 2 MS. BERGER: Wait, wait. I object to
 3 his characterization of what the council is doing.
 4 CHAIRMAN MEYER: Okay. Mr. Powers is
 5 trying to explain -- I don't know why because
 6 we're not going to hear testimony about it anyhow,
 7 but any other questions, Mr. Powers?
 8 DR. POWERS: My -- I have an email from
 9 the clerk today saying that the draft study is the
 10 final study.
 11 CHAIRMAN MEYER: Okay, very nice. But
 12 what does that help us with Mr. Lydon?
 13 DR. POWERS: Because --
 14 CHAIRMAN MEYER: Mr. Lydon -- let me
 15 finish. Mr. Lydon said he didn't review it. So
 16 you can't ask him questions about it. You can ask
 17 him all the questions, he says I don't know --
 18 DR. POWERS: When we get to commentary
 19 on this entire application, the misrepresentation
 20 of the master plan will be clarified.
 21 CHAIRMAN MEYER: Good. Let's do that.
 22 All right. I guess there's no other people who
 23 want to ask questions of this witness? Okay,
 24 seeing none -- you have comments?
 25 MS. LEHENY: I do.

1 contravenes --
 2 MS. BERGER: What study?
 3 DR. POWERS: The Preiss impact study to
 4 which we just heard Mr. Lydon refer?
 5 MR. STEINHAGEN: Has it --
 6 MS. BERGER: He did not refer to a
 7 Preiss impact study.
 8 CHAIRMAN MEYER: He said he heard that
 9 there was --
 10 MS. BERGER: The council has authorized
 11 a study of the project. That's what he said.
 12 CHAIRMAN MEYER: He didn't say he saw
 13 it. He said, in fact, he did not.
 14 MR. STEINHAGEN: It sounded to me like
 15 the testimony was it's a draft.
 16 MS. BERGER: No, there wasn't even
 17 anything done at that point.
 18 MR. STEINHAGEN: Okay. But is there a
 19 study that's been adopted by anybody as of today?
 20 MS. BERGER: No.
 21 MR. STEINHAGEN: Then it's not
 22 appropriate.
 23 MS. BERGER: No.
 24 DR. POWERS: There's no study to be
 25 adopted. It was not something to be adopted, it

1 CHAIRMAN MEYER: Let's do that then.
 2 Then we'll continue.
 3 MR. STEINHAGEN: Just identify yourself
 4 for the record.
 5 MS. LEHENY: My name is Elizabeth
 6 Leheny, L-E-H-E-N-Y. I'm the board planner. I
 7 have two items, this is based on our February
 8 20th, 2019, review letter. The first has to do
 9 with affordable housing.
 10 And in 2018, as the board is well aware,
 11 there was a settlement agreement with Fair Share
 12 Housing Center, that rental projects had to
 13 provide 15 percent affordable housing. The
 14 applicant is proposing just short of 15 percent,
 15 it's about 14.7 percent.
 16 CHAIRMAN MEYER: I thought the applicant
 17 is having two one-bedrooms, six two-bedrooms, and
 18 two three-bedrooms for a total of ten units?
 19 MS. LEHENY: Ten units. And ten is 14.7
 20 percent of the --
 21 CHAIRMAN MEYER: And the rest were
 22 supposed to be paid according to the schedule.
 23 MS. LEHENY: That, I don't think is the
 24 case.
 25 CHAIRMAN MEYER: Am I correct, Ms.

1 Berger?

2 MS. BERGER: Yes.

3 CHAIRMAN MEYER: There's a monetary

4 compensation for that fraction?

5 MS. BERGER: Correct.

6 MS. LEHENY: That is news to our firm

7 because --

8 CHAIRMAN MEYER: That's my

9 understanding.

10 MS. BERGER: That's my understanding as

11 well.

12 MS. LEHENY: Okay. Because my --

13 CHAIRMAN MEYER: And you're going to put

14 that on the record that that will be done?

15 MS. BERGER: Correct.

16 MS. LEHENY: All right. I mean my

17 understanding from Richard Preiss, who I spoke

18 with this afternoon, who negotiated the settlement

19 agreement is that there was no payment in lieu of

20 contributions --

21 MS. BERGER: When you're --

22 CHAIRMAN MEYER: A fraction.

23 MS. BERGER: -- a fraction. At fraction

24 of .7 to .0.

25 CHAIRMAN MEYER: Whatever.

1 MS. LEHENY: No, there wouldn't have

2 been any change. But I would ask that maybe Ms.

3 Berger speak with Richard Preiss.

4 MS. BERGER: I would be happy to.

5 MR. ROSEN: If that's the case, can we

6 agree that if you can no longer compensate, you

7 would be willing to provide whatever is necessary

8 to get to 15 percent?

9 MS. BERGER: I can't speak for my client

10 and make that representation on the record. I

11 have to say that it's our understanding that we're

12 allowed to compensate for that difference. And in

13 fact, the agreement on fair share, when it was

14 finalized?

15 MS. LEHENY: In 2018.

16 MS. BERGER: Right, but when?

17 MS. LEHENY: I don't have the exact

18 date.

19 MR. ROSEN: All I'm saying is that once

20 you worked out whatever the accurate current

21 answer is, that you will comply one way or the

22 other?

23 MR. STEINHAGEN: I can get you the date.

24 MR. ROSEN: If you can't comply, if you

25 no longer accept the fraction, would you be

1 MS. LEHENY: Okay.

2 CHAIRMAN MEYER: That's what's going to

3 happen here, that's acceptable, I guess, to the --

4 MS. LEHENY: From what I understand,

5 it's not acceptable, that's why I'm raising it.

6 CHAIRMAN MEYER: It's not acceptable?

7 MS. LEHENY: Yes.

8 MR. STEINHAGEN: Ms. Leheny, what would

9 happen -- can you explain why you would say that?

10 I'm sure Ms. Berger is going to have a question

11 about it.

12 MS. LEHENY: Yes. I mean my

13 understanding is Fair Share Housing Center does

14 not accept or is no longer approving payment in

15 lieu of construction. And so there's the concern

16 that we're taking less than fifteen percent, it

17 would in some way undermine the settlement

18 agreement with Fair Share Housing Center.

19 MS. BERGER: Well --

20 CHAIRMAN MEYER: That's news to me

21 because we have had Mr. Preiss here before. And

22 there was dealing with this issue and he has

23 stated under oath that that was acceptable.

24 Unless there's a change to the settlement

25 agreement since it came to fruition years ago.

1 willing to provide the extra apartment or whatever

2 it is to get you over the 15 percent?

3 MS. BERGER: Well, again, since it

4 involves a number of the units, and I can't just

5 say I'm going to change the number of units

6 without getting my client's okay and I don't want

7 to put something on the record.

8 MR. STEINHAGEN: So the fairness hearing

9 on the settlement agreement was held on March 26,

10 2018 and the notice was published January 30th,

11 20018, so it predates that.

12 MS. BERGER: Right. I mean our

13 understanding the whole time was that we're going

14 to make up the difference anything that -- because

15 that was what was permitted, since it was such a

16 close --

17 MS. LEHENY: It was in my letter, so I

18 mean I just ask --

19 CHAIRMAN MEYER: We'll deal with that

20 issue. But I think it is important because we

21 have done that previously also.

22 MS. LEHENY: I think it should be

23 clarified because --

24 MS. BERGER: Since 2018. I'll be happy

25 to speak to Mr. Preiss.

1 MR. STEINHAGEN: Just so we understand,
2 what's the consequence of doing -- if there's a
3 shortfall.

4 MS. LEHENY: There are a couple things.
5 One is that obviously there's an obligation that
6 is settled with Fair Share Housing Center. We
7 have to provide a certain number of units to meet
8 an obligation. So we would potentially be short
9 one of the units towards meeting the obligation.

10 It also sets a precedent that maybe the
11 board doesn't want to start. So I think that it
12 would be important to sort of clarify with Mr.
13 Preiss who did negotiate the settlement agreement.

14 MS. BERGER: I'd be happy speak to Mr.
15 Preiss.

16 MR. STEINHAGEN: Thank you.

17 CHAIRMAN MEYER: I'll be to happy to
18 have his advice because we have had reports and
19 discussions with him --

20 MR. ROSEN: And other cases.

21 CHAIRMAN MEYER: -- right here on other
22 case where fractions were paid into a fund. And
23 they provide because, you know, instead of
24 providing five apartments, they only -- it was
25 four point something, so the fraction set the

1 prices. And everybody went home happy.

2 MS. BERGER: Just recently.

3 MS. LEHENY: All right --

4 CHAIRMAN MEYER: Several.

5 MS. LEHENY: Okay. I'm not -- I spoke
6 with him this afternoon, so I --

7 CHAIRMAN MEYER: He must have a lack --
8 a moment of -- I won't say it.

9 MS. LEHENY: All right. So those were
10 the questions I have. I think the comments are
11 coming --

12 CHAIRMAN MEYER: You only had one
13 question?

14 MS. LEHENY: That's the one --

15 THE BOARD SECRETARY: Please be quiet in
16 the audience.

17 CHAIRMAN MEYER: The housing?

18 MS. LEHENY: The housing, that is the
19 only question I have.

20 CHAIRMAN MEYER: You said you had two
21 things.

22 MS. LEHENY: I have other comments, but
23 I think that's for later? Yeah.

24 CHAIRMAN MEYER: Anything to do with
25 this planning or --

1 MS. LEHENY: No, not with Mr. Lydon's
2 testimony.

3 CHAIRMAN MEYER: I think maybe we should
4 have your comments about the other issues -- are
5 you -- Ms. Berger, are you done with your
6 witnesses?

7 MS. BERGER: Yes, I am.

8 CHAIRMAN MEYER: Okay. Well, I guess --
9 then, I guess we've to put our stuff on.

10 MS. BERGER: Correct.

11 CHAIRMAN MEYER: That's --

12 MS. LEHENY: Me or us, okay. I mean I
13 think the only thing I wanted to put -- this was
14 in our review letter which again was from
15 February. Is that the applicant is seeking
16 variances for significant increases in density and
17 in height, over what is permitted by the zoning
18 and what is the prevailing neighborhood character.

19 And that we put in our letter that the
20 applicant has to prove to the board's satisfaction
21 that it can be reconciled with the fact that there
22 are these increases in density and these increases
23 in height, and there's also some bulk variance,
24 that that can be reconciled with the fact that the
25 master plan, while promoting redevelopment, while

1 promoting revitalization, doesn't envision this
2 kind of density, this kind of height at this
3 location.

4 And so, you know, we just, I think, urge
5 the board to make sure that they feel that that
6 has been reconciled. And also that, you know, the
7 board takes into account what kind of impacts on
8 the existing community, the increase in height,
9 the increase in density will have on the community
10 character. And that's it.

11 CHAIRMAN MEYER: I have a question for
12 you. In the master plan, 2017, as was referenced
13 before.

14 MS. LEHENY: Right.

15 CHAIRMAN MEYER: There is a -- something
16 that says objectives, major problems, objectives
17 of the 2014 master plan reexamination.

18 MS. LEHENY: Right.

19 CHAIRMAN MEYER: Then it says A,
20 objectives, there are eight objectives. It says
21 goals. And then it says provides zoning
22 protection for existing multifamily housing and
23 encourages expansion only in areas where it would
24 not have detrimental effects on single-family
25 residential neighborhoods?

1 MS. LEHENY: Career.
 2 CHAIRMAN MEYER: Does that, in your
 3 opinion, provide an encouragement for expansion of
 4 multifamily housing?
 5 MS. LEHENY: I think there's not a
 6 question multifamily housing is a permitted use at
 7 this location, that's --
 8 CHAIRMAN MEYER: That's what I'm
 9 getting --
 10 MS. LEHENY: That's not at stake here,
 11 that's not the question.
 12 CHAIRMAN MEYER: Fine. So it is a zone
 13 for multifamily use?
 14 MS. LEHENY: Correct.
 15 CHAIRMAN MEYER: So do you think that
 16 this provision, aside from it talks about maybe
 17 outside the zoning area, would encourage the
 18 establishment of multifamily in zones where
 19 multifamily is approved, even -- you know what I'm
 20 trying to say? Even beyond what is like within
 21 the box of the zoning -- permitted construction in
 22 the zoning area?
 23 MS. LEHENY: So are you saying --
 24 CHAIRMAN MEYER: In excess, if it fits
 25 and doesn't -- doesn't have any detrimental --

1 neighborhoods that to maybe a little more
 2 expansive in the development of the multifamilies
 3 in a zone that's already deemed to be okay or
 4 permitted use in such a zone?
 5 MS. LEHENY: I guess I'm not totally
 6 understanding your question. I think multifamily
 7 is -- the zoning order says multifamily is
 8 appropriate here, so that's not the question.
 9 CHAIRMAN MEYER: But my question to you
 10 is do you think that this statement, encouraging
 11 additional -- how to explain it, especially at
 12 this time of night, but here's my point. If it's
 13 permitted, let's say, with 10 units.
 14 MS. LEHENY: Right.
 15 CHAIRMAN MEYER: In this multifamily
 16 zone, if it -- as the goal and objective states
 17 that it encourages the expansion of the
 18 multifamily in areas where it doesn't affect the
 19 single-family homes?
 20 MS. LEHENY: I think it encourages the
 21 use, yes.
 22 CHAIRMAN MEYER: Do you think where it
 23 -- let's say, ten were now, it will encourage that
 24 you, so to speak, build a little beyond that and
 25 you increase the density where it conforms with

1 does not have a detrimental effect on
 2 single-family, if that's the case, do you think
 3 this provision would encourage, let's say if it's
 4 only zoned for five single-family, that we say
 5 okay, if it doesn't give any detriment, we're
 6 going to expand it and maybe put 10 units?
 7 MS. LEHENY: I'm not sure that that
 8 statement says that. I think that while it is
 9 perhaps encouraging expansion of multifamily, I
 10 don't think it's necessarily giving a carte
 11 blanche or, you know, to increase the density or
 12 increase the height to such an extent that it is
 13 potentially out --
 14 CHAIRMAN MEYER: What I'm saying, extend
 15 is a different issue, but does it give some kind
 16 of relaxation of the already approved zoning
 17 criteria or the extent of the building criteria by
 18 encouragement?
 19 MS. LEHENY: I guess I'm not totally
 20 understanding your question. Are you saying is it
 21 reenforcing the underlying zoning?
 22 CHAIRMAN MEYER: Does it reenforce the
 23 underlying and thereby maybe allowing where it's
 24 appropriate and doesn't advertise disturb
 25 single-family use -- single-family residential

1 the fact there's no detriment to the single-family
 2 homes?
 3 MS. LEHENY: I don't think that that's
 4 what that objective says.
 5 CHAIRMAN MEYER: You don't think so?
 6 MS. LEHENY: I don't think so.
 7 MR. STEINHAGEN: Can I ask --
 8 MR. ROSEN: I just wanted to follow-up.
 9 A little while ago, you said that it was incumbent
 10 upon this board to judge the impact on the
 11 community.
 12 MS. LEHENY: Um-hum.
 13 MR. ROSEN: Which is what we do all the
 14 time.
 15 MS. LEHENY: Right.
 16 MR. ROSEN: Having heard the testimony,
 17 is there any other empirical data, other than
 18 opinion, that can inform us, that hasn't been
 19 presented by the owner and his attorneys that you
 20 would think that would help us make our decision,
 21 other than again beyond what's already been
 22 presented, is there anything we're missing that
 23 could help us judge what that impact is?
 24 THE WITNESS: It's a good question. And
 25 certainly they testified to traffic, they

1 testified to number of residents. But I think
2 maybe what could -- there's community character,
3 and there's neighborhood character. And, you
4 know, yes, there have been some projects that have
5 been approved by this board or have been rezoned
6 by the council that are in a higher density or a
7 higher height than what is the prevailing building
8 environment.

9 But I think you have to -- every case
10 rises and falls on its own merits. I think you
11 have to look at this site in this case, in the
12 context of what impact it would have on the
13 streetscape, on the community character, and
14 those --

15 MR. ROSEN: How would you change that?
16 How would you judge that in a changing community?
17 Environment? I mean if it's -- when you say
18 judging the community character, I would think
19 you're talking about some sort of static existing
20 nature. However, in a community that's perhaps
21 more dynamic or changing or evolving, how do we
22 change that?

23 MS. LEHENY: No, it's a good question.
24 I think that the things to keep in mind though is
25 that it's changing, not by virtue of the master

1 plan, and it's not changing because the council
2 changed the zoning. It's been changing on sort of
3 these case by case sort of applications. And so I
4 think that's something to -- you know, really the
5 master plan and the zoning guides development.
6 And so I think the board has to be satisfied that,
7 you know, you can grant this approval given that
8 there's no guidance in those documents to do that
9 on this property.

10 MR. STEINHAGEN: Can I ask a question,
11 Mr. Chairman? Ms. Leheny, you mentioned in your
12 statement, you used the word reconcile. And I
13 wanted to ask you about that.

14 This project doesn't need a D-1 use
15 variance?

16 MS. LEHENY: That is correct.

17 MR. STEINHAGEN: When you're using the
18 term reconcile, are you using it in the sense that
19 the Supreme Court used it in Medici for
20 reconciliation of a use variance or in a different
21 way?

22 THE WITNESS: You're right, Medici
23 doesn't apply here.

24 MR. STEINHAGEN: And I think that's
25 going to go to the follow-up, based on Mr. Rosen's

1 question.

2 THE WITNESS: Medici does not apply
3 here.

4 MR. STEINHAGEN: So does the board need
5 to be concerned with the statements in Medici
6 about specific changes to the zoning -- that the
7 governing body has made for a property over here,
8 let's say, property A, but not for property B, in
9 terms of its reconciliation or is it more strictly
10 related to the nature of the variances sought and
11 the impacts associated with it?

12 MS. LEHENY: I think I think that's
13 perhaps a more apt description, it's the impacts,
14 yes.

15 MR. STEINHAGEN: Okay. Thank you. The
16 board? Ms. Berger might --

17 CHAIRMAN MEYER: Any other statements
18 you have?

19 THE WITNESS: No.

20 CHAIRMAN MEYER: Yes, go ahead.

21 MS. BERGER: I have a couple questions.
22 So in the 2017 master plan reexamination report,
23 there's a section on the housing element?

24 MS. LEHENY: Um-hum.

25 MS. BERGER: And the section on the

1 housing element talks about the Fair Share Act and
2 what has to be complied with and the town and et
3 cetera. Isn't it this property specifically
4 mentioned and included to meet that goal? And
5 doesn't it talk about a building and number of
6 units that exceeds density and exceeds height?

7 MS. LEHENY: Well, I think that was all
8 based on the previous application.

9 MS. BERGER: But it still exceeded
10 density and it still exceeded height?

11 MS. LEHENY: And it was denied, no? Or
12 what happened --

13 MS. BERGER: It was pending, but the
14 board -- but the report recognized that and said
15 it was there to meet the goal. Additionally --

16 CHAIRMAN MEYER: Wait, wait, wait, one
17 question at a time.

18 MS. LEHENY: Let me think about that for
19 a second. I mean, it's an interesting point. But
20 I don't think -- I still would say that even
21 though it's in the master plan, no action was ever
22 taken. No council --

23 MS. BERGER: I thought you told me that
24 the fair share report was determined with the
25 court and signed and this one was the

1 properties --
 2 MS. LEHENY: No, no, the fair share
 3 report was actually done in 2019, post the start
 4 of this application process. The fair share
 5 report, not the settlement agreement and --
 6 MS. BERGER: But the prior application
 7 that's referenced in here is pending?
 8 THE WITNESS: But I'm not sure it was in
 9 the settlement agreement.
 10 MS. BERGER: So -- and besides that,
 11 didn't the mayor and council hear -- know about
 12 this property being developed because it signed a
 13 deed release on the property? Additionally, it
 14 signed an agreement with the applicant that it
 15 could build a parking lot across the street in
 16 order for it to meet its parking requirements for
 17 the development that it was going to build? So if
 18 you look --
 19 CHAIRMAN MEYER: One question at a time.
 20 MS. LEHENY: I think --
 21 MS. BERGER: In unison?
 22 MS. LEHENY: I think what I would ask is
 23 that maybe you -- I'm not sure the deed has been
 24 brought into evidence.
 25 THE BOARD SECRETARY: Mr. Sohn, Mr.

1 health of persons, particularly when density in
 2 terms of building is expanded over and beyond what
 3 it should be?
 4 MS. LEHENY: I'm honestly not aware of
 5 any studies, but that doesn't mean they don't
 6 exist. I'm just not aware of them.
 7 DR. RAGGIO-ASHLEY: Okay. So, again,
 8 because I have to ask you question: Are you aware
 9 that the Robert Wood Johnson Foundation has done
 10 extensive research on this and shown that when you
 11 exceed certain densities and you have overcrowding
 12 that there's an increase of adverse health
 13 impacts, adverse mental health impact on persons
 14 and particularly children and older adults?
 15 MS. LEHENY: Again, I'm not familiar,
 16 which doesn't mean they don't exist. I'm just not
 17 familiar.
 18 CHAIRMAN MEYER: Thank you.
 19 DR. RAGGIO-ASHLEY: May I?
 20 CHAIRMAN MEYER: Go ahead. Try not to
 21 testify.
 22 DR. RAGGIO-ASHLEY: I'm not testifying
 23 I'm not testifying. Are you aware that in
 24 addition to -- that the Rutgers School of
 25 Planning --

1 Sohn, please, please.
 2 MS. LEHENY: I don't think it's -- I
 3 think if you could provide that to the board and
 4 us for review, that would be helpful.
 5 MS. BERGER: Sure.
 6 THE BOARD SECRETARY: Chair --
 7 CHAIRMAN MEYER: Okay.
 8 THE BOARD SECRETARY: What meeting are
 9 we taking this to?
 10 CHAIRMAN MEYER: Okay. Anything else
 11 that you have to add?
 12 MS. LEHENY: I don't, no.
 13 CHAIRMAN MEYER: Anyone from the members
 14 of the board have any questions of this witness?
 15 Ma'am, come up.
 16 DR. RAGGIO-ASHLEY: Hi, Tanya Pagan
 17 Raggio-Ashley. I want to try to answer the
 18 question that you asked earlier --
 19 CHAIRMAN MEYER: No.
 20 MR. STEINHAGEN: Question for her.
 21 DR. RAGGIO-ASHLEY: Oh, well, okay.
 22 I'll ask you a question, I'm sorry. So I was
 23 wondering have you heard of a health impact
 24 analysis as it pertains to the health of the
 25 individuals and what crowding that is to the

1 CHAIRMAN MEYER: She's not aware of
 2 this.
 3 MS. BERGER: She already answered.
 4 DR. RAGGIO-ASHLEY: I didn't ask this
 5 question yet.
 6 CHAIRMAN MEYER: But you're testifying,
 7 are you aware.
 8 DR. RAGGIO-ASHLEY: I'm not testifying,
 9 I'm asking about a health impact statement.
 10 CHAIRMAN MEYER: That's not a
 11 question --
 12 DR. RAGGIO-ASHLEY: Yes, it is.
 13 MR. STEINHAGEN: She's not aware of any
 14 health impact study.
 15 DR. RAGGIO-ASHLEY: Are aware -- may I
 16 ask her?
 17 CHAIRMAN MEYER: Ask about something
 18 else that she says not aware of.
 19 DR. RAGGIO-ASHLEY: Okay.
 20 CHAIRMAN MEYER: Or something she is
 21 aware of, that would be a much better question.
 22 DR. RAGGIO-ASHLEY: Are you aware of the
 23 Blousten School of Planning, also known as the
 24 Rutgers School of Planning doing research on the
 25 adverse outcomes of increasing the density of

1 persons living in multiplex housing have on
2 persons?

3 MS. LEHENY: No, I'm not aware.

4 DR. RAGGIO-ASHLEY: Thank you.

5 CHAIRMAN MEYER: Anyone else? Anyone
6 else have any questions of this witness? Seeing
7 none, okay.

8 So I guess you want to introduce some
9 additional documents?

10 MS. BERGER: I don't know if I'm going
11 to introduce any additional documents.

12 CHAIRMAN MEYER: Okay. I thought you
13 were, you said you were going to produce the deed?

14 MS. BERGER: I don't know. I just said
15 I don't know.

16 CHAIRMAN MEYER: Okay. So you're
17 keeping the case open for --

18 MS. BERGER: Well, I'm going to -- we
19 have to speak to Mr. Preiss.

20 CHAIRMAN MEYER: Speak to Preiss about
21 the COAH and the fraction.

22 MS. BERGER: Maybe Mr. Steinhagen and I
23 would speak to him together, that might make it
24 easier.

25 CHAIRMAN MEYER: They need to speak to

1 reassure us if they want to do something with the
2 deed?

3 MS. BERGER: Yeah, I would have to pull
4 it and find exactly what it is.

5 CHAIRMAN MEYER: Okay. So you're not
6 closing this meeting at the moment, we have to
7 find a new date.

8 MS. BERGER: Well, the direct testimony
9 is closed.

10 CHAIRMAN MEYER: The direct testimony --
11 yeah, but you may need someone to testify to the
12 deed or whatever.

13 MS. BERGER: Well, the deed of record
14 is --

15 CHAIRMAN MEYER: Okay. I'm just saying
16 whatever it is, maybe there's something --

17 MS. BERGER: Exactly.

18 CHAIRMAN MEYER: Some provision in the
19 deed. So far your experts so far are done and
20 that's it. Okay. So I guess at the next meeting,
21 you will finalize those issues and then maybe
22 we'll hear public comments.

23 MS. BERGER: I just was wondering if
24 we're done with your experts because they've been
25 sitting there patiently?

1 CHAIRMAN MEYER: Anybody? Everybody has
2 said whatever they want to say?

3 MS. BERGER: I know your experts
4 testified during the hearing previously and --

5 CHAIRMAN MEYER: I know.

6 MS. BERGER: I hate to see them --
7 although, I'd like to see them, I don't want to
8 make them sit here for...

9 CHAIRMAN MEYER: What is the next date
10 we have available?

11 THE BOARD SECRETARY: December 5th.

12 CHAIRMAN MEYER: December 5th.

13 THE BOARD SECRETARY: We have school --
14 we have schools, we have the Community Center to
15 AUCC.

16 CHAIRMAN MEYER: Okay. You don't have
17 to give --

18 THE BOARD SECRETARY: We have three big
19 ones.

20 CHAIRMAN MEYER: On November 7th, we
21 have -- December 5th.

22 MS. BERGER: I would request an earlier
23 date. I mean we're a continued matter. Before
24 other new matters start, I think we need to finish
25 a continued matter. We didn't have any testimony

1 in August because your experts couldn't attend.

2 THE BOARD SECRETARY: We could put it on
3 October 3rd, but it's a lot of people not going to
4 be heard.

5 MR. ROSEN: We have specials?

6 THE BOARD SECRETARY: No, we have no
7 special in November because of the League of
8 Municipalities and Thanksgiving. We have none in
9 December. We have a special meeting on the 19th
10 and that's for 189 DiPlaza. We have another one
11 on October 17th for One United Plaza.

12 CHAIRMAN MEYER: What about October 3rd,
13 what do you have on there?

14 THE BOARD SECRETARY: We have eight
15 cases on.

16 CHAIRMAN MEYER: Which one has -- you
17 know, what let's go to tore October 3rd to
18 determine where we're going let's carry this
19 matter.

20 MR. STEINHAGEN: Do you extend the time
21 for the board to act if necessary until October
22 31st?

23 MS. BERGER: To October?

24 MR. STEINHAGEN: For the purpose of -- I
25 mean you're either going to be heard or we're

1 going pick a new date.
 2 MS. BERGER: I have --
 3 MR. STEINHAGEN: I understand.
 4 CHAIRMAN MEYER: We'll deal with it.
 5 THE BOARD SECRETARY: It probably will
 6 not be here, but we'll post it and put i tin.
 7 CHAIRMAN MEYER: We'll communicate.
 8 MS. BERGER: Without the need for new
 9 notice?
 10 CHAIRMAN MEYER: We'll carry this
 11 application to October 3rd, 7:00 or soon
 12 thereafter, with no further notice to the public.
 13 And please be advised that the meeting may be in
 14 these chambers or somewhere else, as posted
 15 because of seating restrictions or capacity to
 16 house people in a safe manner.
 17 So that's the story. Let's hear -- I'll
 18 make a motion to that.
 19 DR. MULLIGAN: Second.
 20 CHAIRMAN MEYER: Dr. Mulligan with a
 21 second. All in favor? Any objection?
 22 (All members indicated their vote.)
 23 CHAIRMAN MEYER: Hearing none, so
 24 ordered on October 3rd.
 25 (The matter was adjourned.)

1 C E R T I F I C A T E

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 5
 6 I HEREBY CERTIFY that the foregoing is a
 7 true and accurate transcript of the testimony and
 8 proceedings as taken stenographically by me at the
 9 time, place, and on the date hereinbefore set
 10 forth.
 11
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15 SUSAN BISCHOFF, CCR, RPR
 16 LICENSE NO. 30XI00233700
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