

**BOROUGH OF EMERSON
COUNTY OF BERGEN, NEW JERSEY
RESOLUTION No: 58-17**

.....

RE: RESOLUTION OF THE BOROUGH COUNCIL OF THE BOROUGH OF EMERSON, COUNTY OF BERGEN, STATE OF NEW JERSEY DETERMINING THAT BLOCK 419, LOTS 1, 2, 3, 4, 5, 6.01, 6.02, 7, 8, 9 AND 10, ON THE OFFICIAL TAX ASSESSMENT MAP OF THE BOROUGH OF EMERSON QUALIFY AS AN AREA IN NEED OF REDEVELOPMENT, SPECIFICALLY A CONDEMNATION REDEVELOPMENT AREA, PURSUANT TO THE PROVISIONS OF THE LOCAL REDEVELOPMENT AND HOUSING LAW (N.J.S.A. 40A:12A-1 ET SEQ.) AND SHALL CONTINUE TO BE PART OF THE CENTRAL BUSINESS DISTRICT REDEVELOPMENT AREA

WHEREAS, on February 3, 2004 the Borough Council of the Borough of Emerson ("Borough" or "Council") adopted Resolution No. 50-04 pursuant to the Local Redevelopment and Housing Law ("LRHL"), N.J.S.A. 40A:12A-1, et seq., authorizing the Emerson Planning Board, now known as the Emerson Land Use Board ("Board") to conduct a preliminary investigation as to whether the following Blocks or portions thereof: 412, 419, 420, 422, 603, 610, 613, 615, 616, and 617.01, on the official tax assessment map of the Borough and located in the area more commonly known as the Central Business district ("CBD"), met the statutory criteria to be designated as "an area in need of redevelopment" pursuant to the LRHL; and

WHEREAS, the Board conducted the requested analysis and held the requisite hearings on July 29, 2004 and August 19, 2004, which were all properly noticed, to determine whether the studied properties met the statutory criteria to be designated as "an area in need of redevelopment"; and

WHEREAS, the Planning Board of the Borough of Emerson adopted a resolution on September 7, 2004 recommending that the Mayor and Council designate the studied properties as "an area in need of redevelopment" pursuant to the LRHL; and

WHEREAS, the Council adopted Resolution No. 199-04 on September 7, 2004 (the "2004 Resolution") designating the following properties as an area "in need of redevelopment" ("Designated Area"):

Block	Lot(s)
412	1, 2, 3, 4 & 5
419	1, 2, 3, 4, 5, 6.01, 6.02, 7, 8, 9 & 10
420	2 & 16

Agenda No. 2

422	1, 10, 11, 12, 13, 14, 15, 16, 17 & 18
603	2, 3, 4, 5 & 6
606	3 & 4
610	1, 2, 4, 5.01, 5.02, 6, 7, 8, 9.01, 9.02 & 10
613	1 & 2
615	1
616	1, 16, 17, 19, 20, 21, 22, 23 & 24
617.01	1

WHEREAS, on May 6, 2008, the Council adopted a Resolution No. 92-08 pursuant to N.J.S.A. 40A:12A-4(a)(1), authorizing the Board to conduct an investigation as to whether the properties should remain designated as “an area in need of redevelopment” and to conduct a preliminary investigation to determine if the following additional properties blocks or portions thereof located in the CBD (“Additional Properties”), met the statutory criteria to be designated as “an area in need of redevelopment” pursuant to the LRHL:

616	2
617.01	2.02, 8 & 9
213	1, 2, 3, 4, 5 & 6
214	1.02, 5.02, 6, 7, 8.01, 8.02, & 9
405	1, 2, 3.01, 3.02, 4, 12, 13 & 14

WHEREAS, the Board conducted the requested analysis and held the requisite hearings, which were all properly noticed, to determine whether the Designated Area and Additional Properties met the statutory criteria to be designated as “an area in need of redevelopment” pursuant to the LRHL; and

WHEREAS, on December 4, 2008, the Board recommended that the Designated Area continues to meet the statutory criteria to remain designated as “an area in need of redevelopment” and recommending that the Council designate certain Additional Properties as “an area in need of redevelopment” pursuant to the LRHL; and

WHEREAS, on July 8, 2015, the Borough filed a Declaratory Judgment Action in the Superior Court of New Jersey, County of Bergen, in furtherance of the Supreme Court’s March 10, 2015 decision captioned In re Adoption of N.J.A.C. 5:96 & 5:97 by N.J. Council on Affordable Housing, 221 N.J. 1 (2015) (the “Supreme Court Decision”); and

Agenda No. 2

WHEREAS, by Court Order dated August 3, 2016, the Superior Court extended the Borough's temporary immunity to October 31, 2016, while the Borough continues to prepare a Housing Element and Fair Share Plan, as directed in the Supreme Court Decision; and

WHEREAS, the Court's extension of temporary immunity was granted on the condition that the Borough participate in mediation initiated by the Court-appointed Special Master; and

WHEREAS, the Court-appointed Special Master requested the Borough explore potential zoning changes and additional development opportunities to address the Borough's unmet need; and

WHEREAS, the LRHL authorizes municipalities to determine whether certain parcels of land located therein constitutes a condemnation area "in need of redevelopment"; and

WHEREAS, on August 16, 2016, the Council adopted Resolution No. 221-16 authorizing and directing the Board to conduct an investigation to determine and recommend whether the previously Designated Area and the Additional Properties on the Official Tax Assessment Map of the Borough of Emerson ("Study Area"), meets the statutory criteria to qualify and be designated as a condemnation area "in need of redevelopment" pursuant to the LRHL and in furtherance of the Borough's efforts to fulfill its affordable housing obligations, the Study Area being comprised of the following parcels:

Block	Lot(s)
412	1, 2, 3, 4 & 5
419	1, 2, 3, 4, 5, 6.01, 6.02, 7, 8, 9 & 10
420	2 & 16
422	1, 10, 11, 12, 13, 14, 15, 16, 17 & 18
603	2, 3, 4, 5 & 6
606	3 & 4
610	1, 2, 4, 5.01, 5.02, 6, 7, 8, 9.01, 9.02 & 10
613	1 & 2
615	1
616	1, 2, 16, 17, 19, 20, 21, 22, 23 & 24
617.01	1, 2.02, 8 & 9
213	1, 2, 3, 4, 5 & 6
214	1.02, 5.02, 6, 7, 8.01, 8.02, & 9
405	1, 2, 3.01, 3.02, 4, 12, 13 & 14

Agenda No. 2

WHEREAS, the Borough's original intention was that any redevelopment area designation shall authorize the municipality to use all those powers provided by the LRHL for use in the redevelopment area including, if necessary, the use of eminent domain to acquire any property in the area ("Condemnation Redevelopment Area"), which power was authorized in the 2004 Resolution; and

WHEREAS, in order to complete the investigation of the Study Area the Board retained Brigitte Bogart PP, AICP, CGW of Planning & Design Professionals, LLC ("Planner Bogart"), to serve as planning consultant to prepare a report and assist the Board in the investigation and analysis of the LRHL statutory criteria as it pertains to the Study Area; and

WHEREAS, Planner Bogart prepared a map delineating the boundaries of the Study Area with a statement of basis for the investigation to be kept on file at the Borough Clerk's office in accordance with N.J.S.A. 40A:12A-6, attached hereto as **Exhibit A**; and

WHEREAS, Planner Bogart recommended and the Board determined to divide the Study Area into subsections and conduct an investigation of an area, specifically Block 419, Lots 1, 2, 3, 4, 5, 6.01, 6.02, 7, 8, 9, and 10 ("Subsection A") in accordance with the guidelines set forth in N.J.S.A. 40A:12A-6 to determine whether Subsection A, meets the statutory criteria to be designated as a Condemnation Redevelopment Area; and

WHEREAS, the Board properly noticed a public hearing pursuant to N.J.S.A. 40A:12A-6 and conducted said public hearing on December 8, 2016, to determine whether Subsection A should be recommended to the Council for designation as a Condemnation Redevelopment Area pursuant to the criteria set forth in N.J.S.A. 40A:12A-5 of the LRHL; and

WHEREAS, the Board adhered to the statutory requirements of N.J.S.A. 40A:12A-6, including that all persons interested or who would be affected by a determination that Subsection A be deemed a Condemnation Redevelopment Area, were permitted to be heard and their objections were placed and made part of the record; and

WHEREAS, a map showing the boundaries and the location of the properties and study report of Subsection A prepared by Planner Bogart dated December 8, 2016 (the "Study Report"), attached hereto and incorporated herein as **Exhibit B**, was considered by the Board at the December 8, 2016 hearing and the Study Report and findings therein were incorporated into the record as well as Planner Bogart's testimony, as a qualified professional planner, regarding her recommendation in regards to the designation of Subsection A, a copy of the transcript

Agenda No. 2

conducted by a certified court reporter is attached hereto and incorporated herein as **Exhibit C**; and

WHEREAS, on December 8, 2016, the Board recommended based on its investigation, the Study Report and testimony of Planner Bogart, as well as any evidence and objections presented by all those in attendance at the December 8, 2016 hearing, that Subsection A be designated as a Condemnation Redevelopment Area pursuant to the LHRL; and

WHEREAS, on January 5, 2016, the Board adopted a resolution, memorializing its determination and recommendation made on December 8, 2016, attached hereto and incorporated herein as **Exhibit D**; and

WHEREAS, the Board in its resolution concluded that there is sufficient credible evidence to support the finding that the designation of the Subsection A as a Condemnation Redevelopment Area, which authorizes the municipality, if necessary, to exercise the power of eminent domain to acquire any property in Subsection A; and

WHEREAS, the Council considered the Board's recommendation at its regularly scheduled public meeting and heard public comment; and

WHEREAS, the Board understands that it will continue to investigate the remaining properties in the Study Area as directed by the Council and in that regard will provide new notices to all of the property owners in accordance with the provisions of the LRHL indicating when a hearing will be held on particular properties comprising the remainder of the Study Area, to determine if such properties and the area should be designated as in need of redevelopment;

NOW, THEREFORE BE IT RESOLVED, that the Borough Council of the Borough of Emerson hereby accepts the findings of the Board made at the public hearing held on December 8, 2016 as memorialized in its resolution adopted January 5, 2016 attached hereto as **Exhibit D**, which is supported by the Study Report of Subsection A prepared by Planner Bogart, attached hereto and incorporated herein as **Exhibit B** and the testimony of Planner Bogart, a licensed professional planner and as further set forth in the Board's resolution adopted on January 5, 2017 and the certified transcript of the hearing attached hereto and incorporated herein as **Exhibit C**, recommending that **Block 419, Lots 1, 2, 3, 4, 5, 6.01, 6.02, 7, 8, 9, and 10** on the official tax assessment map of the Borough of Emerson ("Subsection A"), continues to qualify as an "area in need of redevelopment" and shall hereby be deemed by this Council as a Condemnation

Agenda No. 2

Redevelopment Area pursuant to the provisions of the Local Redevelopment Act and Housing Law, N.J.S.A. 40A:12A-1 et seq.; and

BE IT FURTHER RESOLVED, that the Council's designation of Subsection A as a Condemnation Redevelopment Area hereby serves as a finding of public purpose that provides the Borough with the authority to utilize all powers granted to the Borough to acquire the properties that are part of Subsection A, including the power of eminent domain, in the event it is determined that such acquisition is necessary to advance the purposes of the redevelopment plan for the area; and

BE IT FURTHER RESOLVED, that Subsection A shall continue to be included within the boundaries of the Borough of Emerson's current redevelopment area, known as the CBD, and shall be subject to any zoning requirements and/or requirements of the Borough's current Redevelopment Plan for the CBD Redevelopment Area as same may be amended from time to time; and

BE IT FURTHER RESOLVED, the Council hereby directs that the Board continue to investigate the remaining properties in the Study Area as previously directed by the Council and in that regard the Board shall provide new notices to all of the property owners in accordance with the provisions of the LRHL indicating when a hearing will be held on particular properties comprising the remainder of the Study Area, to determine if such properties and the area should be designated as in need of redevelopment;

BE IT FURTHER RESOLVED, that the Borough hereby reserves all other authority and powers granted to it under the Local Redevelopment Act and Housing Law; and

BE IT FURTHER RESOLVED, that within ten (10) days of the adoption of this Resolution, the Borough Clerk shall serve a notice of this determination, including a copy of this Resolution, upon all record owners of property within Subsection A of the Condemnation Redevelopment Area, those whose names are listed on the Tax Assessor's records, and upon each person who filed a written objection thereto and stated, in or upon the written submission, an address to which notice of the determination be sent in accordance with the requirements set forth in the LRHL; and

BE IT FURTHER RESOLVED, that the Borough Council hereby advises that any property owner wishing to challenge the designation must file an action in the Superior Court of New Jersey within forty-five (45) days of receipt of notice pursuant to N.J.S.A. 40A:12A-

Agenda No. 2

6(b)(5)(e)(ii) and that failure to file any such challenge to the designation of Subsection A as a Condemnation Redevelopment Area, within the 45-day period shall prevent any challenge to the designation; and

BE IT FURTHER RESOLVED, that upon adoption of this Resolution, the Borough Clerk shall transmit a copy of this resolution to the Commissioner of Community Affairs for the State of New Jersey for review pursuant to N.J.S.A. 40A:12A-6(b)(5); and

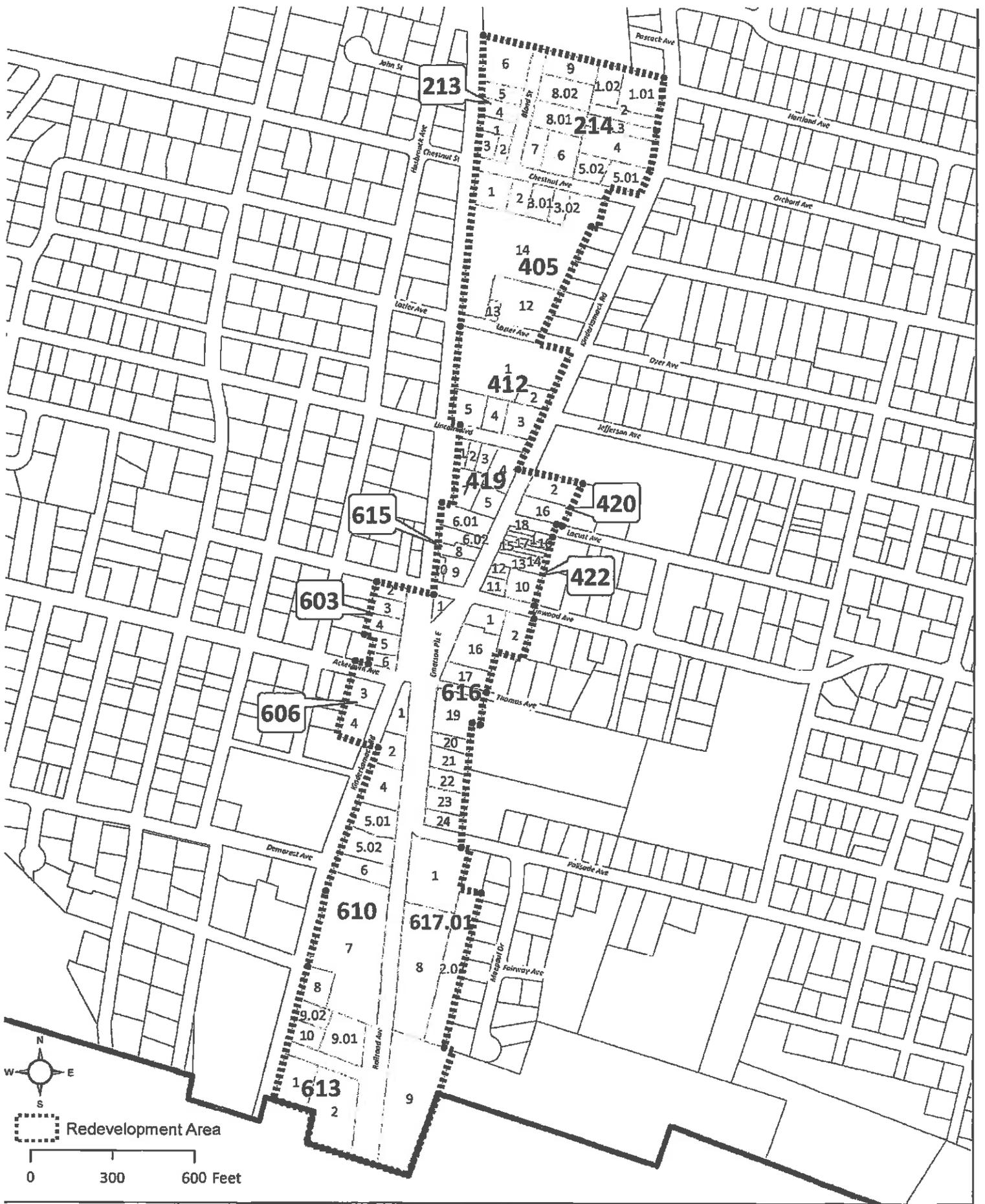
BE IT FURTHER RESOLVED, this Resolution shall take effect immediately.

COUNCIL	M O V E D	S E C O N D E D	A Y E S	N A Y E S	A B S E N T	A B S T A I N
DiPaola				X		
Falotico			X			
Lazar			X			
Knoller		X	X			
Downing	X		X			
Worthington					X	

I hereby certify that the above Resolution was duly adopted by the Borough of Emerson at a meeting held on January 17, 2017.

Attest: 
Municipal Clerk

EXHIBIT A



STATEMENT OF BASIS FOR INVESTIGATION

The Borough of Emerson is currently coordinating the redevelopment of the downtown central business district in an effort to utilize the land more efficiently and to fulfill its affordable housing obligation.

On July 8, 2015, the Borough filed a Declaratory Judgment Action in the Superior Court of New Jersey Bergen County in furtherance of the Supreme Court's March 10, 2015 decision captioned In re Adoption of N.J.A.C. 5:96 & 5:97 by N.J. Council on Affordable Housing, 221 N.J. 1 (2015) (the "Supreme Court Decision"). By Court Order dated August 3, 2016, the Superior Court has extended the Borough's temporary immunity to October 31, 2016, while the Borough continues to prepare a Housing Element and Fair Share Plan as directed in the Supreme Court Decision. The Court's extension of temporary immunity was granted on the condition that the Borough participates in mediation initiated by the Court-appointed Special Master. The Court-appointed Special Master has requested the Borough explore potential zoning changes and additional development opportunities to address the Borough's unmet need.

In an effort to fulfill this obligation, the Mayor and Council have determined that a supplemental study of areas previously designated as "an area in need of redevelopment" be conducted to ensure that the designated area continues to meet the statutory criteria set forth in the Local Redevelopment and Housing Law and be designated as a Condemnation Redevelopment Area. Furthermore, the Mayor and Council have determined that a preliminary investigation of additional properties be conducted for designation as a Condemnation Redevelopment Area. The properties comprising the Study Area include the following Blocks and Lots:

Block	Lot(s)
412	1, 2, 3, 4 & 5
419	1, 2, 3, 4, 5, 6.01, 6.02, 7, 8, 9 & 10
420	2 & 16
422	1, 10, 11, 12, 13, 14, 15, 16, 17 & 18
603	2, 3, 4, 5 & 6
606	3 & 4
610	1, 2, 4, 5.01, 5.02, 6, 7, 8, 9.01, 9.02 & 10
613	1 & 2
615	1
616	1, 2, 16, 17, 19, 20, 21, 22, 23 & 24
617.01	1, 2.02, 8 & 9
213	1, 2, 3, 4, 5 & 6
214	1.02, 5.02, 6, 7, 8.01, 8.02, 9
405	1, 2, 3.01, 3.02, 4, 12, 13, 14

The map annexed hereto, outlines the boundaries and the location of the above noted eighty-four (84) parcels of property that comprise the area to be studied by the Land Use Board for designation as a Condemnation Redevelopment Area.

EXHIBIT B

B Brigette Bogart

P Planning & Design Professionals LLC

Wyckoff Office for mailing only
100 Hursey Court Wyckoff, NJ 07480
201 485 5335

Midland Park Office
648 Godwin Avenue, Suite 2 Midland Park, NJ 07716
201 485 3365

Determination of Area in need of Redevelopment

EMERSON REDEVELOPMENT AREA BOROUGH OF EMERSON, NEW JERSEY

Completed in accordance with the Local Redevelopment & Housing Law
(N.J.S.A. 40A:12A-1 et seq.)

The original document was appropriately signed and sealed on December 8, 2016 in accordance with Chapter 41 of Title 13 of the State Board of Professional Planners.



**Brigette Bogart, P.P., AICP, CGW
Professional Planner #5679**

I. Introduction

The purpose of this report is to determine if the said properties located in the Borough of Emerson qualify as Area in Need of Redevelopment as defined by the Local Redevelopment and Housing Law (N.J.S.A. 40:12A-1 et seq, hereafter referred to as LRHL). This analysis has been conducted pursuant to the LRHL, which specifies the conditions that must be met within the delineated areas and the process to be undertaken by the Planning Board during the investigation.

This report is written pursuant to 40A:12A-6 section of the LRHL, which states the following:

No area of municipality shall be determined a redevelopment area unless the governing body of the municipality shall by resolution authorize the planning board to undertake a preliminary investigation to determine whether the proposed area is a redevelopment area according to the criteria set forth in section 5 of P.L.1992, c.79 (C.40A:12A-5). Such determination shall be made after public notice and public hearing as provided in subsection b. of this section. The governing body of a municipality shall assign the conduct of the investigation and hearing to the planning board of the municipality.

After completing its hearing on this matter, the planning board shall recommend that the delineated area, or any part thereof, be determined, or not be determined, by the municipal governing body to be a redevelopment area. After receiving the recommendation of the planning board, the municipal governing body may adopt a resolution determining that the delineated area, or any part thereof, is a redevelopment area.

The Borough Mayor and Council adopted a Resolution No. 221-16 on August 16, 2016 to authorize the Professional Planner to undertake a preliminary investigation to determine whether the properties in question are in need of redevelopment. This Area was previously designated as an Area in Need in 2004. This report was prepared to update and reaffirm the fact that this area still meets the criteria set forth in the Local Redevelopment and Housing Law and updated through recent case law.

The applicable LRHL statute also requires the Planning Board to hold a public hearing on this matter prior to recommending that the delineated area, or any part thereof, be determined or not determined a redevelopment area by the governing body. After obtaining the Planning Board's recommendation, the governing body may adopt a resolution determining that the delineated area or any part thereof is a redevelopment area. This report is a study to determine whether the properties in question are to be determined or not determined as "area in need of redevelopment", as required under the LRHL.

A redevelopment plan may supersede the zoning of an area or serve as an overlay, should specify the following:

1. The plan's relationship to definite local objective as to appropriate land uses, density of population, improved traffic and public transportation, public utilities, recreational and community facilities and other public improvements.
2. Proposed Land uses and building requirements in the project area.
3. Adequate provision for temporary and permanent relocation, as necessary, of residents in the project area, including an estimate of the extent to which decent, safe and sanitary dwelling units affordable to displaced residents will be available to them in the existing local housing market.
4. An identification of any property within the redevelopment area which is proposed to be acquired in accordance with the redevelopment plan.
5. (a) Any significant relationship of the redevelopment plan to master plans of contiguous municipalities, (b) The master plan of the county in which the municipality is located and (c) the State Development and Redevelopment Plan adopted pursuant to the "State Planning Act"

This report and investigation are aimed only at determining whether properties in question meet the statutory criteria to be identified as an Area in Need of Redevelopment and therefore does not contain any of the specific planning regulations contained in a redevelopment area. If the Borough of Emerson determines that they agree with the recommendations set forth in this report, this area can be designated as an "Area in Need of Redevelopment". The Emerson Borough Council would then have the authority to declare this area an "Area in Need of Redevelopment", and authorize the Borough of Emerson to use all those powers provided by the Legislature for use in a redevelopment area, including the power of eminent domain ("Condemnation Redevelopment Area").

II. Criteria for Determination of An Area in Need of Redevelopment

Per LHRL 40A:12A-5 an area may be determined to be in Need of Redevelopment if after investigation, notice and hearing, the governing body of the municipality concludes by resolution that any of the following conditions exists:

- A. The generality of buildings are substandard, unsafe, unsanitary, dilapidated or obsolescent, or possess any of such characteristics or are so lacking in light, air or space as to be conducive to unwholesome living or working conditions.
- B. The discontinuance of the use of buildings previously used for commercial, manufacturing, or industrial purposes; the abandonment of such buildings; or the same being allowed to fall into so great a state of disrepair as to be untenable.
- C. Land that is owned by the municipality, the county, a local housing authority, redevelopment agency or redevelopment entity or redevelopment entity, or unimproved vacant land that has remained so for a period of ten years prior to adoption of the resolution, and that by reason of its location, remoteness, lack of means of access to developed sections or developed through the instrumentality of private capital.
- D. Areas with buildings or improvements which, by reason of dilapidation, obsolescence, overcrowding, faulty arrangements or design, lack of ventilation, light and sanitary facilities, excessive land coverage, deleterious and use or obsolete layout, or any combination of these or other factors, are detrimental to the safety, health, morals or welfare of the community.
- E. A growing lack of proper utilization of areas caused by the condition of the title, diverse ownership of the real property therein or other conditions, which impede land assemblage or discourage the undertaking of improvements, resulting in a stagnant and not fully productive condition of land potentially useful and valuable for contributing to and serving the public health, safety and welfare., which condition is presumed to be having a negative social or economic impact or otherwise detrimental to the safety health, morals, or welfare of the surrounding area or the community in general.
- F. Areas, in excess of five contiguous acres, whereon buildings or improvements have been destroyed, consumed by fire, demolished or altered by the action of storm, fire, cyclone, tornado, earthquake or other casualty in such a way that the aggregate assessed value of the area has been materially depreciated.
- G. In any municipality in which an enterprise has been designated pursuant to the "New Jersey Urban Enterprise Zones Act", P.L.1983, c.303 (C.52: 27H-60 et seq.) the execution of the actions prescribed in the act for the adoption by the municipality and approval by the New Jersey Urban Enterprise Zone Authority of the zone development plan for the area of the enterprise zone shall be considered sufficient for the determination that the area is in need of redevelopment pursuant to sections 5 and 6 of the P.L.1992, c.79 (C.40A: 12A-5 and 40A: 12A-6) for the purpose of granting tax exemptions within the enterprise zone district to the provisions P.L.1991, c431 (C.40A: 20-1 et seq.) or the adoption of a tax abatement and exemption ordinance pursuant to the provisions of P.L.1991, c 441 (C.40A:21 -1 et seq). The municipality shall not utilize any other redevelopment

powers within the urban enterprise zone unless the municipal governing body and planning board have also taken the actions and fulfilled the requirements prescribed in P.L.1992, c79 (C.40A:12A-1 et al) for determining that the area is in need of redevelopment or in need of rehabilitation and the municipal governing body has adopted a redevelopment plan ordinance including the area of the enterprise zone.

- H. The designation of the delineated area is consistent with smart growth planning principles adopted pursuant to law or regulation. In addition to the above criteria, Section 3 of the LRHL (N.J.S.A 40A:12A-3) allows the inclusion of parcels necessary for the effective redevelopment of the area, by stating "a redevelopment area may include land, buildings, or improvements, which of themselves are not detrimental to the health, safety or welfare, but the inclusion of which is found necessary, with or without change in their condition, for the effective redevelopment of the area in which they are a part.

III. The Statutory Criteria (a more detailed narrative)

The following section provides additional detail on the eight statutory criteria that qualify an area being in need of redevelopment and the planning analysis and evidence necessary that indicate the criteria could be met. Generally, properties located within an area in need of redevelopment will meet more than one of the criteria. However, only one of the eight need be found for a delineated area to be determined in need of redevelopment. The eight criteria are commonly identified by the letter corresponding to the paragraphs in Section 5 of the LRHL (N.J.S.A. 40A:12A-5).

The "a" Criteria – Deterioration

For an area to qualify as being in need of redevelopment pursuant to the "a" criteria, the planning board must find that the buildings in the area have deteriorated or fallen into such a state of disrepair that they constitute a threat to the people who live or work in them, or are a danger to public safety. Consequently, when analyzing the applicability of the "a" criteria, the planning board should focus on the physical conditions within the study area. This compels the preliminary investigation (this document) to include photographic documentation of the deterioration of the structures, documentation of site inspections, and a visual assessment of the physical conditions of the structures. Since buildings that have been neglected for long periods of time are frequently subject to numerous local code enforcement actions, the site inspection documentation is combined with a review of building, housing and property maintenance records, as detailed in this report. There are a couple of lots which appear to meet Criteria "a".

The "b" Criteria- Abandoned Commercial and Industrial Buildings

Criteria "b" allows for a site that is being studied to qualify as being in need of redevelopment if it includes buildings previously used for commercial, manufacturing, or industrial purposes that have been vacated or abandoned. Vacant buildings that have been allowed to fall into a great state of disrepair have historically been associated with "blighted" areas or areas in need of redevelopment.

Similar to criteria "a", site inspections and photographic documentation are important to assess how a structure potentially meets criteria "b" of the statute. The existence of these abandoned buildings are typically what triggers this type of investigation and should be readily apparent. It is important to note that the "b" criteria is only applicable to commercial and industrial buildings and not to residential buildings. However, the nonresidential component of mixed-use buildings, which contains both residential and commercial uses, can meet the "b" criteria. While there are buildings in the Study area which are currently vacant this criteria was not relied upon for this investigation.

The "c" Criteria- Public and Vacant Land

Property owned by a public entity, such as a municipality, county, housing authority, or redevelopment entity may be designated in need of redevelopment pursuant to the "c" criteria. A court decision has determined that the public ownership alone is not a sufficient reason for such designation. The investigation should specify in its findings why the development potential of a property may be limited, such as its location, remoteness, lack of access, topography, or soil conditions.

The "c" criteria enables municipalities to use the redevelopment process to generate private development interest in surplus public lands and get them back on tax rolls. By designating these publically owned parcels in need of redevelopment, the municipality is able to convey the parcel to a redeveloper without having to go through the public bidding process. The redeveloper is then required by a redeveloper agreement to redevelop them in accordance with a redevelopment plan. This study area does include a public right of way, a publicly owned surface parking area and a publicly owned parcel currently developed with the ambulance core building. All three of these parcels of land would be more appropriately developed with private developments since they are located in the middle of the Borough's central business district.

Additionally, inherent in criteria "c", privately owned land that has remained unimproved or vacant for at least 10 years may also be designated in need of redevelopment. As with publically owned land, it also must be shown that a vacant parcel is not likely to be developed through private investment because of development constraints resulting from its location, remoteness from other developed areas of the community, lack of access, topography, or soil conditions.

The "d" Criteria- Obsolete layout and design

While the "a" and "b" criteria focus on the condition of the buildings on a property, the "d" criteria focuses on the site design itself. In order to analyze how a property meets criteria "d", other site improvements such as accessory structures, parking areas, on site circulation, land uses, and adjacent off site circulation impacts need to be reviewed.

Some of the considerations to be reviewed in analyzing a study area for the applicability of the "d" criteria focus on important land use planning standards, such as the location and relationship of buildings, accessory structures and other site improvements, onsite circulation and parking, land use conflicts as well as lot and building coverages within the study area. When analyzing parcels to see if they potentially meet criteria "d", the investigation should include information on how the site's design, circulation and parking dimensions compare to modern planning objectives. If it is found that a parcel does not comply with modern planning objectives or standards, this investigation should also go a step further and review how these "deficiencies" on site affect adjacent sites and public rights of way. These deficiencies are detailed lot by lot in this document.

Given the flexible nature of the "d" criteria, it often is used with other criteria, typically the "e" criteria, where deterioration and abandonment are not issues. A good portion of the Study Area falls both within the meets both Criteria "d" and "e" as detailed on a lot by lot basis.

The "e" Criteria: Underutilization

Criteria "e" is applicable where there is a growing lack or total lack of proper utilization of areas caused by the condition of the title, diverse ownership of the real properties therein or other similar conditions which are presumed to be having a negative social or economic impact or otherwise being detrimental to the safety, health, morals, or welfare of the surrounding area or the community in general. The "e" criteria is applicable in circumstances where there is a quantifiable economic "underutilization" or "lack of proper utilization" of properties in a study area.

However, with the criteria noted above, the New Jersey Supreme Court in the Gallenthin Realty Development, Inc. v Borough of Paulsboro, 191 N.J. 344 (2007), stated that the New Jersey Constitution authorizes government redevelopment of only "blighted areas," and concluded that the Legislature did not intend N.J.S.A. 40A:12A—5(e) to apply in circumstances where the sole basis for redevelopment is that the property is "not fully productive." It further held that this criteria set forth N.J.S.A. 40A:12A—5(e) applies only to property that has become stagnant and unproductive because of issues of title, diversity of ownership, or other conditions of the same kind.

Given the recent Gallenthin Realty Development, Inc. v Borough of Paulsboro, 191 N.J. 344 (2007) decision, if an investigation determines that a site meets criteria "e", it should be analyzed to confirm that the parcels at issue are preventing the proper development of the surrounding properties because of the fact that they reached a stage of stagnation and unproductiveness. In order to determine this, the site maybe reviewed in the context of the "d" criteria, exhibiting poor design and arrangement and not developed in a manner consistent with the objectives of a municipality's zoning and master plan. It is important to note that a property may not be "economically underutilized", but may exhibit a lack of "proper utilization" in relation to a municipality's overall land use goals and objectives. Thus, the property would still meet the "e" criteria, but the analysis would focus on broader land use planning issues and concerns. There are a number of properties which exhibit a lack of "proper utilization" based on the Borough of Emerson's Master Plan goals and objectives that have been in place for over a decade.

One of the indicators used to measure the economic productivity of a property is the ratio of the assessed value of the improvements on the property to the value of land. Developed properties in areas that are economically viable typically have improvement to land ratios of 2:1 or greater. Ratios of less than 2:1 may offer evidence of underutilization. As indicated above, a low improvement to land ratio in itself is not absolute proof that a property is in need of redevelopment. Improvement to land ratios should be analyzed in connection with other evidence such as the physical condition of the property or site layout to determine the applicability of the statutory criteria. It may be necessary to compare ratios within the study area to those in surrounding areas or on the other parts of the community. For example, the property values and tax revenue generated from two comparable blocks, one within the study area and one within an area considered economically stable, should be evaluated to determine the appropriate threshold in identifying underutilization.

Of the entire study area, only 10 of the 82 properties have an improvement to land value ratio of 2:1 or greater. That is only 12.5 percent of the entire study area that meets the standard. This is compared to the fact that the remaining commercial properties within the Borough have a ratio of 2.11. This fact combined with the fact that a majority of the study area exhibits poor design and arrangement are indicators that the study area is not being properly utilized and exhibits economic underutilization. The table below provides the assessment values for the study area.

Block	Lot	Land Area (sf)	Improved Value	Land Value	Total Value	Improvement Ratio
213	1	6,500	96,100	263,900	360,000	0.36
	2	5,500	61,700	253,900	315,000	0.24
	3	5,500	319,500	260,500	580,000	1.23
	4	8,260	134,900	279,300	414,200	0.48
	5	8,850	318,800	289,300	608,100	1.10
	6	28,000	587,600	425,000	1,012,600	1.38
214	1.02	14,162	303,500	356,500	660,000	0.85
	5.02	10,600	457,800	342,200	800,000	1.34
	6	18,750	70,200	340,900	411,100	0.21
	7	11,250	151,100	341,300	492,400	0.44
	8.01	20,000	605,000	385,000	990,000	1.57
	8.02	20,000	715,000	385,000	1,100,000	1.86
	9	16,200	725,100	366,200	1,091,300	1.98

Block	Lot	Land Area (sf)	Improved Value	Land Value	Total Value	Improvement Ratio
405	1	13,625	408,100	356,900	765,000	1.14
	2	8,250	68,600	282,600	351,200	0.24
	3.01	8,250	333,900	298,700	632,600	1.12
	3.02	6,600	134,600	265,400	400,000	0.51
	4	6,120	125,400	185,100	310,500	0.68
	12	33,196	102,200	494,100	596,300	0.21
	13	4,361	285,100	235,900	521,000	1.21
	14	117,612	1,338,000	1,104,000	2,442,000	1.21
412	1	74,052	542,800	1,106,800	1,649,600	0.49
	2	9,750	397,600	324,100	721,700	1.23
	3	15,372	161,100	396,500	557,600	0.41
	4	10,168	39,200	335,800	375,000	0.12
	5	15,376	884,500	365,500	1,250,000	2.42
419	1	4,389	197,700	228,900	426,600	0.86
	2	40,000	0	224,900	224,900	0.00
	3		10,600	238,200	248,800	0.04
	4	16,600	1,257,500	506,400	1,763,900	2.48
	5	10,000	578,100	342,600	920,700	1.69
	6.01	16,400	482,700	392,300	875,000	1.23
	6.02	6,612	238,700	304,400	543,100	0.78
	7	15,000	85,600	314,700	400,300	0.27
	8	7,350	457,600	303,200	760,800	1.51
	9	9,600	161,700	333,300	495,000	0.49
420	10	3,500	159,800	244,200	404,000	0.65
	2	17,900	490,100	430,700	920,800	1.14
422	16	13,067	447,500	371,800	819,300	1.20
	1	2,862	27,300	262,700	290,000	0.10
	10, 11	15,760	425,500	424,500	850,000	1.00
	12	3,700	16,100	258,900	275,000	0.06
	13	8,496	115,600	317,300	432,900	0.36
	14	3,078	107,400	87,600	195,000	1.23
	15	2,505	114,300	80,700	195,000	1.42
	16	2,460	119,900	80,100	200,000	1.50
	17	3,220	183,500	89,300	272,800	2.05
603	18	1,470	141,800	68,200	210,000	2.08
	2	6,660	522,500	336,800	859,300	1.55
	3	6,840	658,300	301,700	960,000	2.18
	4	7,620	493,300	307,700	801,000	1.60
	5	10,480	764,800	318,100	1,082,900	2.40
	6	4,160	0	252,100	252,100	0.00

Block	Lot	Land Area (sf)	Improved Value	Land Value	Total Value	Improvement Ratio
606	3	12,200	292,200	344,600	636,800	0.85
	4	13,608	201,000	359,200	560,200	0.56
610	1	11,957	210,600	290,400	501,000	0.73
	2	12,319	271,300	328,700	600,000	0.83
	4	19,272	889,700	428,100	1,317,800	2.08
	5.01	16,536	557,200	367,800	925,000	1.51
	5.02	15,092	336,100	413,900	750,000	0.81
	6	15,900	353,900	368,000	721,900	0.96
	7	111,121	2,481,500	1,548,500	4,030,000	1.60
	8	12,500	61,600	333,200	394,800	0.18
	9.01	10,650	0	453,000	453,000	0.00
	9.02	18,687	1,354,900	395,100	1,750,000	3.43
	10	no longer exists				
613	1	21,452	285,600	474,400	760,000	0.60
	2	5,232	0	817,000	817,000	0.00
615	1	10,001	58,900	279,800	338,700	0.21
616	1	12,000	152,500	536,200	688,700	0.28
	2	15,000	123,300	213,800	337,100	0.58
	16	25,650	3,225,000	517,700	3,742,700	6.23
	17	89,670	901,500	374,300	1,275,800	2.41
	19	25,350	778,700	539,300	1,318,000	1.44
	20	7,650	251,900	306,800	558,700	0.82
	21	11,100	236,700	348,200	584,900	0.68
	22	11,100	331,600	350,000	681,600	0.95
	23	12,000	188,100	359,800	547,900	0.52
	24	9,150	350,200	324,800	675,000	1.08
617.0 1	1	55,000	1,438,100	629,600	2,067,700	2.28
	2.02	52,000	427,400	553,900	981,300	0.77
	8	76,274	1,017,100	756,400	1,773,500	1.34
	9	82,764	0	101,200	101,200	0.00

* Block 610 lot 10, part of the original study area, no longer exists

In this investigation, the analysis for criteria "e" has focused both on the underutilization of the area but also the broader land use and planning goals of the municipality. It has concluded that the area as a whole is not developing in a manner that furthers or is consistent with the Borough's land use plan and the proximity to the train station which offers excellent opportunities for smart growth and transit-oriented development.

The "f" Criteria – Fire and Natural disaster.

The "f" criteria is intended to permit the redevelopment of a large area in a community that has been destroyed or where the property values have been materially reduced by a sudden natural disaster. It was first added to the old urban renewal statutes after a catastrophic fire in Passaic destroyed several city blocks. When the State's redevelopment laws were updated in 1992, the "f" criteria was retained, but the minimum tract area that could qualify for designation was reduced from ten to five contiguous acres. This investigation does not rely on this criterion.

The "g" Criteria – Urban Enterprise Zones

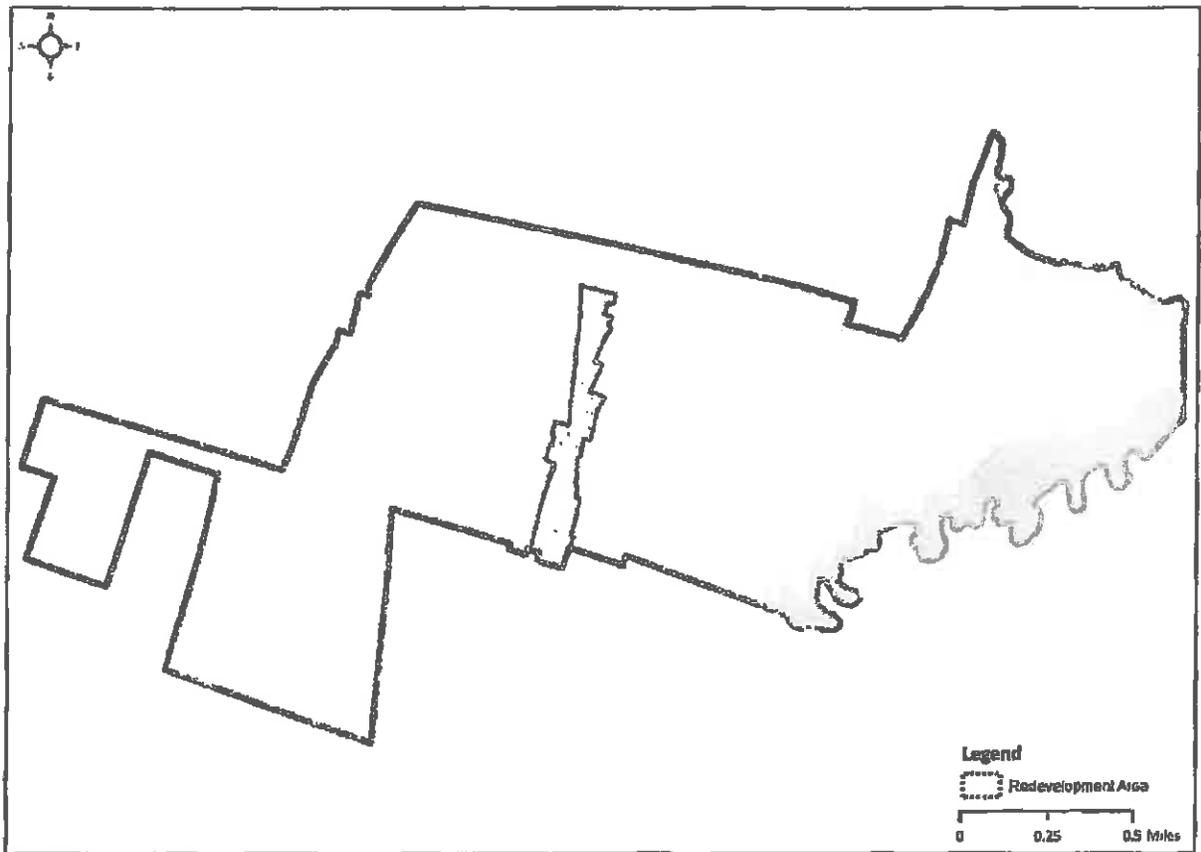
The Urban Enterprise Zone Act added criteria "g" to the redevelopment statute. Under the "g" criteria, urban enterprise zones (UEZs) designated by the New Jersey Urban Enterprise Zone Authority automatically qualify as areas in need of redevelopment for the purposes of granting long and short-term tax abatements and exemptions. However, if municipality wants to exercise any other redevelopment powers within the UEZ, including the power of eminent domain, it must prove that the area meets one or more of other statutory criteria and formally designate the area in need of redevelopment pursuant to the procedures in the LRHL. A redevelopment plan for the area also must be adopted. This investigation does not rely on this criterion.

The "h" Criteria – Smart Growth

The "h" criteria requires that the delineated area be consistent with smart growth planning principles adopted pursuant to law or regulation. Uniquely, this criteria may be applied to the overall study area rather than individual parcels therein. As such, it is possible for a Study Area to qualify even if certain individual lots do not meet criteria "a" through "g", thereby preventing certain lots within a larger area from obstructing the redevelopment of a larger area. Specifically, Section 3 of the LRHL (N.J.S.A 40A:12A-3) allows the inclusion of parcels in the area "which of themselves are not detrimental to the health, safety or welfare, but the inclusion of which is found necessary, with or without change in their condition, for the effective redevelopment of the area in which they are a part." As noted above, it has concluded that the area as a whole is not developing in a manner that furthers or is consistent with the Borough's land use plan and the proximity to the train station which offers excellent opportunities for smart growth and transit-oriented development.

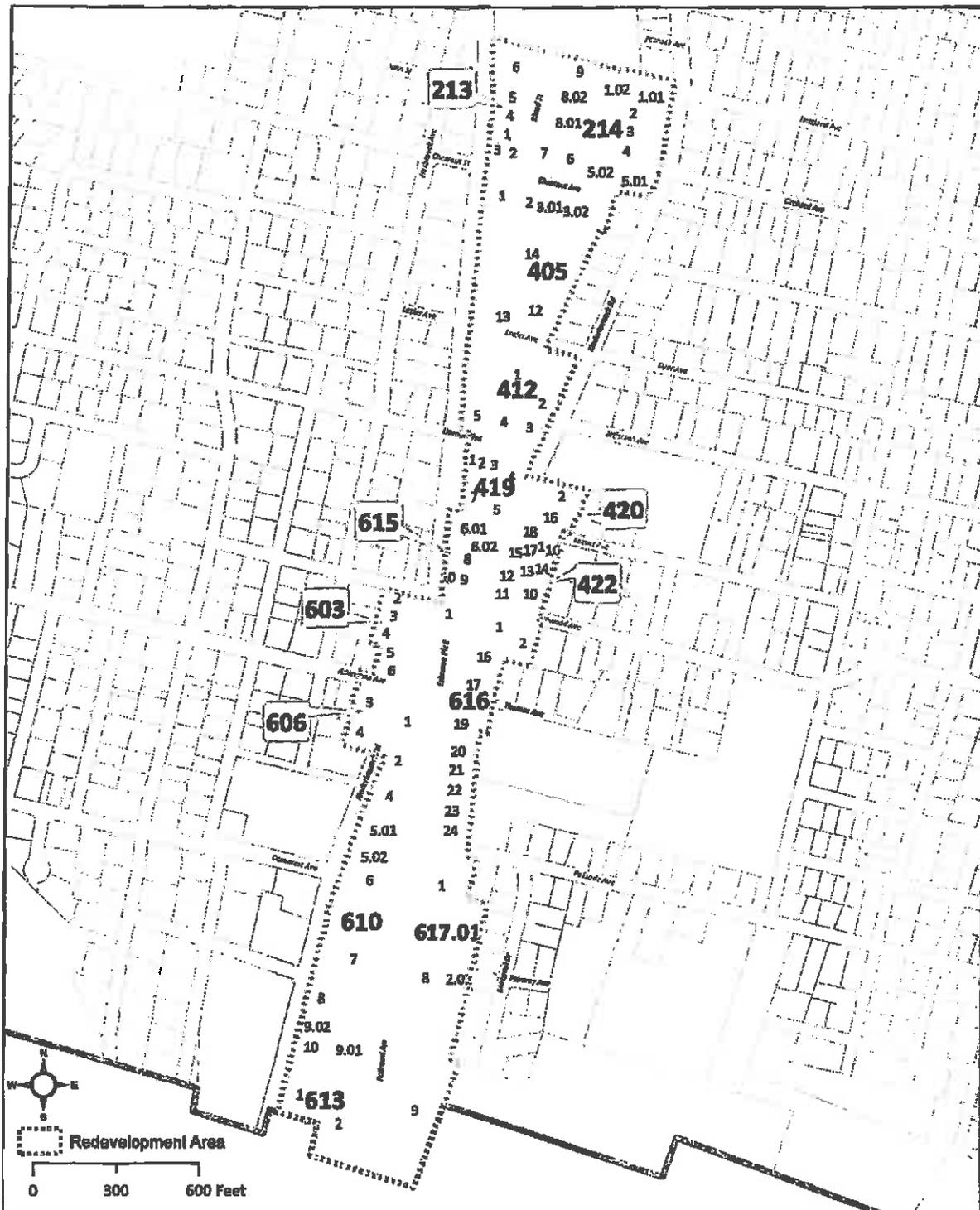
IV. Study Area Description

The following analysis reviews eighty-three (83) properties within fourteen (14) blocks located along the central portion of the Borough. The plan area totals approximately thirty-four (34) acres not including rights-of-way. The properties in question are generally along the Kinderkamack Road corridor between Hartland Avenue to the north and the municipal boundary with Oradell to the south. Additional lots along the NJ Transit rail line are also included, effectively creating a bow-tie shaped plan area.



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Borough of Emerson
 Redevelopment Area - September 2016



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Borough of Emerson
 Redevelopment Area - November 2016

B. Master Plan Recommendation

The Borough of Emerson has adopted a number of master plans/reexamination reports over the past twenty-five years. The last Master Plan was adopted in 1978 with multiple amendment and reexamination reports adopted since that time, most recently in 2015. The Master Plan has numerous goals and objectives, including a number of which are applicable to the subject study area.

In 1999, over 16 years ago, the Borough's Master Plan Reexamination Report indicated that the Borough should consider the preparation of a Downtown Plan to address the area adjacent to the New Jersey Transit Rail Station. It further states that the "Borough may also wish to consider the use of the Local Redevelopment and Housing Law to create a Redevelopment Plan for all or part of the Downtown area to upgrade the appearance and efficiency of Downtown." That plan was prepared in 2003 and the goals and objectives set forth in that plan are detailed below.

Subsequently, in 2004 the Borough undertook a redevelopment design study and prepared a redevelopment plan to assist in the implementations of the Central Business District Plan. Since 2004, over 12 years ago, there have only been two developments in the Central Business District and the Comprehensive Redevelopment Plan itself has not been implemented.

In the 2007 Reexamination Report set forth the following Five (5) goals for Commercial Development in the Borough, all of which are important and applicable while analyzing the study area.

Goal #1: To uphold the comprehensive long-range plan set forth by the Central Business District Plan. The general goals of the plan encourage redevelopment as well as renovations and rehabilitation of selected existing buildings and storefronts, and the general improvement of buildings, parking lots, storefronts, sidewalks and other public areas. Application of the plan ought too provide a stimulus to the area, improve the physical appearance of the district and promote pedestrian activity and vitality in a district with active ground floor uses and upper level residential units. In addition, the plan updates and maintains modern codes and ordinances to ensure adequate development controls.

Goal #2: To encourage the coordination of all building renovations and the construction of all new buildings in the commercial district through the utilization of complimentary building materials, colors and streetscape elements.

Goal #3: To establish a strong, distinct image for the commercial area through unified signage and streetscape design elements. The borough seeks to encourage a unified design character through a system of streetscape improvements. These improvements include design elements for buildings, lighting, sidewalk paving, banners, way finding signage, landscaping and street furniture.

Goal #4: To promote increased pedestrian safety and enhanced aesthetics in the commercial district, the borough encourages landscaping and streetscape elements that should be dispersed throughout parking areas and along pedestrian walkways. The borough recognizes that the integration of landscaping into a site design not only increase the aesthetics of the development but can also contribute to pedestrian safety.

Goal #5: To preserve the aesthetics enhancements of the commercial areas of the municipality by encouraging the general maintenance of all buildings, parking areas, storefronts, sidewalks and other public areas. The borough seeks to encourage the ongoing maintenance of all commercial properties and seeks to enforce the building maintenance regulations set forth in the borough code.

C. 2003 Central Business District Plan

A Central Business District (CBD) Master Plan was adopted in 2003. All lots within the CBD area are also included in this Study Area, making the Master Plan and its vision wholly applicable. The Plan addresses the development of the Study Area in several ways. The Plan notes that the Area faces the challenge of being a linear district with disconnected storefronts, interrupted development and an uncomfortable pedestrian environment. Fortunately, the district also has great potential for redevelopment that could revitalize and activate the area with a cohesive identity and community asset.

Goals and objectives include:

- Prepare a comprehensive and coordinated long-range plan;
- Update and maintain modern codes and ordinances to ensure adequate development controls in the future;
- Promote pedestrian activity and vitality in the district with active ground floor uses, visually interesting storefronts, window display, canopies, and signage;
- Encourage mixed-use developments and reduced setback lines to foster a continuous frontage of buildings and unify the streetscape;
- Encourage lot consolidation to enhance opportunities for infill and redevelopment where appropriate;
- Support a modest increase in intensity of use in the district to promote and sustain the revitalization of the district;
- Identify regulations and standards that will promote the rehabilitation of the buildings in the district and a diversity of architectural materials and styles;

Additionally, the Plan provides revitalization, road improvement, façade, and streetscape concepts to further the aesthetic and functional vision for the area.

C. Zoning Ordinance

The zoning map dated October 2014 for the Borough of Emerson identifies that the area is located in a number of zone districts. That portion of the area between the railroad right-of-way and Kinderkamack road, from the Oradell border north to Ackerman Street is zoned CBD-15 (Central Business District). Properties east of the rail line are zoned OSC (Open Space Conservation), LB (Limited Business), and CBD-10 (Central Business District). North of Lozier Street, properties are zoned IM, R-7.5 (Single-Family Residential), and RC (Retail Commercial). On the following page is a portion of the borough's zoning map with the study area outlined in red. Additionally the chart details the permitted uses in each zone district.

Zoning Districts

- R-22 S Residential Single-Family
- R-10 Residential Single-Family
- R-7.5 Residential Single-Family
- LB Limited Business
- RB Residential, Single-Family and Two-Family
- RC Retail Commercial
- IM Industrial and Manufacturing
- OSC Open Space Conservation
- ML-10 Single-Family
- MS-AHO Municipally-Sponsored Affordable Housing Overlay Zone-1
- AHO Affordable Housing Overlay Zone (entire Borough)
- R-2/ARC Age Restricted Community Residence Zone
- CBD-10 Central Business District - 10
- CBD-15 Central Business District - 15



zones & permitted uses

<p>CBD-15 CBD-10</p>	<p>Retail stores; Personal service businesses; Eating and drinking establishments (except drive-ins); Professional, financial and medical offices; Multifamily residential dwellings above at-grade retail commercial and other principal permitted uses; Multifamily residential dwellings including buildings above at-grade parking, only in areas: a) north of Lincoln Boulevard where the multifamily building is behind a building that fronts on Kinderkamack Road; and b) south of Demarest Road, south of Block 610 Lot 6; Instructional</p>	<p>OSC</p>	<p>Agriculture; country clubs; golf courses (not including driving ranges); Government offices; reservoirs; ice skating rinks; swimming pools; tennis courts; parks or passive recreation; environmental centers; public and private schools; hospitals; single family detached dwelling</p>
<p>LB</p>	<p>Professional business and governmental offices; Medical and dental clinics; banks and other financial institutions; funeral homes; nursing homes; hospitals and schools</p>	<p>RC</p>	<p>Appliance Sales; automotive spare parts; banks; bakeries; barbershops and beauty parlors; book, card & stationery Stores; bowling alleys; business & professional offices; candy & cigar stores; drug, dry goods & variety stores; dry cleaners, laundries & laundromats; eating and drinking places (excluding drive-thrus); florists; food stores; garden supplies; gasoline service stations; hardware stores; locksmiths; newsstands; package liquor stores; pet stores; photographic supplies and services; radio, elevations & appliance services; shoe sales & repair services; soda fountains; tailors and dressmakers; telephone exchange buildings; wearing apparel stores</p>
<p>R-7.5</p>	<p>Single-family detached dwellings.</p>		
<p>IM</p>	<p>Electrical, Plumbing; Sales; essential services; furniture repair; industrial & manufacturing; printing & publishing; upholstery; wholesale sales; woodworking</p>		

The following details the findings and observations of this analysis by tax lot for Section A. The remaining sections will be further reviewed in a subsequent report.

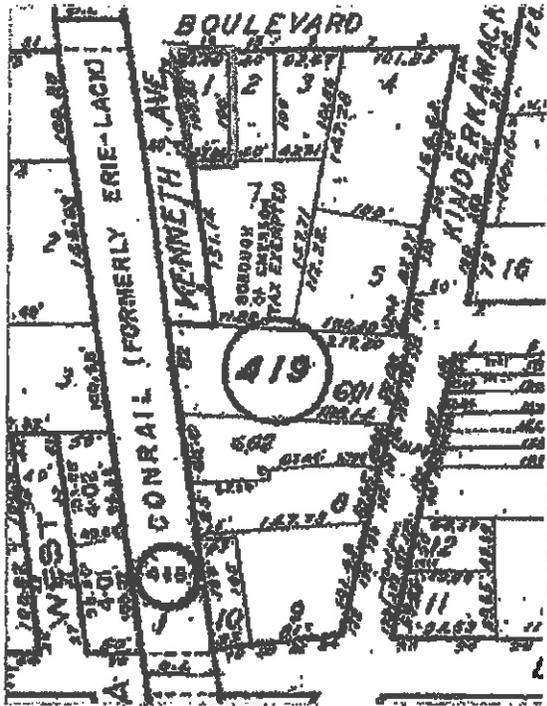
SECTION A: BLOCK 419

Located east of the railroad right-of-way (and Kenneth Avenue) and west of Kinderkamack Road, between Lincoln Boulevard and Linwood Avenue. This block contains a variety of uses including retail and service commercial uses, a restaurant, and detached dwellings. Generally, the circulation in this area makes pedestrian activity unsafe and unattractive.



Figure 1: Study Area parcels within Block 419 Aerial taken from Bing Maps

BLOCK 419 LOT 1



Description: Residential

Zone: CBD-10

Address: 19 Lincoln Blvd.

Site Inspection Observations: Currently, on this site is a two-story residence. The building is situated on an undersized lot without parking. The building is in a substandard, unsafe and deteriorated condition as can be seen in the photographs below. The roof has holes in it and is caving in, the siding has numerous holes, the windows are deteriorating exhibiting water damage, and the gutters are falling down. The building is in a state of disrepair.

Environmental Issues: None

Violations: 2006-2011, property maintenance, weeds, and litter violations; 2008, building and fire code violations;

Photographs: The following photographs are from a site inspection on November 14, 2016

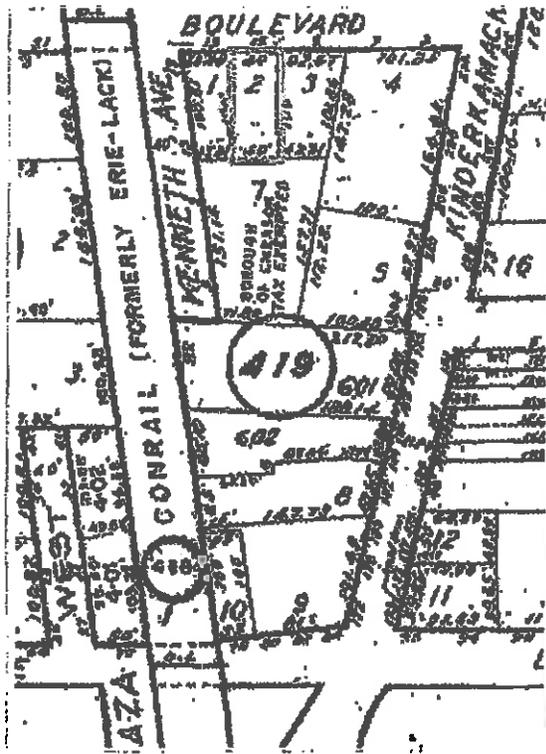


Evaluation: Site is considered blighted for the following reasons:

1. **Deterioration.** The dwelling is in a dilapidated condition as it has a crumbling roof and siding, holes in the walls, damaged gutters, deteriorated porch floor and crumbling windows, which is unsafe and substandard for occupancy. Therefore, this property is consistent with Criteria "a".
2. **Faulty arrangement.** The residence is the only home located on the block, adjacent to the railroad tracks with no parking on site and little area for outdoor storage, which evinces a faulty arrangement detrimental to the safety and welfare of the community as well as creating a greater demand for on street parking, thereby have a negative impact on the surrounding properties. Therefore, this property is consistent with Statutory Criteria "d".
3. **Underutilization.** The site has a improvement to land value of only .86 wherein the standard is 2.0. This is an indicator that the site is underutilized. Therefore, this property is consistent with Statutory Criteria "e".

The property exhibits conditions consistent with Statutory Criteria "a", "d" and "e". This is confirmed through site inspections, as can be seen in the photographs above. In addition, this property is necessary for the effective redevelopment of the entire area.

BLOCK 419 LOT 2



Description: Vacant Lot was Residential

Zone: CBD-10

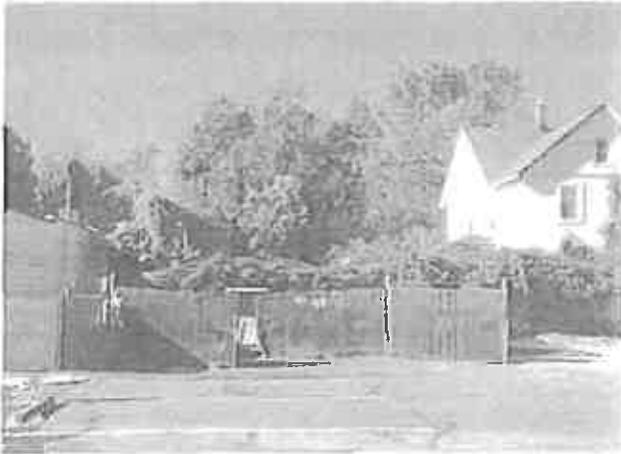
Address: 15 Lincoln Blvd.

Site Inspection Observations: was a one-story residence without parking and now it is an empty lot

Environmental Issues: None

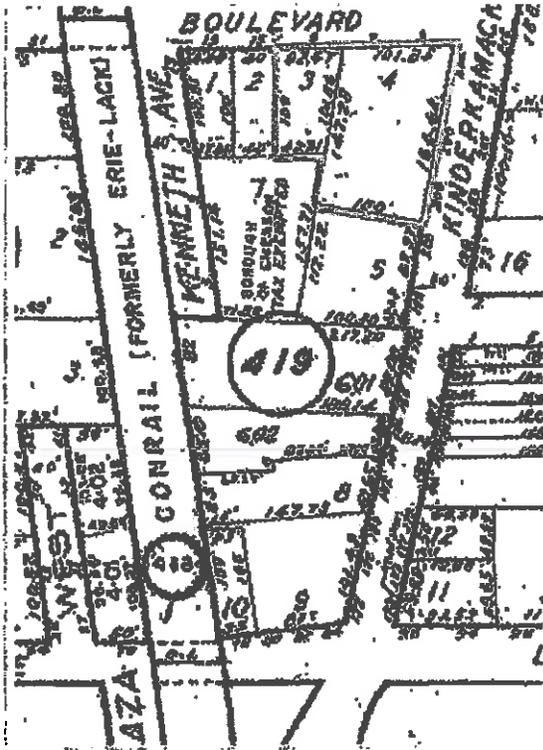
Violations: previously in 2011, exterior building maintenance violations

Photographs: The following photographs are from a site inspection on November 14, 2016



Evaluation: Site is considered substandard for the following reasons: It was a nonconforming residential land use that was demolished. This site is currently vacant and has been for several years. Its improvement to land value ratio is only 0.045 wherein the standard for property utilization of land is a ratio of 2.0. As such it represents a significantly underutilized property in the heart of the Borough's Central Business District and Redevelopment Area. It is not developed, nor has it ever been developed consistent with the goals and objectives of the Master Plan and Central Business District Plans as detailed in this report. The property exhibits conditions consistent with Statutory Criteria "e". This was confirmed through site inspections, as can be seen in the photographs above. In this investigation, the analysis for criteria "e" has focused both on the underutilization of the stagnant area but also the broader land use and planning goals of the municipality. It has concluded that the area as a whole is not developing in a manner that furthers or is consistent with the Borough's land use plan and the proximity to the train station which offers excellent opportunities for smart growth and transit-oriented development. In addition, given its location, this property is necessary to the effective redevelopment of the entire area.

BLOCK 419 LOTS 3 & 4



Description: Restaurant (lot 4) with adjacent surface parking lot (lot 3)

Zone: CBD-10

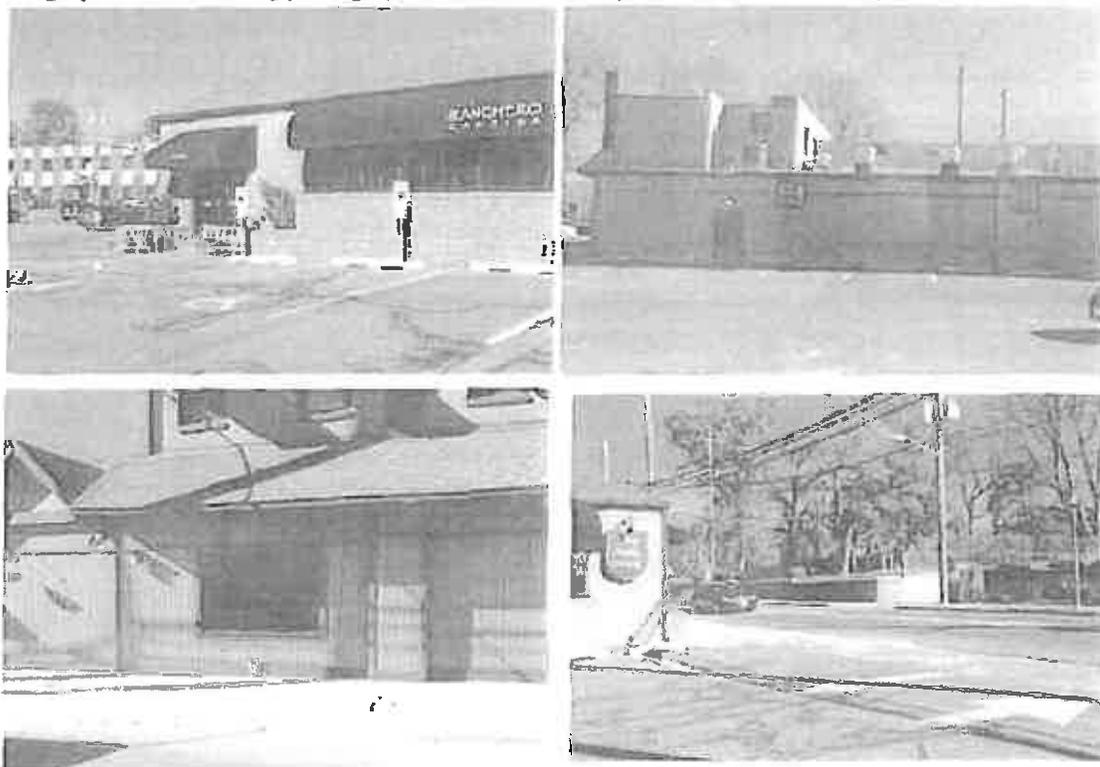
Address: 9 Lincoln Blvd. / 214 Kinderkamack Rd.

Site Inspection Observations: one-story restaurant with excess lot coverage, insufficient surface parking and unsafe vehicular circulation. The building was recently renovated, however the site itself still remains inefficient.

Environmental Issues: None

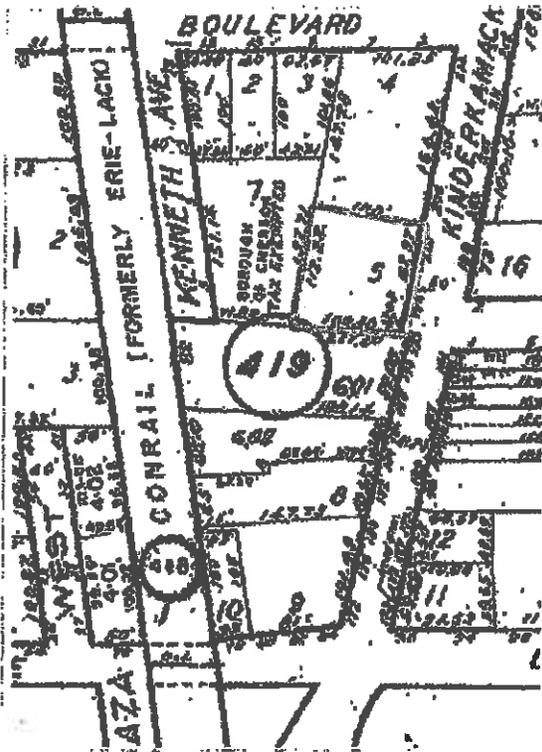
Violations: 2006, health department issues with grease on sidewalk; 2006, illegal signs; 2007, illegal parking and selling of vehicles on site; 2008, building maintenance; 2009, signage and lighting issues; 2009-2011, litter and weeds; 2009, failure to shovel snow; 2010, property to be boarded up and secured; 2014, signage; 2014, hazardous sidewalk; 2014, tall weeds/grass.

Photographs: The following photographs are from a site inspection on November 14, 2016.



Evaluation: Site is considered substandard for the following reasons: The site exhibits faulty arrangement that is characteristic of meeting Statutory Criteria "d". This is due to the fact that the site was developed as one lot and not as a comprehensive plan. The faulty arrangement is due to the size and use of the building on site. This creates a site with an inefficient layout and lack of parking which creates a greater demand for on-street parking, thereby having a negative impact on surrounding properties and the area. In this investigation, the analysis has focused on the broader land use and planning goals of the municipality. It has concluded that the area as a whole is not developing in a manner that furthers or is consistent with the Borough's land use plan and the proximity to the train station which offers excellent opportunities for smart growth and transit-oriented development. Further, Section 3 of the LRHL (N.J.S.A 40A:12A-3) allows the inclusion of parcels necessary for the effective redevelopment of the area, by stating "a redevelopment area may include land, buildings or improvements, which of themselves are not detrimental to the health, safety, or welfare, but the inclusion of which is found necessary, with or without change in their conditions, for the effective redevelopment of the area in which they are a part. The property exhibits some conditions consistent with Statutory Criteria "d". which creates a greater demand for on-street parking, thereby having a negative impact on surrounding properties.

BLOCK 419 LOT 5



Description: Mixed -Use building

Zone: CBD-10

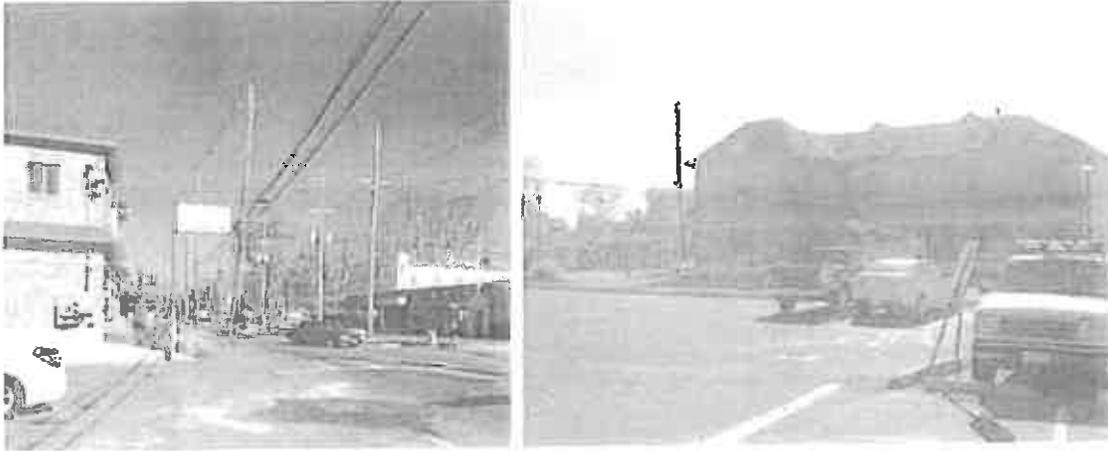
Address: 200 Kinderkamack Rd.

Site Inspection Observations: This site was previously an abandoned one-story structure, in deteriorating condition with roof and façade repairs needed and site maintenance lacking with weeds and debris. It has since been redeveloped.

Environmental Issues: on 2008 list of known contaminated sites in the State. It is still an active NJMES site, site ID # 452277 with ground water contamination. The report and map from the NJDEP is located in the appendix.

Violations: 2006-2013, tall grass and weeds, illegal parking; 2006, building maintenance issues; 2010-2012, building maintenance issues; 2015, signage

Photographs: The following photographs are from a site inspection on November 14, 2016

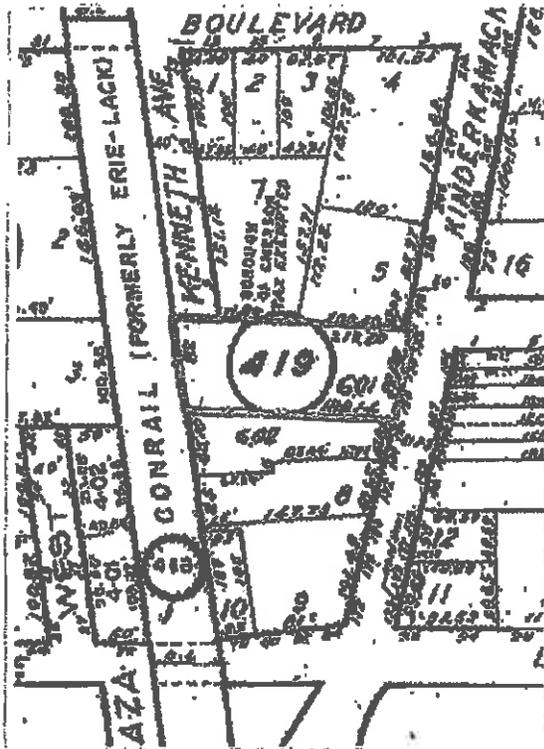


Evaluation: Site is considered substandard for the following reasons:

1. The site exhibits faulty arrangement that is characteristic of meeting Criteria "d". However this is due to the fact that the site was redeveloped as one lot and not as a comprehensive plan. The faulty arrangement is due to the size and location of the building on site. This creates a site with an inefficient layout, however there is an opportunity to improve the circulation on and off site and improve the parking design. This can be done by cross circulation easements to adjacent parcels and with keeping all the improvements in tact and in a manner consistent with the redevelopment plan goals and objectives.
2. The site's land to improvement value ratio is 1.68, lower than the standards of 2.0. This is an indicator that the site is being underlined. While a majority of the lots in the study area do not meet the 2.0 standard, the average ratio for commercial lots outside the study area is 2.11. In this investigation, the analysis for criteria "e" has focused both on the underutilization of the area but also the broader land use and planning goals of the municipality. It has concluded that the area as a whole is not developing in a manner that furthers or is consistent with the Borough's land use plan and the proximity to the train station which offers excellent opportunities for smart growth and transit-oriented development.

Further, Section 3 of the LRHL (N.J.S.A. 40A:12A-3) allows the inclusion of parcels necessary for the effective redevelopment of the area, by stating "a redevelopment area may include land, buildings or improvements, which of themselves are not detrimental to the health, safety, or welfare, but the inclusion of which is found necessary, with or without change in their conditions, for the effective redevelopment of the area in which they are a part. The property exhibits some conditions consistent with Statutory Criteria "d" and "e". However, while the lot is necessary to effectuate the redevelopment plan, it is not necessary to remove the newly developed building.

BLOCK 419 LOT 6.01



Description: Commercial

Zone: CBD-10

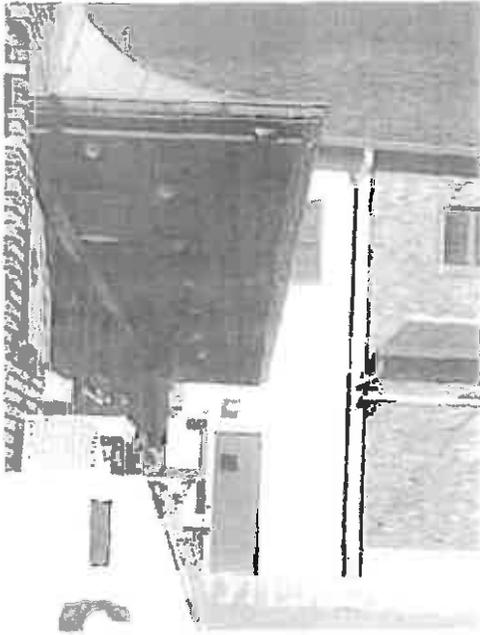
Address: 190 Kinderkamack Rd.

Site Inspection Observations: one-story structure with liquor store and cleaner. The site is not undersized for the zone, however the current building/uses create the need for outdoor storage of materials adjacent to vehicle circulation aisles. The site in general has unsafe vehicular circulation resulting from undefined curb cut, and parking spaces that allow a vehicle to back directly onto Kinderkamack Road, excess signage, unmaintained parking lot with potholes

Environmental Issues: It is still an active NJMES site, site ID # 12270. The report and map from the NJDEP is located in the appendix.

Violations: 2010, property maintenance; 2011, tall grass/weeds; 2013, signage

Photographs: The following photographs are from a site inspection on November 14, 2016



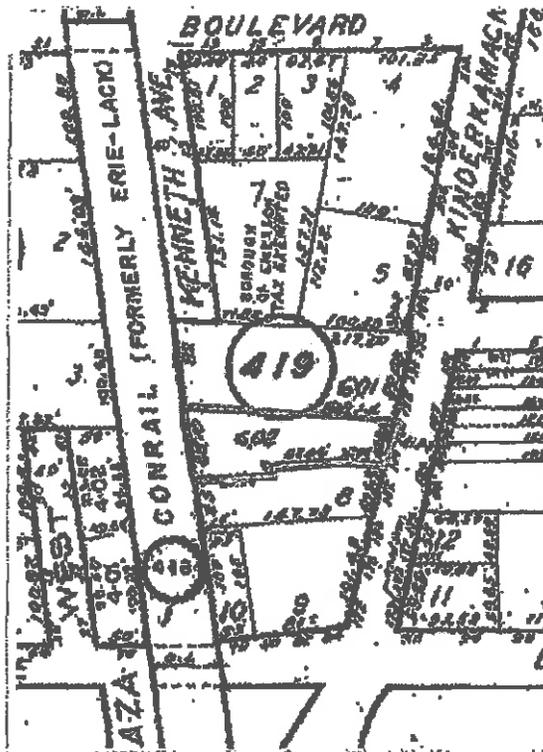


Evaluation: Site is considered substandard for the following reasons:

- 1. The site exhibits faulty arrangement that is characteristic of meeting Statutory Criteria "d". The Faulty arrangement is due to the size and location of the building on site. This creates a site with an inefficient layout with no opportunities to improve. Given the uses and building size, there is a need for outdoor storage and display as can be seen from the photographs. The lack of a curb cut is of typical of modern planning standards.**
- 2. The site's land to improvement value ratio is 1.23, clearly lower than the standards of 2.0. This is an indicator that the site is being underlined. While a majority of the lots in the study area do not meet the 2.0 standard, the average ratio for commercial lots outside the study area is 2.11. In this investigation, the analysis for Statutory Criteria "e" has focused both on the underutilization of the area and the broader land use and planning goals of the municipality. It has concluded that the area as a whole is not developing in a manner that furthers or is consistent with the Borough's land use plan and the proximity to the train station which offers excellent opportunities for smart growth and transit-oriented development. In addition, given the lot's location, this property is necessary for the effective redevelopment of the entire area.**

The property exhibits conditions consistent with Statutory Criteria "d" and "e". This confirmed through site inspections, as can be seen in the photographs above.

Block 419 Lot 6.02



Description: Mixed use Commercial/Multi-family residential

Zone: CBD-10

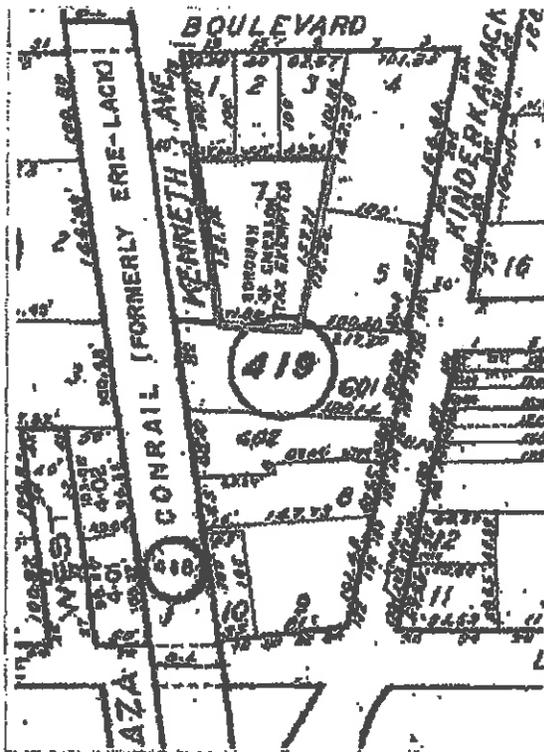
Address: 184 Kinderkamack Rd.

Site Inspection Observations: two-story structure on an undersized lot with ground floor commercial and five residential units above with on-site surface parking. Parking and sidewalk appears to be poorly maintained with un-delineated parking spaces, unpaved areas and potholes, weeds growing through the asphalt and a light pole in the middle of the lot impeding movement. The deteriorating façade has holes in the siding, and boarded up windows. All the windows are covered, with and deteriorating panes. The guardrail adjacent to the circulation aisle is deteriorated to the point it is falling apart.

Environmental Issues: None

Violations: 2007, dumpster to be enclosed; 2007-2008 derelict and abandoned vehicles; 2008, potholes on site; 2008-2011, property maintenance issues; 2010-2013, weeds and tall grass; 2012, dumpster enclosure to be repaired; 2013, potholes on site

BLOCK 419 LOT 7



Description: Public parking and ambulance Corps building

Zone: CBD-10

Address: 9 Kenneth Ave.

Site Inspection Observations: The lot has been the site of the Borough's commuter parking area and the Ambulance corps building for years as seen in the photographs below.

Environmental Issues: None

Photographs: The following photographs are from a site inspection on November 14, 2016.



Evaluation: Site is considered substandard for the following reasons: This site is currently utilized for surface parking area. The improvement to land value is only 0.27 where a standard of 2.0 is considered appropriate for land. As such it represents an underutilized property in the heart of the Borough's Central Business District and Redevelopment Area. It is not developed, nor was it ever developed consistent with the goals and objectives of the Master Plan and Central Business District Plans as detailed in this report. The property exhibits conditions consistent with Statutory Criteria "e". This confirmed through site inspections, as can be seen in the photographs above. In this investigation, the analysis for criteria "e" has focused both on the underutilization of the area but also the broader land use and planning goals of the municipality. It has concluded that the area as a whole is not developing in a manner that furthers or is consistent with the Borough's land use plan and the proximity to the train station which offers excellent opportunities for smart growth and transit-oriented development.

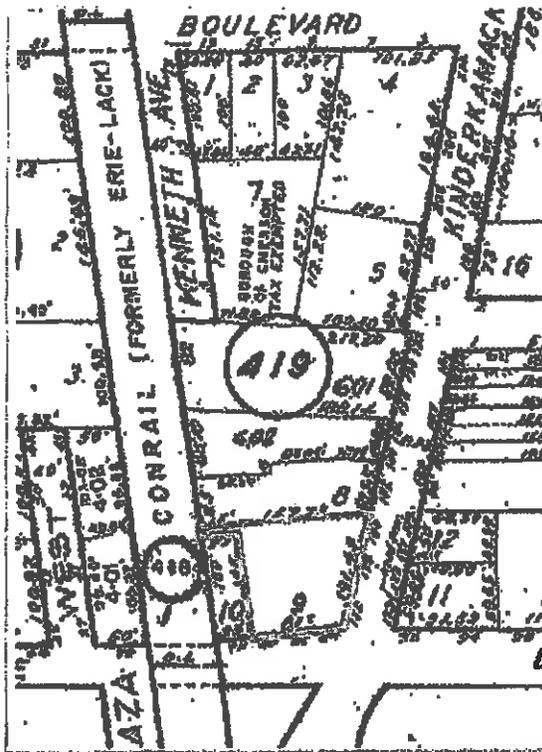


Evaluation: Site is considered substandard for the following reasons:

- 1. Deterioration.** The building is dilapidated as evidenced by crumbling concrete, holes in the walls, damaged gutters, and deteriorated crumbling windows. The building appears to have not been properly maintained as illustrated in the photographs above. Additionally, the deteriorated parking area, and sidewalk have negative impacts on the public. Therefore, Statutory Criteria "a" is met.
- 2. Improper layout.** The front of the site has an undefined curb cut, which allows for vehicles to back into Kinderkamack Road. Further, the rear of the site has a faulty arrangement due to lack of parking and the proper drive aisles. If the parking spaces are utilized, a vehicle has to back out onto the adjacent lot to exit the site, thus, creating a negative impact to the adjacent property. Therefore, Statutory Criteria "d" is met.
- 3. Underutilization.** The site has an improvement to land value of only 1.5 wherein the standard is 2.0. This is an indicator that the site is underutilized. Criteria "e" has focused both on the underutilization of the area but also the broader land use and planning goals of the municipality. It has concluded that the area as a whole is not developing in a manner that furthers or is consistent with the Borough's land use plan and the proximity to the train station which offers excellent opportunities for smart growth and transit-oriented development. While the concept of mixed use is contemplated by the plan, the building's deterioration creates a negative impact on the area.

The property exhibits conditions consistent with Statutory Criteria "a", "d" and "e". This is confirmed through site inspections, as can be seen in the photographs above.

BLOCK 419 LOT 9



Description: Restaurant commercial

Zone: CBD-10

Address: 176 Kinderkamack Rd.

Site Inspection Observations: one-story multi-tenant commercial building with excess coverage and on-site parking that is poorly controlled with a wide curb cut and stacked parking. Weed overgrowth.

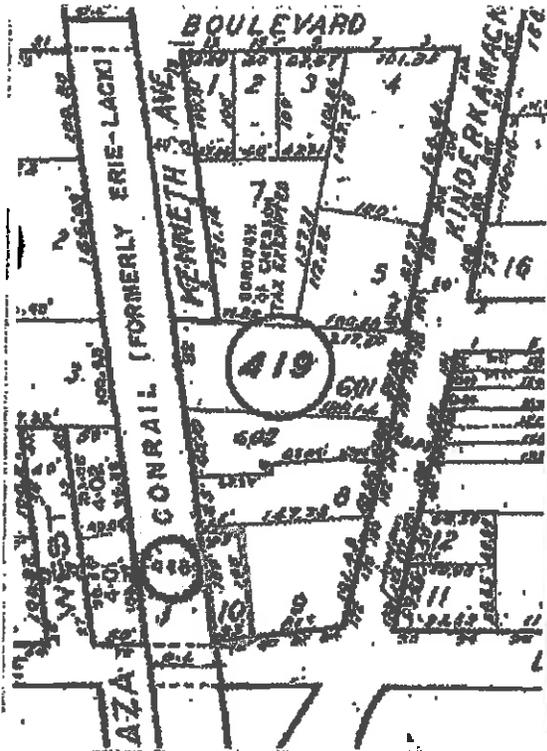
Environmental Issues: on 2008 list of known contaminated sites in the State. It is still an active NJMES site, Id # 42778 with ground water contamination. The report and map from the DEP is located in the appendix.

Violations: 2006-2008, repeat signage violations; 2006-2008 weeds and tall grass violations; 2010, property maintenance, outdoor seating appeared; 2010, failure to shovel; 2011, signage; 2016, failure to shovel; 2016, signage.

3. **Underutilization.** The site has an improvement to land value of only 0.48 wherein the standard is 2.0. This is an indicator that the site is underutilized. Criteria "e" has focused both on the underutilization of the area but also the broader land use and planning goals of the municipality. It has concluded that the area as a whole is not developing in a manner that furthers or is consistent with the Borough's land use plan and the proximity to the train station which offers excellent opportunities for smart growth and transit-oriented development. While the concept of mixed use is contemplated by the plan, the building's deterioration creates a property, which is stagnant and unproductive. Given its location, this property is necessary for the effective redevelopment of the entire area. Therefore, Statutory Criteria "d" is met.

The property exhibits conditions consistent with Statutory Criteria "a", "d" and "e" This confirmed through site inspections, as can be seen in the photographs above.

BLOCK 419 LOT 10



Description: commercial

Zone: CBD-10

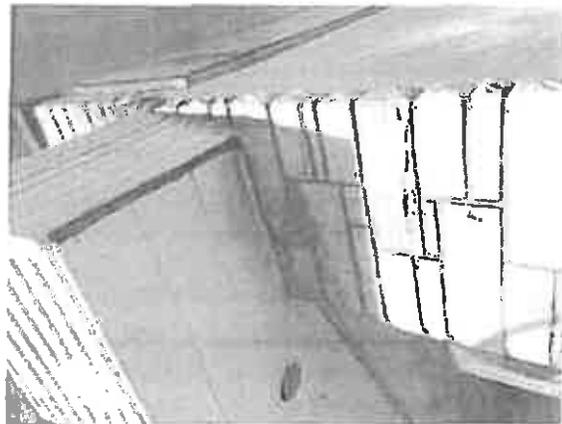
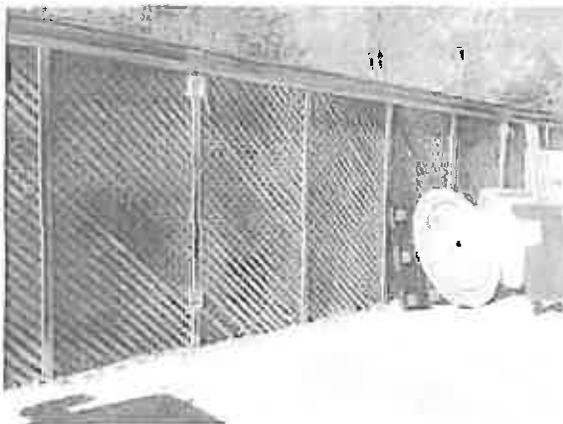
Address: 78 Linwood Ave.

Site Inspection Observations: Currently on the lot is a one-story multi-tenant commercial building on an undersized lot with insufficient on-site parking

Environmental Issues: None

Violations: 2007, weeds and tall grass; 2009, signage; 2009, dumpster enclosure; 2010, property maintenance; 2014, signage

Photographs: The following photographs are from a site inspection on November 14, 2016.



VII. Conclusion

This preliminary investigation reveals several key findings that indicate and verify that the proposed redevelopment area meets the statutory criteria found in N.J.S.A.40A:12A-5 of the Local Redevelopment Law. In general, the properties have a deleterious impact on the surrounding areas.

A majority of the Study Area exhibits faulty arrangement that is characteristic of meeting Criteria "d". The faulty arrangement is due to the size and location of the buildings, lack of parking and improper circulation aisles. This creates a site with an inefficient layout with no opportunities to improve. Given the uses and building sizes on a number of lots, there is a need for outdoor storage and display. Further the lack of a curbing along Kinderkamack Road creates safety issues with un-channeled vehicles exiting and entering the sites and/or backing out onto Kinderkamack Road.

Of the entire study area, only 10 of the 82 properties have an improvement to land value ratio of 2:1 or greater. That is only 12.5 percent of the entire study area that meets the standard. This is compared to the fact that the remaining commercial properties within the Borough have a ratio of 2.11. This fact combined with the fact that a majority of the study area exhibits poor design and arrangement are indicators that the study area is not being properly utilized and exhibits economic underutilization. This is an indicator that the area as whole is underutilized. Criteria "e" has focused both on the underutilization of the area but also the broader land use and planning goals of the municipality. It has concluded that the area as a whole is not developing in a manner that furthers or is consistent with the Borough's land use plan and the proximity to the train station which offers excellent opportunities for smart growth and transit-oriented development. Lastly, when analyzing the entire area, it is concluded that these parcels are necessary for the effective redevelopment of the entire area as a whole.

The proposed designation of the above-mentioned area as "Area In Need of Redevelopment" would allow for the creation of a Redevelopment Plan for the area that can encourage creative design, require streetscape improvements, and permit uses that will be compatible with the area's proximity to the train station. These changes would be compatible to the vision of the Master Plan and in keeping with the Smart Growth principles of the State Plan.

VIII. Recommendation

Based on the findings of this preliminary investigation, the recommendation to the Borough of Emerson Planning Board is to forward these findings and recommendations to the Municipal Council. All the properties within the proposed area clearly meet the statutory criteria needed to establish a redevelopment area. Therefore, the Municipal Council of the Borough of Emerson has the authority to reconfirm this area as an "Area In Need of Redevelopment", and to authorize the Borough to use all those powers provided by the Legislature for use in a redevelopment area, including the power of eminent domain ("Condemnation Redevelopment Area").

Once the area designation is formally reconfirmed, the Council should authorize a process by which the Planning Board, the public and municipal professionals establish a redevelopment plan for the area. A resolution will be needed authorizing Planning Board to develop such a plan.

Appendices

- 1. Governing Resolution**
- 2. Police Records**
- 3. NJDEP Environmental Reports and Map**

**BOROUGH OF EMERSON
COUNTY OF BERGEN, NEW JERSEY
RESOLUTION** **No: 221-16**

.....

Subject: Resolution Of The Mayor And Council Of The Borough Of Emerson Directing The Land Use Board To Conduct A Supplemental And Preliminary Study To Determine If An Area Is In Need Of Redevelopment

WHEREAS, on February 3, 2004 the Governing Body adopted a Resolution No. 50-04 of the Borough of Emerson ("Borough") pursuant to the Local Redevelopment and Housing Law ("LRHL"), N.J.S.A. 40A:12A-1, et seq., authorizing the Emerson Planning Board ("Board") to conduct a preliminary investigation as to whether the following Blocks or portions thereof: 412, 419, 420, 422, 603, 610, 613, 615, 616, and 617.01, on the official tax map of the Borough and located in the downtown central business district, met the statutory criteria to be designated as "an area in need of redevelopment"; and

WHEREAS, the Planning Board of the Borough of Emerson conducted the requested analysis and held the requisite hearings on July 29, 2004 and August 19, 2004, which were all properly noticed, to determine whether the studied properties met the statutory criteria to be designated as "an area in need of redevelopment"; and

WHEREAS, the Planning Board of the Borough of Emerson adopted a Resolution on September 7, 2004 recommending that the Mayor and Council designate the studied properties as "an area in need of redevelopment"; and

WHEREAS, the Mayor and Council adopted a Resolution No. 199-04 on September 7, 2004 designating Block 412, Lots 1, 2, 3, 4 & 5; Block 419, Lots 1, 2, 3, 4, 5, 6.01, 6.02, 7, 8, 9 & 10; Block 420 Lots 2 & 16; Block 422, Lots 1, 10, 11, 12, 13, 14, 15, 16, 17 & 18; Block 603, Lots 2,3,4,5 & 6; Block 606, Lots 3 & 4; Block 610, Lots 1, 2, 4, 5.01, 5.02, 6, 7, 8, 9.01, 9.02 & 10; Block 613, Lots 1 & 2; Block 615, Lot 1; Block 616, Lots 1, 16, 17, 19, 20, 21, 22, 23 & 24; Blocks 617.01, Lot 1 as "an area in need of redevelopment"; and

WHEREAS, on May 6, 2008, the Governing Body adopted a Resolution No. 92-08 pursuant to N.J.S.A. 40A:12A-4(a)(1), authorizing the Emerson Planning Board ("Board") to conduct a supplemental investigation as to whether the existing properties should remain designated as "an area in need of redevelopment" and to conduct a preliminary investigation to determine if the following additional properties Blocks or portions thereof: 213, 214, 405, 616, 617.01, located in the downtown central business district, met the statutory criteria to be designated as "an area in need of redevelopment"; and

WHEREAS, the Planning Board of the Borough of Emerson adopted a Resolution on December 4, 2008 recommending that the existing area remains to be in need of redevelopment and recommending that the Mayor and Council designate the additional studied properties as "an area in need of redevelopment"; and

Agenda No. 16

WHEREAS, on July 8, 2015 the Borough of filed a Declaratory Judgment Action in the Superior Court of New Jersey Bergen County in furtherance of the Supreme Court's March 10, 2015 decision captioned In re Adoption of N.J.A.C. 5:96 & 5:97 by N.J. Council on Affordable Housing, 221 N.J. 1 (2015) (the "Supreme Court Decision"); and

WHEREAS, By Court Order dated August 3, 2016, the Superior Court has extended the Borough of Emerson's temporary immunity to October 31, 2016, while the Borough continues to prepare a Housing Element and Fair Share Plan as directed in the Supreme Court Decision; and

WHEREAS, the Court's extension of temporary immunity was granted on the condition that the Borough of Emerson participates in mediation initiated by the Court-appointed Special Master; and

WHEREAS, the Court-appointed Special Master has requested the Borough of Emerson explore potential zoning changes and additional development opportunities to address the Borough's unmet need; and

WHEREAS, in an effort to fulfill this obligation the Mayor and Council have determined that a supplemental study of the properties be conducted to ensure its compliance with the LRHL and that a preliminary investigation of additional properties be conducted for the potential redevelopment to fulfill the Borough's affordable housing requirement;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Emerson that the Land Use Board is hereby directed and authorized to examine whether the area comprising of the following blocks and lots on the official tax map of the Borough meet the statutory criteria to be deemed as "an area in need of redevelopment" pursuant to the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq.:

Block	Lot(s)
412	1, 2, 3, 4 & 5
419	1, 2, 3, 4, 5, 6.01, 6.02, 7, 8, 9 & 10
420	2 & 16
422	1, 10, 11, 12, 13, 14, 15, 16, 17 & 18
603	2, 3, 4, 5 & 6
606	3 & 4
610	1, 2, 4, 5.01, 5.02, 6, 7, 8, 9.01, 9.02 & 10
613	1 & 2
615	1
616	1, 2, 16, 17, 19, 20, 21, 22, 23 & 24
617.01	1, 2.02, 8 & 9
213	1, 2, 3, 4, 5 & 6
214	1.02, 5.02, 6, 7, 8.01, 8.02, 9
405	1, 2, 3.01, 3.02, 4, 12, 13, 14

Agenda No. 16

BE IT FURTHER RESOLVED THAT the Borough hereby states that any redevelopment area determination shall authorize the municipality to use all those powers provided by the Local Redevelopment and Housing Law for use in a redevelopment area, including the use of eminent domain; and

BE IT FURTHER RESOLVED THAT the Borough Land Use Board shall undertake such a supplemental and preliminary investigation in accordance with the provisions of the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq., including but not limited to issuing all required notices, conducting a public hearing, and thereafter submitting its report containing its recommendations to the Mayor and Council; and

BE IT FURTHER RESOLVED, that this resolution shall take effect immediately.

COUNCIL	M O V E D	S E C O N D E D	A Y E S	N A Y E S	A B S E N T	A B S T A I N
DiPaola					X	
Lazar			X			
Downing		X	X			
Knoller	X		X			
Tripodi			X			
Worthington					X	

I hereby certify that the above Resolution was duly adopted by the Borough of Emerson at a meeting held on August 16, 2016.

Attest:

Jane Duluth
Municipal Clerk



Emerson Police Department

1 Municipal Place Emerson, N.J. 07630
HQ: (201) 262-2800 FAX: (201) 262-2886

To: Chief Rossi
From: Sgt. Rocco Duardo #831 *R.D.*
Date: 8/16/2016
Subject: Motor Vehicle Crashes on Kinderkamack Road

Chief Rossi,

I have researched our data base pertaining to motor vehicle crashes that have occurred on Kinderkamack Road which is a county roadway. Unfortunately our digital records start on November 14, 2010 to the present day. I have broken it down by years and have given you the total of motor vehicle crashes that occurred on Kinderkamack Road:

11/14/2010 to 12/31/2010: we had ten motor vehicle crashes.

2011: we had a total of one hundred and six motor vehicle crashes.

2012: we had a total of one hundred and five motor vehicle crashes.

2013: we had a total of one hundred motor vehicle crashes.

2014: we had a total of one hundred and twenty three motor vehicle crashes.

2015: we had a total of eighty motor vehicle crashes.

1/1/2016 -- present: we had a total of fifty nine motor vehicle crashes.

Thanks,
Sgt. Rocco Duardo #831
Sgt. Rocco Duardo

2011-2016 CAD REPORT

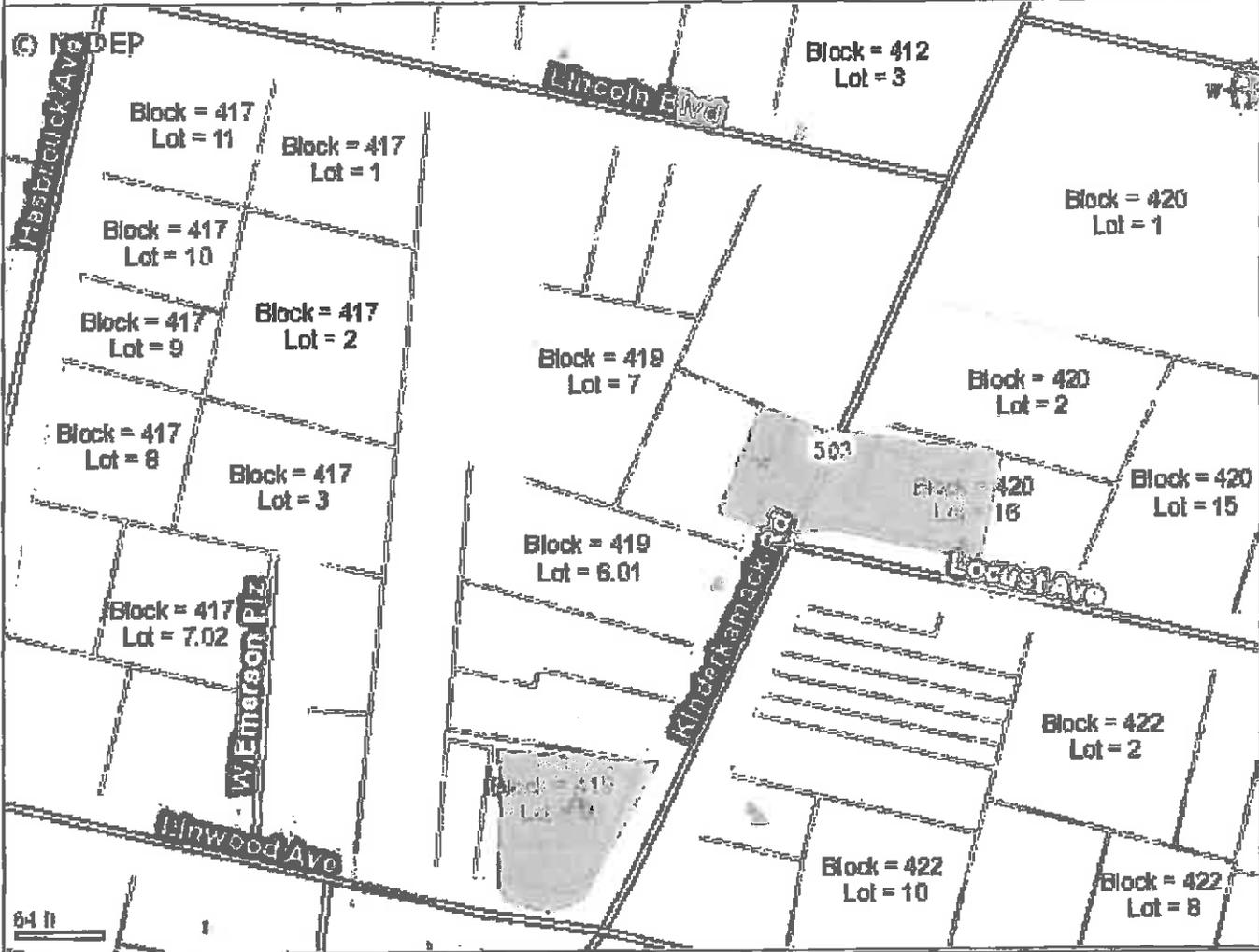
<u>Incident</u>	<u>Kinderkamack Road</u>	<u>Other</u>	<u>Total</u>
Alarm	313	1419	1732
Animal Incident	133	1225	1358
Assist Residence (13-16)	36	416	452
Dispute	36	434	470
Disabled MV	180	429	609
DPW Assist	43	157	200
Fire Dept. Request	88	590	678
Funeral Escort	13	30	43
Group Moved	193	99	292
Intoxicated Party	23	41	64
Lock Out	53	178	231
Medical Request	261	2201	2462
Missing Person	5	57	62
MV Complaint	153	481	634
MV Stop	5918	6580	12,498
Noise Complaint	39	390	429
Property-Lost/Found	71	364	435
Suspicious Incident	45	243	288
Suspicious Person	241	628	869
Suspicious Vehicle	309	1035	1344
Domestic Violence	15	140	155

2013 to Present

Arrests

<u>Incident</u>	<u>Kinderkamack Road</u>	<u>Other</u>	<u>Total</u>
Aggravated Assault	5	7	12
Simple Assault	8	30	38
Burglary	3	2	5
Boro Ordinance Violation	8	80	88
CDS Offenses	50	78	128
Contempt	2	8	10
Criminal Mischief	2	5	7
Disorderly Conduct	1	3	4
DUI	41	46	87
Harassment	1	8	9
Lewdn�ess	1	0	1
Sex Assault	0	2	2
Theft	5	8	13
Vehicular Homicide	0	1	1
Terroristic Threats	1	4	5
Stalking	1	1	2
Warrant	59	124	183
Shoplifting	16	8	24
All Other Offenses	6	15	21

NJ DEP Environmental Data
Block 419



64 ft

Map Printed On {2016-12-06 15:26}

Legend

GeoWeb

NJEMS Sites

Known Contaminated Sites List

Groundwater Contamination Areas (CEA)

Municipalities

Parcels Data (Block and Lot)

Major Roads (1:200000 to 1:999 scale)

— Toll Road

— Interstate

US Highway

State Highway

~ County 500 Series

— County 600 Series

Counties

Mid-Atlantic States

New Jersey

~ Other Mid-Atlantic States

Details of "NJEMS Sites"

Attribute	Value
NJEMS Site ID	45277
Site Name	GEORGES EMERSON AUTO REPAIR
Address Line 1	200 KINDERKAMACK RD
Address Line 2	
City	EMERSON
ZIP Code	07630
County	BERGEN
Municipality	EMERSON BORO
NJSPC Easting (X)	622,871.000
NJSPC Northing (Y)	780,869.000

More Information For This Site

Program Interest Name	GEORGES EMERSON
Program Type	SRP-PI
Preferred ID Number	000535
Active	Y
Program	SR
Start Date	2/22/1999 12:00:00 AM

More Information For This Site

Program Interest Name	FORMER CITGO/SUPER VALUE INC
Program Type	HW GENERATOR
Preferred ID Number	NJ0000381152
Active	N
Program	HW
Start Date	

Details of " Groundwater Contamination Areas (CEA) "

Attribute	Value
Preferred ID	000535
Subject Item ID	153927
Activity Number	LSR120001
Case Tracking Number	508
Name	Citgo Service Station Emerson Boro
CEA Name	Citgo Service Station Emerson Boro
Address	200 Kinderkamack Rd
Block / Lot	419-5;420-16
Municipality	Emerson Boro
County	Bergen
Program	LSRP
Established Date	1/9/2002 12:00:00 AM
CEA Description	CEA includes area of former tank field and pump island on eastern portion of the site and continues off-site across Kinderkamack Road to include a portion of the downgradient property.
Restriction Depth (ft)	50.000
Duration (yrs)	8
Well Restriction Area (WRA)	Yes
Groundwater Classification	II-A
Geologic Formation	Glacial Drift
Ground Water Flow Direction	
Benzene	Yes
Methyl Tertiary Butyl Ether (MTBE)	Yes
t-Butyl Alcohol (TBA)	
Trichloroethene (TCE)	
Tetrachloroethene (PCE)	
Chloroform	
Carbon tetrachloride	
Vinyl chloride	
Naphthalene	
Benzo[a]pyrene	
Lead (Pb)	
Arsenic	
Chromium	
Cadmium	
Mercury	
Tentatively Identified Compounds (TICs)	
Volatile Organics (VOs)	Ethylbenzene, Xylenes (total)
Base/Neutrals (BNs)	
Metals	
Pesticides	
Polychlorinated Biphenyls (PCBs)	
Dioxin	
Radionuclides	
Free Product	
Historic Fill	
Other Contaminants	
Acres	0.32774571

Details of " NJEMS Sites "	
Attribute	Value
NJEMS Site ID	12270
Site Name	RANCH DRY CLEANERS
Address Line 1	190 KINDERKAMACK RD
Address Line 2	
City	EMERSON
ZIP Code	07630
County	BERGEN
Municipality	EMERSON BORO
NJSPC Easting (X)	622,839.000
NJSPC Northing (Y)	780,782.000
More Information For This Site	
Program Interest Name	RANCH CLEANERS
Program Type	AIR
Preferred ID Number	L0177
Active	Y
Program	AQ
Start Date	
More Information For This Site	
Program Interest Name	RANCH DRY CLNRS
Program Type	HW GENERATOR
Preferred ID Number	NJD986576528
Active	Y
Program	HW
Start Date	7/16/1990 12:00:00 AM

Details of " Groundwater Contamination Areas (CEA) "	
Attribute	Value
Preferred ID	000535
Subject Item ID	153927
Activity Number	LSR120001
Case Tracking Number	508
Name	Citgo Service Station Emerson Boro
CEA Name	Citgo Service Station Emerson Boro
Address	200 Kinderkamack Rd
Block / Lot	419-5;420-16
Municipality	Emerson Boro
County	Bergen
Program	LSRP
Established Date	1/9/2002 12:00:00 AM
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Well Restriction Area (WRA)	Yes
Groundwater Classification	II-A
Geologic Formation	Glacial Drift
Ground Water Flow Direction	
Benzene	Yes
Methyl Tertiary Butyl Ether (MTBE)	Yes
t-Butyl Alcohol (TBA)	
Trichloroethene (TCE)	
Tetrachloroethene (PCE)	
Chloroform	
Carbon tetrachloride	
Vinyl chloride	
Naphthalene	
Benzo[a]pyrene	
Lead (Pb)	
Arsenic	
Chromium	
Cadmium	
Mercury	
Tentatively Identified Compounds (TICs)	
Volatile Organics (VOs)	Ethylbenzene, Xylenes (total)
Base/Neutrals (BNs)	
Metals	
Pesticides	
Polychlorinated Biphenyls (PCBs)	
Dioxin	
Radionuclides	
Free Product	
Historic Fill	
Other Contaminants	
Acres	0.32774571

Details of " NJEMS Sites "	
Attribute	Value
NJEMS Site ID	42778
Site Name	BILLS TIRE & AUTO
Address Line 1	176 KINDERKAMACK RD
Address Line 2	
City	EMERSON
ZIP Code	07630
County	BERGEN
Municipality	EMERSON BORO
NJSPC Easting (X)	622,736.000
NJSPC Northing (Y)	780,623.000
More Information For This Site	
Program Interest Name	BILLS TIRE AN AUTO
Program Type	SRP-PI
Preferred ID Number	003698
Active	Y
Program	SR
Start Date	5/30/1990 12:00:00 AM

EXHIBIT C

2 APPEARANCES:
 3
 4 DeCOTIIS FITZPATRICK & COLE, LLP
 By: DOUGLAS F. DOYLE, ESQ.
 5 Glempointe Centre West
 Frank W. Burr Boulevard
 6 Suites 31
 Teaneck, New Jersey 07666
 7 Borough Redevelopment Counsel
 8
 9
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 11
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1 MR. SCHWINDER: Good evening, and
 2 welcome to the Thursday, December 8, 2016 meeting of
 3 the Borough of Emerson Land Use Board. Before we
 4 begin with tonight's agenda, we would like to notify
 5 the public that one of the items on tonight's agenda
 6 is a public hearing. The Board will consider
 7 whether or not a certain area meets the statutory
 8 criteria under New Jersey Local Redevelopment and
 9 Housing Law to continue to be designated as a
 10 Condemnation Redevelopment Area.

11 Please be advised that due to the
 12 numerous blocks and lots that comprise the area, the
 13 Board will only be reviewing, hearing, and taking
 14 into consideration the following block and lots at
 15 tonight's meeting. Block 419, Lots 1, 2, 3, 4,
 16 6.01, 6.02, 7, 8, 9, and 10. If you are the
 17 property owner and/or person in interest affected by
 18 the potential designation of any one of these
 19 aforementioned properties, then you are invited to
 20 comment before the Board when the opportunity is
 21 provided. If you are not a property owner and/or a
 22 person of interest that may be affected by
 23 designation of a specific area being considered,
 24 then you are invited to remain for the hearing,
 25 however, please note that any information and/or

1 INDEX

2 RESOLUTIONS:	PAGE:
3 118 Eagle Dr., Kim Residence, Rear Yard Setback	7
4 23 Favonia Ave, Sabino family, Rear Yard Setback, Deck Addition	8
5 APPLICATIONS:	
6 437 Old Hook Road, Unit 5, ShopRite Plaza Club Plates, Logo Sign Variance	9
7 PUBLIC HEARING:	
8 Designation of certain blocks and lots as a Condemnation Redevelopment Area within the Central Business District	16
9 WITNESS:	
10 Brigitte Bogart, Planner	19
11 MEMBERS OF THE PUBLIC:	
12 Jim Jaworski, Esq.	86
13 Debbie Agnello	89
14 Ernest Vandackmangel	97
15 Rosella Cordero	102
16 Eduardo Cordero	103
17 Kenneth Hoffman	105
18 Robert Petrow	107
19 Jill McGuire	109
20 Ed Bueti	110
21 Danielle DiPaola	115
22 Tim O'Brien	119
23 Mark Santangelo	120
24 Changes To Proposed Amendment to the Redevelopment Plan	125
25 MEMBERS OF THE PUBLIC:	
Unidentified Speaker	128
Jill McGuire	140
Dominic Scalz	145

1 testimony relating to any of the other blocks and
 2 lots will not be tonight, but at a future Board
 3 meeting where notice will be provided in the same
 4 manner as required by law notifying all affected
 5 property owners and/or persons of interest, at which
 6 time the Board will consider the other properties.

7 Also the Land Use Board has been
 8 directed by the Mayor and Council to review certain
 9 additional amendments to the Borough's Redevelopment
 10 Plan. The Land Use Board has already provided its
 11 report recommending certain amendments, and will
 12 only be reviewing two additional amendments tonight.
 13 Specifically, we will consider an amendment
 14 requiring a minimum five-foot setback on the facade
 15 of fourth floor of buildings facing Kinderkermack
 16 Road, and an amendment to the parking requirement
 17 that require the Board to retain a consultant for
 18 certain applications. These are the only amendments
 19 that the Board will review tonight, as the Board has
 20 previously reviewed and recommended other amendments
 21 contained within the proposed ordinance.

22 The Board will begin hearing a
 23 presentation from Brigitte Bogart, the Borough's
 24 planner, as well as any person willing to comment
 25 and aid the Board in its recommendation to the Mayor

1 and Council. Thank you for your cooperation, and we
2 will now begin the regular agenda of tonight's
3 meeting. And I ask anybody who has a cell phone,
4 please silence it right now so we don't hear any
5 phones going off during the meeting.

6 The first item on the agenda is the
7 approval of the minutes of November 10th. Everybody
8 should have received a copy of the minutes. At this
9 point in time I will entertain any comments,
10 changes, or corrections from any Board member. Do
11 you have any comments, changes, or correction?

12 Not hearing any responses, I'd like to
13 entertain a motion to accept the minutes as
14 prepared.

15 (Motion made and seconded; all in favor.)

16 MR. SCHWINDER: Minutes are approved.

17 Correspondence and vouchers?

18 BOARD SECRETARY: No correspondence;
19 we do have vouchers.

20 (Vouchers were read, totalling \$8,360.58.)

21 MR. SCHWINDER: I will entertain a
22 motion to approve the vouchers.)

23 (Motion made and seconded; all in favor.)

24 MR. SCHWINDER: Vouchers approved.

25 Next on the agenda is a resolution for

1 MR. SCHWINDER: What was determined
2 with the front tree is, they're going to trim the
3 tree as best as possible as prescribed by the tree
4 expert who also met with the Shade Tree Commission,
5 and hopefully that tree will survive. If it doesn't
6 survive after a number of years, the applicant is
7 required to replace the tree with the same species,
8 and a certain girth, which I don't recall right now.

9 MR. MARTIN: And they have to follow
10 the requirements of the Shade Tree Commission.

11 MR. SCHWINDER: That's correct.

12 Any other comments, questions?

13 Not hearing any other questions or
14 comments, I'd like to get a vote, a roll call vote
15 on this resolution, please. Can I have a motion?

16 (Motion made and seconded; all in favor.)

17 MR. SCHWINDER: Approved.

18 The next resolution that we have to
19 memorialize is for 23 Pavonia Avenue, the Sabino
20 family, and this was for a rear yard setback
21 application so they could proceed with building a
22 deck. You should all have received a copy of that
23 resolution, and I'd like to entertain any questions,
24 comments, or corrections from the Board.

25 Not hearing any, questions, comments

1 118 Eagle Drive. This is the Kim residence, and the
2 family had applied for a rear yard setback, which we
3 approved at the last meeting. So tonight we will be
4 memorializing that particular approval in the form
5 of a resolution, which everybody should have
6 received by e-mail. If anyone has any comments,
7 changes, or corrections, please state them now.

8 MR. MARTIN: Mr. Chairman, just for
9 the record that includes 19.1, I believe, percent of
10 impervious surface where 15 is the permitted. And
11 also in the right side of the building, if you're
12 looking directly at the front door from the street,
13 there should be no structures in that eight-foot
14 zone between the property line and the structure.
15 The air conditioning units will have to go over
16 on --

17 MR. SCHWINDER: The left side --

18 MR. MARTIN: On that side, it has to
19 be screened and adjacent to the structure and in
20 accordance with Mr. Ascolese's approval. That's the
21 basis of the resolution.

22 MS. SCHWINDER: Thank you very much.

23 Any other comments?

24 MR. GOURSKY: What was determined with
25 the front tree.

1 or corrections, I'd like to entertain a motion to
2 approve this resolution.

3 (Motion made and seconded; all in favor.)

4 MR. SCHWINDER: So that is approved.

5 Next we have an application for 437
6 Old Hook Road, Unit 5, Club Pilates. Is that
7 applicant here? Please step forward.

8 (ALISON WARNER, was duly sworn.)

9 MR. MARTIN: For the record -- and
10 welcome to our normal meeting here. For the record,
11 just state your full name and address.

12 MS. WARNER: Alison Warner, business
13 address, 437 Old Hook Road, Unit 5.

14 MR. MARTIN: Mr. Chair, if I can lead
15 it might be more expeditious.

16 MR. SCHWINDER: Fine.

17 BY MR. MARTIN:

18 Q. Ms. Warner, what is your type of
19 business that you're looking to open up?

20 A. Pilates franchise, it's a studio,
21 small fitness studio.

22 Q. And it would be in the Emerson
23 ShopRite Shopping Center?

24 A. Correct.

25 Q. And you're here because we have to

1 approve the Club Pilates logo, correct?
 2 A. Yes.
 3 Q. My understanding is it's a California
 4 company and it has Pilates in numerous states across
 5 the country, is that accurate?
 6 A. Correct.
 7 Q. And there's probably about four in New
 8 Jersey now?
 9 A. Yes.
 10 Q. And, hopefully, we'll have a good
 11 Pilates in Emerson, right?
 12 A. Yes, you will.
 13 Q. The sign or logo, more specifically,
 14 which is why you're here, is in each of the
 15 franchises across the country?
 16 A. Correct.
 17 Q. And it's a standard Pilates logo, and
 18 I believe evidence has been presented to the Board
 19 as to what it looks like, and we're going to mark
 20 that as A-1 for Applicant 1, okay?
 21 A. Okay.
 22 (Whereupon, A-1 was marked for
 23 identification.)
 24 Q. Mr. Ascolese is behind you, he's the
 25 Board engineer and the Town engineer. He gave us a

1 little synopsis of what you need to do, and,
 2 Mr. Ascolese, I'm going to just go off of that and
 3 ask her a question, okay?
 4 MR. ASCOLESE: Sure.
 5 Q. Mr. Ascolese would like you to confirm
 6 that you will not illuminate the sign after 11 p.m.
 7 each night, however it's lit up, you're not going to
 8 light it after that.
 9 A. Okay.
 10 Q. In accordance with the ordinance we
 11 commonly call Chapter 232-2 Section H of the Code.
 12 Do you agree to do that?
 13 A. I agree.
 14 MR. MARTIN: The maximum distance the
 15 sign can extend off the building, Mr. Ascolese, I
 16 believe is eight inches?
 17 MR. ASCOLESE: Correct.
 18 MR. MARTIN: I believe that the sign
 19 itself is a thickness of five inches.
 20 MR. ASCOLESE: Correct.
 21 Q. Do you believe that the sign itself,
 22 once mounted, will not go beyond eight inches out
 23 from the building?
 24 A. I believe that's right.
 25 Q. We'll just have to do that, okay?

1 A. Okay.
 2 Q. I don't think there will be a problem
 3 with that. That's what you're going to have to do.
 4 A. Okay.
 5 Q. And then the application is required
 6 for the logo, under Chapter 232-2 Section 3, that's
 7 why you're here. And finally, the -- the sign is in
 8 conformance --
 9 MR. ASCOLESE: Yes.
 10 MR. MARTIN: The signage, shape and
 11 size, you know, parameters, diameter, the whole
 12 thing, is subject to 232-3, Section F. The maximum
 13 size of 24 feet, Mr. Ascolese, that's all been
 14 confirmed?
 15 MR. ASCOLESE: The sign is in
 16 compliance, yes.
 17 MR. MARTIN: So it comes down to the
 18 Board's feeling on the logo, I believe --
 19 MR. ASCOLESE: That is correct.
 20 MR. MARTIN: -- and the fact that the
 21 entire sign should not be eight inches beyond the
 22 side, correct --
 23 MR. ASCOLESE: Mr. Chairman and Board
 24 attorney, this dimension of five inches, according
 25 to the code, from the building to the outside can't

1 be more than eight. So if this is five inches, the
 2 maximum distance is going to be three. All right?
 3 A. Okay.
 4 MR. SCHWINDER: If there is any
 5 question you can have your contractor give
 6 Mr. Ascolese a call, and he'll be happy to go over
 7 the details.
 8 THE WITNESS: Thank you.
 9 MS. SCHWINDER: Everybody should have
 10 received a copy of the logo and how it would look
 11 superimposed on the building. And I'd like to
 12 entertain any comments that the Board might have, or
 13 questions that you might have of the applicant.
 14 MR. GOURSKY: It's illuminated behind
 15 the whole sign, all the letters also, or is it --
 16 A. I believe it's front illuminated, so
 17 it's coming outward, not backward.
 18 MR. SCHWINDER: Backlit.
 19 MS. GOURSKY: Same with the logo, I
 20 guess, a light behind it or --
 21 A. Yeah.
 22 MS. GOURSKY: Okay, great. Thank you.
 23 MR. KUTZIN: I guess we're approving
 24 the logo aspect of it, primarily. It looks like a
 25 flower. Is there a concept to that? What exactly

1 is it?
 2 A. That's a great question. I think it
 3 is a flower. I'm not a hundred percent sure where
 4 it derived from, but...
 5 MR. KUTZIN: No special meaning behind
 6 it, or anything like that?
 7 A. No.
 8 MR. SCHWINDER: It wasn't designed by
 9 you, it was designed by --
 10 A. All by the home office.
 11 MR. SCHWINDER: By the home office.
 12 And how many colors? Do you know how
 13 many colors?
 14 A. Just black and white.
 15 MR. SCHWINDER: Black and white.
 16 Any other questions or comments?
 17 I'd like to entertain a motion on this
 18 particular application. Having reviewed the logo,
 19 and that's really, basically, all we have to --
 20 that's all we've charged with tonight. So I'd like
 21 to entertain a motion on this, and this application
 22 only. Motion to approve.
 23 (Motion made and seconded.)
 24 MR. SCHWINDER: So we have a motion on
 25 the table. We have a motion on the table, we'd like

1 to have -- I'd like to accept a motion to up to open
 2 to the public on this application, and this
 3 application only.
 4 (Motion made and seconded; all in favor.)
 5 MR. SCHWINDER: Okay, we're open to
 6 the public, the application for the Pilates business
 7 that plans to open at the ShopRite shopping center.
 8 Anybody have any comment?
 9 Not seeing anybody standing or raising
 10 their hand, I'd like to entertain a motion to close
 11 to the public on this application.
 12 (Motion made and seconded; all in favor.)
 13 MR. SCHWINDER: We are closed to the
 14 public, and now we can vote on the motion before us.
 15 Roll call, please.
 16 (Roll call; all in favor.)
 17 MR. SCHWINDER: You are approved.
 18 A. Thank you very much.
 19 MR. SCHWINDER: You're very welcome.
 20 At our January 5th meeting, there will be a
 21 resolution memorializing our decision. You do not
 22 have to attend that, but it wise for you at some
 23 point in time to pick up a copy of the memorialized
 24 plan -- of the memorialized resolution.
 25 A. Okay. So I'm not getting that until

1 after the 5th, after January 5th?
 2 MR. SCHWINDER: Right. But you can
 3 tell your contractor that you received the necessary
 4 approval so he can, basically, start acquiring the
 5 materials and getting stuff ready.
 6 A. Okay.
 7 MR. MARTIN: And get a card from
 8 Mr. Ascolese so the contractor can get hold of him
 9 and maybe he can get going now, okay?
 10 A. Okay.
 11 MR. MARTIN: W-A-R-N-E-R, and then
 12 A-L-I-S-O-N?
 13 A. Yes, correct.
 14 MR. SCHWINDER: And welcome to
 15 Emerson, and good luck with your business.
 16 MS. WARNER: Thank you very much.
 17 ***
 18 MR. SCHWINDER: We have the room until
 19 11 o'clock, at which time we have to pack up and get
 20 out so the custodians can clean up and finish their
 21 work in the building. So we will be looking to try
 22 to complete the meeting a short time before that so
 23 we're not here until 11:30.
 24 The next part of the meeting is the
 25 public hearing to consider recommending to the

1 Borough Council whether or not certain blocks and
 2 lots located within the Central Business District
 3 meet the statutory criteria to be designated as a
 4 Condemnation Redevelopment Area pursuant to the New
 5 Jersey Local Redevelopment and Housing Law, and to
 6 hear all persons interested in or will be affected
 7 by the said designation.
 8 And please remember that tonight we
 9 are focusing on the 1.9 acres between Lincoln
 10 Boulevard, Kinderkamack Road, Linwood Avenue, and
 11 the railroad tracks. That's going to be the focus
 12 of our discussion tonight. And the person who will
 13 be leading that discussion is Mr. Doug Doyle of
 14 the -- he is the Borough Redevelopment attorney from
 15 the firm of DeCotuis FitzPatrick & Cole, and I would
 16 like to turn the meeting over to Mr. Doyle.
 17 MR. DOYLE: Thank you, Mr. Chairman,
 18 members of the Land Use Board, Mr. Mayor, thank you.
 19 That's correct. The only thing that
 20 we're going to be asking the Land Use Board tonight
 21 to consider is Block 419, Lots 1, 2, 3, 4, 5, 6.01,
 22 6.02, 7, 8, 9, and 10.
 23 Now, in order to deal with our COAH
 24 obligations, we noticed all of the property owners
 25 located within --

1 MR. SCHWINDER: COAH, please --
 2 MR. DOYLE: COAH is the Council on
 3 Affordable Housing.
 4 MR. SCHWINDER: Thank you.
 5 MR. DOYLE: As some of the people in
 6 the public may know, the Governing Body is under a
 7 duty to provide affordable housing. There is a
 8 summary of what's happening, and during a break I'd
 9 invite people to come up and get a copy. In --
 10 addition, the study that was performed by Bridgette
 11 Bogart is up here, and you're welcome to get a copy
 12 of that as well.
 13 As I indicated, those lots in Block
 14 419 are the only properties that we're going to be
 15 discussing tonight. You may have received notice,
 16 either through publication by seeing it in the
 17 paper, or by certified mail at your home or place of
 18 business, wherever you're registered in our tax
 19 office. If you're not one of those lots and blocks,
 20 you're welcome to stay tonight and certainly listen,
 21 hear what has to be said and the continued hearings.
 22 If you do not want to stay, you will receive
 23 subsequent notice in the identical way you received
 24 notice for this evening's meeting. No action will
 25 be taken with respect to your property until you

1 receive notice once again, and you have an
 2 opportunity to appear, hear testimony, and have an
 3 opportunity to share whatever comments or objections
 4 you may have at that time.
 5 With respect to Block 419, Lots 1, 2,
 6 3, 4, 5, 6.01, 6.02, 7, 8, 9, and 10, we hope to
 7 conclude our hearing this evening. If we don't, you
 8 will not receive any further notice. So you will
 9 need to come back at the next Land Use Board
 10 meeting, the next regularly scheduled Land Use Board
 11 meeting. If you are one of those lots in that lot,
 12 you will not receive any other further notice with
 13 respect to this hearing.
 14 Now, having said that, I'd like to
 15 have your planner sworn at this time.
 16 (Whereupon, B R I G E T T E B O G A R T,
 17 was duly sworn.)
 18 MR. MARTIN: For the record, can you
 19 state your name and business address?
 20 MS. BOGART: Bridgette Bogart,
 21 B-R-I-G-E-T-T-E, B-O-G-A-R-T, business address is
 22 648 Godwin Avenue, Suite 2, in Midland Park, New
 23 Jersey.
 24 MR. MARTIN: And do you want to go
 25 over some brief qualifications and --

1 MR. DOYLE: Sure.
 2 EXAMINATION
 3 BY MR. DOYLE:
 4 Q. How long have you been a planner?
 5 A. Certified planner in the State of New
 6 Jersey for 15 years.
 7 MR. SCHWINDER: Can everybody hear
 8 her?
 9 UNIDENTIFIED SPEAKERS: No.
 10 MR. DOYLE: No problem --
 11 MR. SCHWINDER: Can you bring the
 12 microphone closer? Bring it to the other side of
 13 the table.
 14 A. I've been a certified planner in the
 15 State of New Jersey since 2001, so 15 years.
 16 BY MR. DOYLE:
 17 Q. Have you been accepted as an expert by
 18 this Land Use Board and other boards before?
 19 A. Yes.
 20 Q. Have you prepared redevelopment
 21 studies?
 22 A. Yes.
 23 Q. How many times have you done that?
 24 A. At least ten this year.
 25 Q. And in the past, I take it in previous

1 years you've done the same thing?
 2 A. Correct.
 3 MR. DOYLE: I ask that your planner be
 4 accepted as an expert in planning.
 5 MR. MARTIN: Qualified as a
 6 professional planner, a certified planner in the
 7 State of New Jersey, and an expert for the purposes
 8 of this hearing. Thank you.
 9 A. Thank you.
 10 BY MR. DOYLE:
 11 Q. Ms. Bogart, did you prepare a study
 12 with respect to the lots and blocks that I
 13 identified as Block 419, Lots 1, 2, 3, 4, 5, 6.01,
 14 6.02, 7, 8, 9, and 10?
 15 A. I have.
 16 MR. DOYLE: For the record, I've
 17 provided each and every one of the members of the
 18 Land Use Board a copy. I'm going to ask that this
 19 be marked as LUB, Land Use Board Exhibit 1, if
 20 that's acceptable, Mr. Martin.
 21 MR. MARTIN: Yes.
 22 (Whereupon, LUB-1 was marked for
 23 identification.)
 24 Q. I show you what I previously marked as
 25 LUB Exhibit 1. Do you recognize that?

1 A. Yes.
 2 Q. Is that the report that you prepared
 3 for the Land Use Board this evening?
 4 A. Yes.
 5 Q. And does that relate to Block 419,
 6 Lots 1, 2, 3, 4, 5, 6.01, 6.02, 7, 8, 9, and 10?
 7 A. Yes, and it also has some additional
 8 information regarding the overall study area.
 9 MR. MARTIN: And just for the record,
 10 the date is December 8, 2016.
 11 A. Today's date, yes.
 12 MR. DOYLE: For the record,
 13 Mr. Martin, copies of that are available for the
 14 public, and is at the front of the auditorium on
 15 what appears to be a piano bench.
 16 MR. SCHWINDER: If there are not
 17 enough copies tonight is there a place where people
 18 can get a copy? Can it be posted on-line.
 19 MR. DOYLE: Yeah, so what I'm
 20 suggesting is, the first thing tomorrow morning, I
 21 will work with our wonderful Land Use Board
 22 secretary and our very efficient municipal clerk to
 23 make sure that it's posted on-line and available.
 24 MR. SCHWINDER: Thank you.
 25 BY MR. DOYLE:

1 Q. What things did you do in preparation
 2 to prepare LUB-1?
 3 A. So my first thought, from a planning
 4 prospective, is this Board and the public to
 5 understand that this exhibit, Exhibit 1 from the
 6 Land Use Board, is purely just to identify the
 7 properties in need of redevelopment. It is not to
 8 identify a redevelopment plan; it is not to suggest
 9 a redevelopment design or regulations or a vision
 10 for the Central Business District. It is purely to
 11 ensure that the Central Business District and the
 12 study area has continued to meet the need as an area
 13 in need of redevelopment.
 14 With that being said, what I did was
 15 walk through the local Redevelopment Housing Law
 16 process. I reviewed the Building Department
 17 records, I reviewed tax assessment records, I did
 18 several site inspections, took photographs, reviewed
 19 tax maps, and reviewed master plan documents and
 20 zoning ordinances. All of that to ensure that we
 21 met the due diligence required by the local
 22 Redevelopment Housing Law.
 23 Q. Did you personally walk these
 24 properties?
 25 A. A number of times, yes.

1 Q. And did you record your observations
 2 when you did that?
 3 A. Yes.
 4 Q. And is that reflected in LUB-1?
 5 A. Yes.
 6 Q. As to each and every individual
 7 property?
 8 A. Yes.
 9 Q. Did you have an opportunity to either
 10 inspect them inside or at the rear of the buildings
 11 as well?
 12 A. Yes.
 13 Q. And how many times do you recall doing
 14 that?
 15 A. At least three.
 16 Q. And do you recall your most recent
 17 visit to all of these properties?
 18 A. It was November 14th, November 29th,
 19 and then as recently as today, so the last three
 20 recent visits.
 21 Q. As a result of your visit today, is
 22 there any changes that you would want to make to
 23 LUB-1?
 24 A. No. As within the last 10 to 15
 25 years, the development and the existing building

1 conditions have remained similar.
 2 Q. And they remain similar as of today?
 3 A. Correct.
 4 Q. Are you familiar and have you
 5 familiarized yourself with the legal standards or
 6 criteria necessary in order to declare an area in
 7 need of redevelopment?
 8 A. Yes, I'm very familiar with it.
 9 Q. And can you walk this Land Use Board
 10 through what those standards and criteria are under
 11 the law?
 12 A. Sure. And they're delineated on page
 13 3 of the report. So if you could look at the report
 14 as I'm speaking, it may give you a little more
 15 insight into the area.
 16 There are eight conditions that are
 17 set forth in the local Redevelopment Housing Law.
 18 The study area, you only meet one of those
 19 conditions, and not all of those properties has to
 20 meet those conditions, just some of them, and I'm
 21 going to get into that in a second.
 22 But first I'd like to go through the
 23 eight criteria, and then just talk a little bit
 24 about the criteria that I utilized in this analysis.
 25 So they're identified A through H. The first,

1 starting with criteria A, and this is important, the
2 generality of buildings are substandard, unsafe,
3 unsanitary, dilapidated or obsolescent, or possess
4 any such characteristics, that are so lacking in
5 air, light, or space be conducive of unwholesome
6 living or working conditions. Now, this is
7 important because I relied on this criteria when
8 analyzing the subject area. And when I go through
9 the report, I'll show you lot by lot why I relied on
10 that criteria.

11 Criteria B, I did not rely on, but it
12 identifies the discontinuance of the use of
13 buildings previously used for commercial
14 manufacturing, or industrial purposes. So,
15 basically, vacant buildings. I did not rely on that
16 criteria going through this analysis.

17 Criteria C is land owned by a
18 municipality, county, a local housing authority, a
19 redevelopment agency or redevelopment entity, or
20 unimproved vacant land that has remained so for a
21 period of ten or more years. Now, within the study
22 area, we do have a borough on a piece of property
23 and we do have a borough on a right of way, however,
24 I did not rely on Criteria C either.

25 The next two, Criteria D and E, I

1 relied in my analysis -- I wouldn't say heavily, but
2 I think they're very important to the analysis of
3 the area. So first, starting with Criteria D, and I
4 utilized them together, and I'll explain that in
5 second. But Criteria D says, areas with buildings,
6 improvements by reason of dilapidation,
7 obsolescence, overcrowding, faulty arrangement or
8 design, which is important to what we're looking at
9 tonight, lack of ventilation, light and sanitary
10 facilities, excessive land coverage, which is also
11 important, deleterious or use or obsolete layout,
12 also important to the study area that we're looking
13 at this evening, or a combination of all these
14 factors that are detrimental to the safety, health,
15 morals, and welfare of the community. And I think
16 this is key to the study.

17 And as I just mentioned, there's a
18 combination of Criteria D and Criteria E that are
19 important to the Borough of Emerson and the study
20 area, specifically Block 4.19. Criteria E says, a
21 growing lack of proper utilization of the area, and
22 that goes back to faulty arrangement or faulty
23 design criteria, and it's caused by a condition of
24 either the title, the diverse ownership of the real
25 property or conditions therein, which impedes upon

1 the land assemblage or discourage the undertaking of
2 improvements, resulting in a stagnant, not fully
3 productive condition of land potentially useful or
4 valuable for contributing or serving the public
5 health, safety, and welfare. And the reason I say
6 that Criteria E is very important is that when I get
7 into the report, you'll see that there are a number
8 of master plan documents and Borough documents from
9 2003, the minimum, to today that say that the
10 Central Business District should be developed with
11 mixed use, should be -- that the heart of the
12 downtown should have safe pedestrian ways, should be
13 an economically viable Central Business District.
14 And from the 2003 documents, 13 years later to
15 today, none of that has fulfilled itself. So you'll
16 see through the tax records analysis and the master
17 plan analysis that Criteria E is met in a number of
18 different lots.

19 Criteria F and Criteria G were not
20 utilized in this analysis, and I'm not sure it's
21 necessary to go into it, but they're listed on page
22 3.

23 Criteria H is important. It talks
24 about smart growth principles, and this is important
25 because the study area is surrounded by and centered

1 by the Borough's train station. And while it is
2 important to note that, yes, a number of the
3 properties are developed, some of them have viable
4 businesses, they are not developed in a means that
5 are a vision of the master plan, they're not
6 developed in a means considered by smart growth
7 principles, and a number of them are required for
8 the effective redevelopment of the area adjacent to
9 the train station. So through this analysis I
10 relied on this criteria as well.

11 So those are the eight criteria, of
12 which I relied on for of them for this analysis.

13 Q. But did you rely on any other analysis
14 as you were going through these properties?

15 A. Other than what I just spoke about,
16 no.

17 Q. What about land value?

18 A. The land value analysis that I will
19 get into in a second falls under Criteria E, which
20 is under utilization of the lots. I also looked at
21 police records, building maintenance records,
22 environmental issues. With regard to DEP mapping,
23 there are a number of sites that still have ongoing
24 DEP monitoring. So there are a number of issues
25 that are involved in this analysis, but that's

1 strictly going through the eight criteria.
 2 Q. With respect to the eight criteria,
 3 can you explain just generally so when we look back
 4 the Land Use Board will understand what the table is
 5 that you prepared that appears on pages 6, 7, and 8
 6 of LUB-1?

7 A. Sure. So what I did was, in the first
 8 portion of the document, identify the eight
 9 criteria. And then starting on page 4, I go into a
 10 little more detail of what it requires a
 11 municipality to approve that they meet those
 12 criteria based on recent case law.

13 What Mr. Doyle just mentioned starts
 14 on page 5 and identifies what is required to meet
 15 Criteria E. And what I had mentioned previously is
 16 that it should be combined with Criteria D, talking
 17 about obsolete layout. So following page 5, I went
 18 through an analysis of the tax assessment records
 19 for all of the study area. And I had done that
 20 previous to identifying that we only want to focus
 21 on Block 419. So while all the study area is here,
 22 what I'd like to talk about first is, in general, of
 23 the 82 properties in the study area as a whole,
 24 which are identified on the map to my left --

25 MR. SCHWINDER: That goes beyond

1 standards that suggest that if you have something
 2 less, then the property may be under utilized.

3 MR. SCHWINDER: Could you just explain
 4 the ratio so everybody understands what you're
 5 talking about? Please.

6 A. Sure. So if your land value, in
 7 simple terms, is \$100,000, and your improvements are
 8 \$200,000, that's a two to one ratio. If you have
 9 something less than that, so your improvements were
 10 less than two to one, it is an indicator that you're
 11 improperly or under utilizing your property. And I
 12 say it's an indicator because there's other factors
 13 involved. And there's other factors such as site
 14 design, site layout, building conditions, and
 15 whatnot. And that's why I had previously said that
 16 Criteria D in the Local Redevelopment Housing Law
 17 should be combined with criteria E. You have to
 18 look at the site layout, the building conditions and
 19 how that works, and why the site may be under
 20 utilized. So you combine that with analysis of the
 21 tax record s.

22 So as I indicated, the overall study
 23 area, only ten properties meet that ratio or see
 24 that ratio. So it's only twelve percent of 34 acres
 25 of the entire municipality. If you're specifically

1 the --

2 A. That goes well beyond the Block 419.

3 Q. Let's identify that as LUB-2.
 4 (Whereupon, LUB-2 was marked for
 5 identification.)

6 A. And that map is in the report.

7 Q. Can you just indicate what page of the
 8 report it's in, please?

9 A. Page 10.

10 MR. DOYLE: I dated it 12/8/16,
 11 Mr. Martin.

12 MR. MARTIN: Thank you.

13 A. So as I started to mention, a lot of
 14 the background information I started to gather
 15 before I thought it was appropriate to pull out
 16 block by block and section by section of this
 17 analysis. So for the next analysis with regard to
 18 the tax assessment records, I did for the entire
 19 study area, which I would repeat for every hearing
 20 that we have on any sections.

21 But as I mentioned, there are 82
 22 properties in the overall study area. Only ten of
 23 those properties have a ratio of land value to
 24 improvement value of two to one or greater. And the
 25 reason that's important is because there's plenty of

1 looking at Block 419, of the 11 lots only one of
 2 them meets that criteria at a 2.48 ratio, and that's
 3 Lot 4. The remainder of lots --

4 MR. SCHWINDER: Can you identify that
 5 lot?

6 A. Lot 4 is the corner lot

7 MR. SCHWINDER: Do you know what
 8 business is on that lot?

9 A. It's the restaurant, Rancho Cantina.
 10 Do you want to mark this?

11 Q. Yes, I'm going to mark this as LUB-2A.
 12 (Whereupon, LUB-2A was marked for
 13 identification.)

14 MR. MARTIN: Just for the record, just
 15 identify that.

16 MR. DOYLE: Yes. I'm dating it
 17 12/8/16.

18 Q. Would you indicate what LUB-2A is,
 19 please?

20 A. Yes, it's a focus map of the study
 21 area identifying the block and lots, and then on the
 22 right-hand side of the exhibit is the study area
 23 outlined in red overlaid on the existing zoning map.
 24 And the reason I bring this up is because what I
 25 want to do is, actually, go to the next page which

1 is a focus of Block 419.
 2 Q. We're going to indicate that as
 3 LUB-2B?
 4 (Whereupon, LUB-2B was marked for
 5 identification.)
 6 Q. And would you indicate what LUB-2B is?
 7 A. Sure. So on the right-hand side of
 8 the exhibit is the entire study area, and as I had
 9 mentioned previously, what we decided to do after
 10 looking at all the analysis and the planning issues
 11 with regard to the study area is divided up, and we
 12 took Block 419, Section A, and that's identified in
 13 blue on the left, and then we divided the remainder
 14 of the study area, different sections, based upon
 15 access issues, location issues, existing uses and
 16 whatnot, so that's on the left-hand side.
 17 On the right-hand side is what we're
 18 focusing on tonight, Block 419. It has the aerial
 19 view taken from Bing maps. Block 419 as well as the
 20 GIS map, and it will show you that -- what I just
 21 mentioned, Lot 4 is Rancho Cantina on the corner
 22 of Lincoln and Kinderkamack Road, and that is the
 23 only lot that exceeds the tax assessment ratio of
 24 two to one.
 25 Q. In addition to the under utilization

1 municipality that is about 1,535 acres, that
 2 translates into 2.2 percent of your land area is
 3 within our study area. Of that 2.2 percent, it
 4 equates to 32 percent of all police calls. Now,
 5 granted, it's noteworthy that, yes, it's a highly
 6 travelled commercial area in town, I expect the
 7 police calls to be slightly higher in this area than
 8 elsewhere in town. But 32 percent of the police
 9 calls for the -- as opposed to the rest of
 10 municipality seems slightly high. And the least
 11 noteworthy, as this Board reviewed, the analysis for
 12 redevelopment -- and that's located on page 12.
 13 What I did was, I summarized the actual the police
 14 calls, but the actual police reports are in the
 15 appendix of this document.
 16 MR. GOURSKY: And how many years --
 17 A. The last five years.
 18 Q. Did you also consider the master plan?
 19 A. Yes, and I think -- as I started to
 20 mention to you, obviously, from a planning
 21 prospective, I think this is the one of the most
 22 important things in this document, is the master
 23 plan for numerous years, over a decade or so,
 24 starting in 1999, have identified a need to upgrade
 25 the area, and this is all detailed on page 13. It

1 analysis that you performed, did you also
 2 consider --
 3 A. One other thing I did want to mention
 4 about the ratio analysis is, has shown that just to
 5 do the analysis of improved value to land value is
 6 not enough. You have to look at it compared to the
 7 rest of the municipality. If those ratios are
 8 similar throughout the municipality, it doesn't mean
 9 anything. So what I did was look at other
 10 commercial areas and all other commercial properties
 11 within the municipality and through the same
 12 analysis. So all other commercial properties that
 13 are not in the study area, their ratio is 2.1 to
 14 one. So they are similar or exceed the two to one
 15 ratio. So there is something going on within the
 16 study area that is not necessarily characteristic of
 17 other commercial properties within the municipality.
 18 Q. In addition to the analysis with
 19 respect to potential under utilization, did you also
 20 consider other analyses, like police records?
 21 A. As I started to mention, I looked at
 22 the police records, and I looked at them for all of
 23 Kinderkamack Road, and this was done prior to
 24 pulling out Block 419. But if you look at the
 25 entire study area, which is 34 acres of land in a

1 1999 it says that there's need for a downtown plan
 2 to address areas adjacent to the railroad station,
 3 and it goes on to say that the Borough should
 4 consider use of the Local Redevelopment Housing Law
 5 to create a redevelopment plan, and it has a number
 6 of goals. From that, it appears that the Borough in
 7 2002 created a CBD plan.
 8 MR. SCHWINDER: CBD meaning Central
 9 Business District?
 10 A. Central Business District. And I
 11 think that's noteworthy because any time you look up
 12 Emerson, Google Maps, it used to be Yahoo Maps, Bing
 13 Maps, you type in Emerson, it pulls you to Block
 14 419. That's the central area of your downtown.
 15 That's your Central Business District.
 16 So in 2003, the Central Business
 17 District plan was created and had a number of goals.
 18 It said, create a comprehensive and coordinated long
 19 range plan. Create -- something that would create a
 20 continuous frontage of buildings, encourage lot
 21 consolidation, reduce setback lines, enhance
 22 opportunities for in fill and redevelopment where
 23 appropriate, support modest increase and intensity
 24 of use, identify regulations that would encourage
 25 rehab. And that was 13 years ago. And it also

1 talks about road improvements, facade improvements,
2 and whatnot. From that, a year later the Borough
3 decided to do a redevelopment designation in 2004,
4 which was the first redevelopment designation, and
5 in 2006 created a redevelopment plan.

6 So all that being said, nothing
7 happened. We had two lots of the entire area
8 redeveloped. In 2007 --

9 MR. SCHWINDER: What you're saying is,
10 we gave individual land owners the opportunity to
11 redevelop their property or get together with
12 neighboring land owners and possibly create
13 something better than what was there already.

14 A. Not at first. At first we required
15 the lot consolidation. But you're correct, in 2008
16 when we looked at this, we said, if an individual
17 property owner can redevelop their own property
18 based upon these enhanced standards, increase
19 density, if you can meet all these criteria, you're
20 more than welcome to do that. One property owner
21 did that.

22 Q. Since 2008?

23 A. Yes. Actually since 2003 -- so in
24 2007, the examination report repeated the goals of
25 the Central Business District. And the reason I'm

1 emphasizing this is, I think it's very important
2 that this Board has continually over the decade
3 said, these are the goals. This is what we want to
4 happen, and nothing has happened. In 2007, goal
5 number one was to uphold the comprehensive long
6 range plan for the Central Business District, to
7 improve the buildings' storefronts, to create active
8 storefronts. Goal two was to encourage the
9 continuation of building renovations construction of
10 new building. Goal three was to seek a unified
11 design character through a system of street scape
12 improvements. Goal four, to improve, increase
13 pedestrian safety, and enhance aesthetics. Goal
14 five, again, enhance aesthetic by encouraging
15 general maintenance of all buildings. These goals
16 still hold true today. And again, it goes on to
17 page 14. And this is over a decade of planning
18 documents, and we've only had one property redevelop
19 in accordance with the plan, and then one
20 individual property owner actually develop his
21 property solely.

22 So those are pages 13 and 14 of the
23 document. And then I get into the zoning ordinance,
24 which, basically, just describes the fact that we
25 relaxed over zoning criteria, we relaxed the

1 permitted uses, we have permitted more uses, we
2 reduced the setback to try to encourage further and
3 further development, and nothing has happened.

4 Q. Now, did you go through a property by
5 property, lot by lot analysis?

6 A. Yes.

7 Q. And does that begin, I guess, on page
8 18 of the study?

9 A. Yes.

10 Q. I'd like to direct your attention to
11 page 19 where I believe you did an analysis of Block
12 419, Lot 1; is that correct?

13 A. Yes. And if I may, I want to pull up
14 another exhibit.

15 Q. Great.

16 MR. DOYLE: I'm going to mark this --
17 Mr. Martin, are we at 3?

18 MR. MARTIN: Yes.

19 MR. DOYLE: LUB-3, 12/8/16.

20 (Whereupon, LUB-3 was marked for
21 identification.)

22 BY MR. DOYLE:

23 Q. Ms. Bogart, would you explain what
24 LUB-3 is?

25 A. All those photographs and maps were

1 taken from the report itself or photographs that I
2 took on the site inspection of November 14. The
3 next three exhibits you'll see are all the details
4 and photographs of the lots on Block 419. The first
5 exhibit you'll see here, are Lots 1, 2, and Lots 3
6 and 4.

7 Q. And would you please explain to the
8 Board what your observations were with respect to
9 Block 419, Lot 1.

10 A. Just for the Board's and public's
11 edification, the way this works is, you're going to
12 start at 11 o'clock and go clockwise around Block
13 419. So Lot 1 is located on Lincoln Boulevard.
14 It's the northwestern most lot adjacent to Kenneth
15 Avenue. This lot is currently occupied by a
16 two-story residence. You'll see in the photographs
17 on the exhibit, which I have all the way to the left
18 as well as in the report on page 20, the structure
19 is in dire need of rehabilitation or renovations,
20 identifies that it is substandard and unsafe. There
21 are holes, not only located within the siding, but
22 also in the roof itself. The roof is caving in.
23 The roof along the porch area is concave, as well as
24 the -- the roof flooring itself. There is no
25 parking on-site, and there's very little room for

1 storage. And you can see that there's deteriorating
2 windows as well as gutters that are exhibiting water
3 damage, the gutters are falling down. So from all
4 of that, and you can see the photographs yourself, I
5 thought that it was important to note all this, and
6 the structure is in a state of disrepair, and that
7 it falls under Criteria A.

8 Not only that, I believe that Lot 1
9 qualifies for faulty arrangement under Criteria D.
10 The only resident located on the block is adjacent
11 to the railroad. There's no parking on the site. A
12 couple of times I've been there, there have been
13 trucks parked within the small grass area, which may
14 not be in and of itself inappropriate, however it's
15 located immediately adjacent to Kenneth Avenue,
16 which is a busy area commuter area, so to have
17 trucks pull off a grass area may be inappropriate
18 and may impact negatively the surrounding area. The
19 facts that there is no on-site parking and it
20 appears to be more than a two-family, also impacts
21 the area because there's only two-hour parking on
22 Lincoln Avenue as it is. In addition, I think that
23 this lots means Criteria E, talking about under
24 utilization. So that Criteria E goes in concert
25 with Criteria D. This property has land to

1 improvement ratio .86. As I mentioned to you, 2.0
2 is the standard. So I think this property in and of
3 itself exhibits characteristics that meets Criteria
4 A, D, and E, and this can be confirmed through site
5 inspection and the photographs that are identified
6 on page 20 of the report and the exhibit to my left.

7 MR. SCHWINDER: My observation of that
8 particular property, there's a vehicle that parks on
9 the grass next to Kenneth Avenue. There is a
10 fenced-in area behind the house, which a car could
11 certainly park, however, it is occupied by a flatbed
12 trailer.

13 A. And other materials, which I'm not
14 sure what they are.

15 MR. DOYLE: Mr. Chairman, I truly
16 appreciate that comment, and I know Mr. Martin with
17 counsel you, but nothing prevents this Lands Use
18 Board from making its own personal observations.
19 While Brigitte and I are professionals and we prayer
20 these reports and we give you advise, most of us
21 don't live in your community. We, actually, happen
22 to live in the same community several towns away. I
23 would urge you to rely on your own observations
24 since 2004, and as we go through this hearing
25 process, I think it's important that you make those

1 observations, and when you vote on whether you
2 believe this meets the criteria, I'm going to ask
3 all the Land Use Board members to share whatever
4 personal observations they believe are in forming
5 their decision. And I know, Mr. Martin, you can
6 advise them appropriately at that time, so I really
7 appreciate that. And I would ask that all of the
8 Land Use Board members, if a decision is made
9 tonight that you would understand that, perhaps,
10 between now and the time we return, you can make
11 your own observations. You can walk the site. So,
12 thank you, Chairman.

13 BY MR. DOYLE:

14 Q. You also indicated in your report
15 that, notwithstanding the fact that you believe in
16 your professional opinion that it meets Criteria A,
17 D, and E, that it also may be necessary for the
18 effective development of the redevelopment area in
19 its entirety. Can you explain a little bit about
20 what that means?

21 A. Sure. What I think is important to
22 Lot 1 in this location is that we have a Borough
23 right of way, Kenneth Avenue, that could access or
24 potentially access a redevelopment plan for the
25 public. It can access public parking, it could

1 access parking for property located at Kinderkamack
2 Road. The fact that you have a lot immediately
3 adjacent to Kenneth that is under utilized and
4 deteriorating is important to note, because I think
5 that lot could be important to the access issues and
6 the redevelopment issues of the overall plan for
7 Block 419.

8 Q. Thank you. I'd like to turn your
9 attention now to page 21, and specifically Block
10 419, Lot 2. Did you similarly, as you indicated,
11 make an inspection of that property?

12 A. Yes, I did.

13 Q. Can you walk the Board through that
14 inspection? And I'm assuming they should also make
15 reference to LUB-3.

16 A. Yes. So Lot 2, the photographs and
17 the aerial and the tax records are on page 21 and 22
18 of the report, and also a portion of them are
19 located in the central portion of the exhibit to my
20 left. This lot, obviously, is, as the Board is
21 aware and I'm sure some of the public is aware, was
22 previously occupied by a one-story residence, also
23 without parking and was dilapidated. It was
24 previously, in 2011, had a number of building
25 maintenance violations, and has since been torn

1 down. And I believe it has been purchased by the
2 owners of Lots 3 and 4 for parking.

3 Lot 22 exhibits the existing
4 conditions. You'll see, basically, an empty lot,
5 not improved, there's no parking lot, it's a gravel,
6 dirt, a little bit of hay. It looks like dumpster
7 area that's halfway enclosed, I believe, for the
8 adjacent restaurant, and clearly under utilized.
9 It's been vacant now for a number of years. The
10 improvement value is .045, again, where the standard
11 is 2.0. Obviously, again, significantly
12 underutilized, particularly with regard to the fact
13 that it is in the heart of the Central Business
14 District, and in the heart of your planning goals
15 and vision goals for the last 12 years.

16 Q. You said that it may be used for
17 parking. In your research did you reveal that it
18 became the subject of a site plan that permits
19 parking there?

20 A. I have not seen that, but there are a
21 number of tire tracks that illustrate that people
22 have been parking there.

23 Q. Right. But there's nothing on file
24 that suggests that this received site plan approval
25 to have parking, correct?

1 A. Not that I've seen.

2 Q. And in this area is parking a
3 principally permitted use?

4 A. No.

5 Q. And is there any striping in this
6 area?

7 A. No.

8 Q. So in conclusion, you believe that
9 this meets Criteria E, correct?

10 A. Yes, and that, obviously, can be
11 confirmed through the site inspections, the
12 photographs above, and, obviously, the Board can
13 provide their own input as to what they've seen, but
14 I believe that it meets the criteria not only for
15 the underutilization, but it's also, I believe,
16 stagnant at this point, because it's been a number
17 of years where it sat like this. And you have to
18 take that into consideration with other land use and
19 planning goals for this area as a whole, the Central
20 Business District, which I just went through.

21 MR. SCHWINDER: Prior to that becoming
22 an empty lot, it was a dilapidated house and used
23 many years to store goods from the adjacent
24 restaurant. So it wasn't utilized as a residence,
25 so that particular piece of property has been under

1 utilized for at least 15 years.

2 Q. In addition, it's your opinion that
3 this property may also be necessary for the
4 effective development of the entire area. Can you
5 give us your impression as to why it's a good
6 property based on its location or other factors --

7 MR. MARTIN: Mr. Doyle, all opinions
8 are to a reasonable degree of certainty in the field
9 of --

10 MR. DOYLE: Professional planning,
11 thank you.

12 MR. MARTIN: -- for the rest of the
13 hearing?

14 MR. DOYLE: Yes. Thank you.

15 A. I'm not trying to testify as anything
16 else other than planner.

17 MR. MARTIN: So a reasonable degree of
18 certainty in the area of professional planning.

19 A. The same comments I made with regard
20 to Lot 1 pertain to Lot 2, immediately adjacent to
21 the right of way of Kenneth Avenue. And you'll
22 notice if you look at the tax maps, both Lot 1 and
23 Lot 2 line up directly to Lot 7 which is also owned
24 by the Borough. What's important to note for this
25 whole area, Lot 7 is owned by the Borough, commuter

1 parking lot, Ambulance Corps building, which I'll
2 get into in a second, but without that lot and these
3 two lots, it's very difficult to redevelop the block
4 as a whole. So the lots located in front of
5 Kinderkamack Road are only approximately a hundred
6 feet deep. So if you try to put a substantial
7 building there and add parking and landscaping and
8 sidewalk improvements requested by the Borough, it's
9 very difficult to do it within a hundred foot depth.
10 So not only is the Borough property needed to do
11 that, but also these two adjacent properties of
12 Lots 1, 2, and three.

13 BY MR. DOYLE:

14 Q. I'd like to now direct your attention
15 to Block 419, Lots 3 and 4. I trust you conducted a
16 similar analysis?

17 A. Yes.

18 Q. And can you walk through the analysis
19 you performed for the Land Use Board? Beginning on
20 page 23.

21 A. Yes, on the right of the exhibit to my
22 the left. This is the restaurant and the one
23 property that actually meets the ration of more than
24 two to one. You'll see that lot three is utilized
25 for parking. The lot itself has been subject to a

1 number of violations dating back at least to 2006,
 2 Health Department issues, illegal parking, selling
 3 of vehicles, signage, lighting issues, littering,
 4 weeds – in 2010 it was boarded up property.
 5 Obviously, it's been purchased and redeveloped since
 6 then, however, the site still, unfortunately, has
 7 issues with regard to site layout. There's no
 8 landscaping on site, there's no pedestrian walkways.
 9 It's a hundred percent impervious coverage. And
 10 even given the fact that it's a hundred percent
 11 impervious coverage, it only has approximately 46
 12 parking spaces. And the reason I note that is
 13 because it severely under parked. Your ordinance
 14 requires one parking space for every three feet. So
 15 if you translate 46 parking spaces for every three
 16 feet, you can have a restaurant that's 138 seats.
 17 The existing restaurant is well upward of 220 or 230
 18 seats. So it's significantly deficient at least by
 19 30 or 40 spaces on site.

20 And the reason I raise this is, while
 21 a majority of time the site is empty. During
 22 breakfast and lunch, there's very little parking
 23 there. But there are some times where parking is
 24 needed on the site, and this translates to impact of
 25 the surrounding area. People need to find a place

1 to park elsewhere. So that is the negative impact
 2 on the surrounding area. As well as the fact that
 3 it is an empty parking lot in the middle of your
 4 downtown 90 percent of the time, that also has a
 5 negative impact on your Central Business District.
 6 SO while it is a viable use and important to have a
 7 restaurant there, wonderful that it's been
 8 redeveloped as a building, unfortunately, the way
 9 the site was laid out, it seems to not be working
 10 with your redevelopment goals and plans and your
 11 existing zoning ordinance.

12 Q. What does the existing ordinance call
 13 for on this particular lot?

14 A. Mixed use, three to four stories.

15 Q. And what does mixed use mean?

16 A. It would be commercial below and
 17 residential above. So a greater utilization of the
 18 property, obviously providing it with adjacent
 19 properties, providing it with if appropriate
 20 parking, but, again, while the Borough would like to
 21 encourage restaurants, it's important that the
 22 building has been redeveloped, it does not – it
 23 doesn't seem to fit in with the zoning ordinance and
 24 the plans itself.

25 Q. And for this reason you believe it

1 meets Criteria D?

2 A. Yes.

3 Q. You also indicated it could
 4 potentially be necessary for the effective
 5 development of the area?

6 A. Yes.

7 Q. And could you indicate why, please?

8 A. Sure.

9 Q. Within a reasonable degree of planning
 10 certainty.

11 A. With regard to Block 419, there are
 12 two corner properties that are very important to the
 13 redevelopment. The first corner property is to the
 14 south, immediately adjacent to the train station.
 15 And as you're coming into the town and you're
 16 crossing over the railroad tracks, that's the one
 17 property you're going to see that is going to have a
 18 major impact.

19 The other property you're going to see
 20 on Block 419 is this site. When you're coming from
 21 south down Kinderkamack Road, this is the point of
 22 property that's going to have a visual impact and a
 23 planning impact on the Kinderkamack Road
 24 Redevelopment Project. So from that perspective,
 25 these two corner properties, I believe, are very

1 important for a very effective redevelopment plan,
 2 particularly given the fact that if you look at the
 3 way and compare it to the way the existing
 4 development is set up. The last thing you want to
 5 do is go through a redevelopment project and have
 6 the corner property, the most visual piece of the
 7 redevelopment project, be a service parking lot
 8 that's empty 90 percent of the time. So from a
 9 planning perspective, I think this is important to
 10 provide for effective redevelopment of this area.

11 Q. I'd like to now direct your attention
 12 to Block 419, Lot 5. Did you have an opportunity to
 13 perform an analysis of Block 419, Lot 5?

14 A. I did.

15 MR. DOYLE: I'm going to mark a new
 16 exhibit, and that's going to be LUB-4, 12/8/16.

17 (Whereupon, LUB-4 was marked for
 18 identification.)

19 A. It's Lot 5 and 6.01 and 6.02.

20 Q. Can you please explain to the Board
 21 what observations you made of Block 419, Lot 5?

22 A. Sure. As this Board is, I'm sure,
 23 aware, and the public is aware, this site was
 24 previously an abandoned one-story structure in
 25 severely deteriorated condition. It had

1 contaminations on site. It is still an active NJMES
 2 site, it's with the DEP is 452277. It has
 3 groundwater contamination that's being monitored.
 4 The reports and maps from the New Jersey DEP is
 5 located in the appendix of the document. Previous
 6 to it being redeveloped, there were numerous
 7 violations that are all detailed with regard to
 8 maintenance issues. All of that has subsequently
 9 been taken care of. The individual property owner,
 10 and this is the one property that I had mentioned
 11 previously that's been redeveloped, the property
 12 owner took advantage of the codes that we wrote to
 13 ensure or try to encourage redevelopment, and then
 14 subsequently redeveloped the property. The building
 15 itself is consistent with redevelopment plan. The
 16 one concern from a planning perspective here is that
 17 in order to properly connect this property with the
 18 adjacent lots it is necessary for redevelopment or
 19 to include in the redevelopment plan some way to
 20 coordinate and encourage combined circulation. One
 21 of the things that is --

22 MR. SCHWINDER: Combined vehicular
 23 circulation.

24 A. Yes, and, actually, pedestrian as
 25 well. One of the benefits to redevelopment is that

1 you can coordinate the design from site to site, and
 2 you can't do that on an individual basis. And
 3 obviously, you see that here, that individual came
 4 in for site plan approval, and he came by himself.
 5 What is great from a redevelopment perspective is
 6 that you can coordinate parking, vehicle
 7 circulation, pedestrian circulation, and an
 8 encourage cross access so that it works more
 9 efficiently not only for this site, but also for the
 10 area. So while the site itself has been
 11 redeveloped, I think that it meets -- it's necessary
 12 for the effective redevelopment of the area just
 13 from a circulation perspective at a minimum.

14 Q. When you say it's necessary, where the
 15 building sits may not be necessary, but the lot, the
 16 parking lot may be necessary or is necessary for the
 17 effective development of the entire area?

18 A. I believe it is.

19 Q. Directing your attention to Block 419,
 20 Lot 6.01, I'm assuming that that also is referenced
 21 in LUB-4?

22 MR. SCHWINDER: May I just go back to
 23 that one redeveloped property? There are how many
 24 apartments in that property?

25 A. Three -- I was up there twice -- I

1 think it was three.

2 MR. SCHWINDER: Three apartments that
 3 were rented well before he building was finished.

4 A. Yes.

5 MAYOR LAMATINA: Two.

6 MR. SCHWINDER: Two apartments. So
 7 they were rented prior to completion.

8 A. Yes.

9 MR. SCHWINDER: So it was desirable
 10 for people to be in that area.

11 MR. DOYLE: So I think your point, Mr.
 12 Chairman, is well taken. The mixed use goals are
 13 immediately fulfilling themselves as soon as we
 14 built it. And if you adopt, you build it and they
 15 will come, as soon as it was -- to your point,
 16 before it was finished, with a mixed use building,
 17 which our planner has recommended for years now, it
 18 immediately got occupied. And by the way, just for
 19 the record, we were talking about Block 419, Lot 5.
 20 BY MR. DOYLE:

21 Q. Turning our attention to Block 419,
 22 Lot 6.01, similarly that can be found on LUB-4, can
 23 you please explain to the Board what your
 24 observations were about Lot 6.01?

25 A. So the pictures and narrative on page

1 27 to 29 of the report, obviously everyone is aware
 2 that this is the one-story structure with the liquor
 3 store and the cleaners. The site is not undersized
 4 for the zone, however, the existing building is so
 5 substantial that it creates an issue with regard to
 6 parking on site, circulation on site, and it appears
 7 to create a need for outdoor storage. You'll see
 8 from the pictures, you have --

9 Q. Page 28?

10 A. Page 28, a number of items that could
 11 be stored inside but are on the exterior, creating
 12 further issues for circulation and parking. There's
 13 a Budweiser trailer or cooler that been there, I
 14 think, on every site inspection that I've taken, and
 15 it was still there this evening. You have a number
 16 pallets that I believe are recycling material but
 17 are standing out in the parking area, a cooler, ice
 18 machine, and whatnot, that are located on the
 19 exterior of the building which is also substantial,
 20 creating further impediment to circulation.

21 Q. Can you indicate where the rear of
 22 this building faces?

23 A. The rear of the building faces the
 24 railroad tracks.

25 Q. So anybody pulling into town or taking

1 public transportation looking out their window
 2 passing through Emerson would see this?
 3 A. Right. So on page 28, all except for
 4 the photograph on the upper left-hand side, is all
 5 the rear of the building.
 6 Q. And did you make a final determination
 7 as to whether this meets the criteria in the
 8 redevelopment law?
 9 A. Sure. Before I do that, what I do
 10 want to note is that there have been environmental
 11 issues on the site. It's still an active NJMES site
 12 identified as 12270. Again, the report and map is
 13 in the back. It has been subject to past code
 14 violations for property maintenance, and identified
 15 on page 27.
 16 Here, the other thing important to
 17 note is that pulling into the site from
 18 Kinderkamack Road, you basically have 33 feet from,
 19 I would say, curb line, but asphalt line to the
 20 front of the building where you pull in. That gives
 21 you 13 feet to pull out, and then you're backing
 22 into where pedestrians would walk with undefined
 23 sidewalk. And I say that from a planning
 24 perspective, that it's important to realize, because
 25 pedestrians can be walking on an asphalt area and a

1 car pulling out in that same exact area, and all
 2 your master plan documents have identified that this
 3 area is unsafe for pedestrians, and it's a goal to
 4 improve pedestrian safety. And this is one of the
 5 sites where pedestrian safety could be an issue
 6 based upon the dimensions of that front parking
 7 area.
 8 So based on all those facts, I believe
 9 that it meets Criteria D and E, both obsolete
 10 layout, because of the size of the building, it's
 11 partially layout, and E because of under
 12 utilization. The site land to improvement value is
 13 1.23, again, versus 2.0 is the standard. And as I
 14 mentioned to you previously, the commercial
 15 properties outside the study area has a ratio of
 16 2.11.
 17 So I concluded from a planning
 18 perspective that the area, this lot in particular,
 19 is not developing in a manner that furthers the
 20 goals of the master plan, and it's not consistent
 21 wit the goals of the Central Business District plan,
 22 particular because it's very close to the train
 23 station. This should be your smart growth area.
 24 This should be the areas being developed with mixed
 25 use and more intense development of affordable

1 housing, more in line with your master plan goals,
 2 and that's not what's happening here.
 3 Q. When you talk about pedestrian safety,
 4 are you also talking about what's referred to as
 5 walkable downtowns?
 6 A. Yes.
 7 Q. And in your in opinion as a planner,
 8 does this site plan encourage or discourage a
 9 walkable downtown area ?
 10 A. It's clearly discourages it, and
 11 that's clearly noted in a number of the master plan
 12 documents. You have vehicles that have to pull out
 13 back into where pedestrians would possibly walk in
 14 an area where there's no defined curb cut, I think
 15 it's -- what's approximately 55 to 56, 57 feet wide
 16 without a curb cut. So a pedestrian to walk by and
 17 figure out where it's safe to walk is a little
 18 discouraging, to say the least.
 19 Q. You also indicated that you believe
 20 that this property is also necessary for the
 21 effective redevelopment of the entire area. Can you
 22 show the Board why you believe this property is also
 23 important to the effective redevelopment of the
 24 area?
 25 A. Sure. As I started to mention, given

1 its proximity to the train station, I think, and the
 2 master plan goals and the CBD goals, the fact that
 3 this is developed, a one-story building that doesn't
 4 have appropriate parking seems to be completely
 5 opposite of what the Borough has been trying to
 6 achieve for the last 10 to 15 years.
 7 MAYOR LAMATINA: I have a question.
 8 Paragraph one on page 29, the last sentence, the
 9 lack of a curb cut is a typical -- is that a typo?
 10 A. Yes, that's supposed to be is not
 11 typical.
 12 Q. Turning your attention to page 30,
 13 Block 419, Lot 6.02, can that also be found on
 14 LUB-4?
 15 A. Yes, it's the column all the way to
 16 the right.
 17 Q. And what is lot 6.02, and what did you
 18 observe, please?
 19 A. So the structure on 6.02 is a mixed
 20 use structure. From what I found there are five
 21 residential units above, or within the structure as
 22 a whole, and then there's a small retail component
 23 which is currently vacant --
 24 MR. SCHWINDER: Occupied as of today.
 25 A. Okay. As of yesterday.

1 Q. When you say occupied as of today --
2 MR. SCHWINDER: There is a business in
3 there operating. So lights were on, people were
4 inside, something to do with eyebrows and threading,
5 or something like that.

6 A. So page 31 provides the photographs --
7 similar photographs that are on the exhibit. It's a
8 two-story structure, ground floor commercial, five
9 residential units above, on site parking. It
10 appears that there's eight parking spaces for the
11 retail and the five residential units, so it's
12 slightly under parked. I don't think that appears
13 to be such an issue, but the parking lot itself is
14 an issue. It's half gravel, half dirt -- excuse me,
15 half dirt, half asphalt, you'll see weeds growing
16 through the asphalt, there's a light pole in the
17 middle of the lot impeding circulation. There's a
18 guardrail that is falling down, a deteriorating
19 facade that has holes in the siding, as seen in the
20 photographs. There's boarded up windows, they're
21 all covered, including the front windows,
22 there's deteriorating paint, and, basically, the
23 facade itself has been falling apart. So you'll see
24 in the photographs all boarded up windows and the
25 paint that is falling down. And while in and of

1 itself it may not be an issue, but that does not
2 seem to be the stricture that you want to mimic the
3 goals or promote the goals of your Central Business
4 District in your redevelopment plan.

5 So I would -- as the Board, as you're
6 reviewing this report and analyses, I would look at
7 the pictures very carefully, and look at the goals
8 that are identified in your master plan and make
9 sure that's what you don't want to see here. From a
10 planning perspective, I'm pretty sure that's not
11 what is consistent with the master plan goals.

12 Q. And again, is this property
13 particularly well positioned such that it would be
14 necessary for the effective development of the
15 Central Business District in this area?

16 A. Yes. This property is three lots away
17 from the train station. It is immediately adjacent
18 to where the train stops. It is, basically, a part
19 of the Central Business District, and that's why I
20 mentioned the Central Business District goals. I
21 believe this meets Criteria D for deterioration
22 based upon all the issues I mentioned previously,
23 also Criteria E, underutilization. It has the land
24 to improvement value of .78, and, again, 2.0 is the
25 standard. And based upon the goals of this

1 municipality, I don't believe that this is the most
2 proper utilization of this lot, so...

3 Q. Did you mean Criteria A and Criteria
4 E?

5 A. Yes.

6 Q. I'd like to direct your attention now
7 to Block 419, Lot 7. This is Borough owned. We
8 didn't put this on the board. We're assuming the
9 Land Use Board is likely familiar with this.

10 MR. MARTIN: For the record, it's page
11 32, if anyone has it.

12 Q. Thank you. Can you explain what your
13 observations were with respect to Block 419, Lot 7?

14 A. Sure. What I actually did do -- and
15 let me go through the observations first.

16 Q. Sure.

17 A. So this site is occupied by the
18 volunteer Ambulance Corps, and the commuter parking
19 area. It has a land to improvement ratio of .27,
20 clearly under utilizing service parking, and I
21 believe it meets Criteria E.

22 This property itself is substantially
23 necessary for the effective redevelopment of the
24 area. And I want to -- I printed out an aerial from
25 Google maps.

1 Q. This is going to be LUB-5, 12/8/16.
2 (Whereupon, LUB-5 was marked for
3 identification.)

4 Q. Should we turn it?

5 A. I'll do this for you, and then for
6 them. So to the left of the exhibit is Kenneth
7 Avenue Avenue, straight along the western side of
8 the redevelopment area or Block 419. This area in
9 the middle is Lot 7. This is the Ambulance Corps
10 building, and this is the commuter parking area. So
11 the Borough owns this strip here and this portion in
12 the center. The lots that front on Kinderkamack
13 Road, this area, are approximately a hundred feet
14 wide. And as I started to mention earlier, in order
15 to develop them with the sidewalk, the improvements,
16 the dining that is envisioned by the Central
17 Business District plan, and provide for the parking,
18 there's no way that could happen from in a lot depth
19 of a hundred feet, from here back. So in order to
20 accomplish the commuter parking, the shared parking,
21 the wider sidewalk, the landscaping, all the goals
22 envisioned in the master plan and the CBD plan, you
23 need this lot. Without this lot and the Borough
24 right of way, it will never happen. So this lot,
25 Lots 1, 2, and 3 are extremely necessary for the

1 effective redevelopment of this area. Without this
 2 section, it can never happen, because the design
 3 doesn't work. So from those perspectives, not only
 4 under utilized, but they are necessary for the
 5 effective redevelopment of the area.
 6 MR. DOYLE: Could you just, basically,
 7 point out what you were identifying?
 8 A. As I mentioned, this is Kenneth Avenue
 9 which is the public right of way. Lot 7 which is
 10 owned by the Borough is here. It's the big chunk in
 11 the middle. It's occupied by the Ambulance Corps
 12 and the commuter parking area. The lots that front
 13 of Kinderkamack Road basically run this way. And
 14 they're generally a hundred feet in depth. So as I
 15 just started to mention, in order to accommodate all
 16 of the improvements that the master plan documents
 17 are looking for, that could never happen within a
 18 hundred feet in depth.
 19 So this area, Lot 7 that's owned by
 20 the Borough, Kenneth Avenue, Lots 1, 2, and 3, are
 21 really necessary in order to see any improvements
 22 that can happen on Kinderkamack Road. So what I'm
 23 saying is, Lot 7, which is Borough owned, not only
 24 is it under utilized, but it's necessary for the
 25 effective redevelopment of the area as a whole.

1 MR. DOYLE: Mr. Chairman, we have
 2 three more lots to go through. Would you like us to
 3 continue going through --
 4 MR. SCHWINDER: Yes, please.
 5 MR. DOYLE: At this time we're going
 6 to turn to page 34 of LUB-1, and I'm going to mark
 7 the board that has just been put up by our planner
 8 as LUB-6. Do I have that right, Mr. Martin?
 9 MR. MARTIN: Yes.
 10 (Whereupon, LUB-6 was marked for
 11 identification.)
 12 BY MR. DOYLE:
 13 Q. Directing your attention to page 34 of
 14 the report, and specifically Lot 8, did you do
 15 similarly do an inspection and make observations of
 16 this block and lot?
 17 A. Yes.
 18 Q. Could you walk through those
 19 observations with the Board, please?
 20 A. Sure. So the last board includes Lots
 21 8, 9, and 10 which are the three lots that are in
 22 the corner, the southern most corner of Block 419,
 23 and immediately adjacent to the train station.
 24 There are a very similar because they have very
 25 little parking up front. The majority of what

1 happens on-site appears to happen to the rear. The
 2 front of the building appears to be in okay
 3 condition or appropriate condition, and seems to be
 4 maintained. It appears from site inspections that
 5 it's a different story when you look to the rear of
 6 the lot. Starting with Lot 8, it's a one-story
 7 multi-tenant commercial building. Up front there
 8 is, again, no curb cut, very uncontrolled, and we go
 9 back to pedestrian safety. There were a number of
 10 violations from 2007 to 2015 that are all noted on
 11 page 34. No environmental issues on Lot 8. If you
 12 look at page 35 are the photographs for the rear of
 13 the property. And again, you'll see outdoor
 14 storage, a number of benches, ad hoc sheds, I guess
 15 storage sheds that have been added on to the
 16 building, storage containers with plywood that are
 17 toward the rear of the property. You'll see on the
 18 left-hand side of page 35 there's a storage shed
 19 that is falling down, and behind that is a truck.
 20 Between the storage shed and the property line is
 21 approximately 27 feet. That drive aisle between the
 22 truck and the shed itself is approximately 12 feet.
 23 The reason I note that is because it's the only way
 24 to get in and out to access the rear of Lots 9 and
 25 10 and a portion of Lot 8. So if you go back there

1 with a car and all those parking spaces are full,
 2 the only thing you can do is back out of that area,
 3 and that's because that's the way the lot is set up
 4 and designed. You'll see a number of the walls are
 5 crumbling, and I'm not sure the pictures do it
 6 justice, but there's holes in the concrete wall and
 7 cement block, there's holes in the plywood and a
 8 number of the temporary storage structures.
 9 MR. SCHWINDER: Ms. Bogart, this
 10 building has how many retail store fronts?
 11 A. Three.
 12 MR. SCHWINDER: How many parking
 13 spaces?
 14 A. That's difficult to say.
 15 MR. SCHWINDER: Two, three?
 16 A. There are probable four up front.
 17 MR. SCHWINDER: Four parking spaces.
 18 And people who go to these businesses, they pull
 19 their car in forward, and then they're obligated.
 20 To back out onto Kinderkamack Road;
 21 is that correct?
 22 A. Yes.
 23 MR. SCHWINDER: And if they do back
 24 out, they're backing out to a blind sided area,
 25 because the building next door, basically, gets

1 pretty close to the curb. So you're take your life
2 in your hands as you're backing up with traffic
3 traveling south on Kinderkamack Road? Correct me if
4 I'm wrong.

5 A. That's right. There's actually two
6 separate circulation issues with regard to this
7 site. One up front as you described, and then one
8 in the rear as I tried to describe, which I assume
9 employees park in the rear. But they're doubling up
10 and trying to back out. It's difficult to get in
11 and out.

12 Q. Is the rear striped at all, or is
13 there any specific parking area, or is it make shift
14 parking --

15 A. It appears to be make shift.

16 MR. SCHWINDER: I would say, given
17 testimony to the ability of a business to thrive,
18 there has been a Chinese take-out restaurant that's
19 run out of that site for quite some time, and it
20 seems to be quite a viable business despite all of
21 these problems. And what I'm trying to say is, that
22 our downtown has opportunity for growth and to
23 attract people to a business year after year after
24 year after year if it's the right business.

25 A. Take out would potentially do very

1 well. There's no on-site parking needed. It's just
2 the drivers going in and out, which I could see in
3 this situation.

4 Unfortunately, you'll see in some of
5 the photographs on this site, there's coolers up
6 there which appears to indicate that the buildings
7 themselves are not large enough to accommodate all
8 the necessary equipment for restaurants themselves,
9 and that's more evidence in Lot 9.

10 Q. With respect to Lot 8, would you just
11 briefly confirm what the criteria are --

12 A. Sure. I believe that Lot 8 meets
13 Criteria A. The building is dilapidated. It's
14 evidenced by crumbling concrete. There's holes in
15 the walls, there's damage to the gutters, there's
16 plywood that's, basically, so watered through that
17 it's coming off the building. It appears that the
18 building really hasn't been properly maintained,
19 particularly in the rear. The front seems to be
20 okay.

21 Additionally, in the rear there's the
22 parking area, the sidewalks in the front have not
23 been maintained. They have a negative impact to the
24 public. So I think that Criteria A has been met. I
25 believe that Criteria D has also been met for all of

1 the reasons that you have discussed, Mr. Chairman,
2 and I've discussed those faulty arrangements,
3 undefined curb cuts, undefined circulation areas and
4 parking areas, improper drive aisles, which all have
5 a negative impact not only to the public, to the
6 pedestrian safety, but also to the adjacent property
7 owners. To try to back out a car to adjacent lots
8 is not fair to adjacent property owners. So I think
9 Criteria D is met.

10 Again, I think also Criteria E is met.
11 And as I mentioned in the very beginning, Criteria E
12 and D are very closely related. And you'll see that
13 for most of these properties, they're very similar.
14 The issues that -- the faulty arrangement and faulty
15 design go to the part of why the sites are under
16 utilized. In this case, the land to improvement
17 value ratio is 1.5, which is higher than the other
18 ones but not at that 2.0 standard.

19 MR. SCHWINDER: In my comments I was
20 talking about when someone is backing out vehicle to
21 vehicle, the possibility of collision, not even
22 thinking at that moment of people walking along
23 Kinderkamack Road, and the driver not being able to
24 see them because they would be hidden by that brick
25 building next door, so that is a severe safety

1 hazard for pedestrians.

2 A. I agree. And overall, obviously, the
3 site is not -- the area is not developed in a manner
4 that is consistent with the land use goals, which
5 is, again, why I went through painstaking detail of
6 the master plan goals and CBD goals in the last ten
7 years.

8 So Lot 8 exhibits the conditions, I
9 believe, that meet Criteria A, D, and E, and I
10 believe it's been confirmed through the site
11 inspection and photographs and the notes, and,
12 hopefully, through your own inspections and notes.
13 BY MR. DOYLE:

14 Q. You also said something that I think
15 is important for the Board to focus on, that the --

16 MR. SCHWINDER: Speak up.

17 Q. I'm sorry -- that the buildings, as a
18 result of their deterioration, create a negative
19 impact on the area. Can you expound on that a
20 little bit, how that creates a negative impact in
21 your experience as a planner?

22 A. I think it goes with anything, even
23 with a residential single-family home, if your
24 neighbor is improving their property or keeping
25 their property up, you want to do the same. If your

1 neighbor is not doing that, you really don't care
 2 what your property looks like. So it has a negative
 3 impact. The theory of fixing broken windows, you
 4 fix a broken window on one property, the next
 5 property wants to include the broken window. And
 6 that's --
 7 Q. An accepted planning criteria?
 8 A. Yes.
 9 Q. Directing your attention now to page
 10 37, Block 419, Lot 9.
 11 A. Sure. We're down to two more.
 12 Q. And similar to be found on LUB-6.
 13 A. It's in the middle of the exhibit
 14 board.
 15 Q. And you've made observations of this
 16 as well?
 17 A. So this is a one-story multi-tenant
 18 commercial building. Again, like all of Block 419,
 19 excessive coverage, on-site parking, wide curb cuts,
 20 stacked parking. This site has had environmental
 21 issues and is still an active site, NJMES site
 22 12778 with ground water termination. Again, the
 23 reports and maps are in the appendix. It had
 24 repeated violations, the Building Department and
 25 property maintenance that are identified on page 37.

1 Q. You took the photos as well that we
 2 find on page 38?
 3 A. Yes. This site seems to have creeping
 4 effect as far growing additions. If you look at
 5 aerials through -- the last couple of years, first
 6 you'll see, if you look on page 38, the addition in
 7 the brown next to the coolers, that was there
 8 several years ago, and then all of a sudden the
 9 adjacent addition, the plywood, showed up a couple
 10 years ago. So the photograph all the way to the
 11 upper left was taken from the rear of the property.
 12 The photograph to the bottom right was taken,
 13 basically, looking from the train station forward.
 14 This was, again, another site that has a restaurant
 15 in it, a number of coolers. And if you look into
 16 the temporary structure that was created, there's
 17 coolers and the restaurant storage materials that
 18 are there. Obviously, the site may be too small for
 19 what is being conducted there, the business that's
 20 being conducted there. Maybe the building needs to
 21 be slightly larger, however, there's very little
 22 parking on site.
 23 From the front you'll see the
 24 photograph to the left, the bottom, the site does
 25 not look -- it looks maintained. But when you look

1 to the rear, there seems to be other issues going
 2 on. As I mentioned to you, the site seems to be
 3 undersized for the business that was taking place
 4 there.
 5 MAYOR LAMATINA: Do you know if
 6 permits were obtained for those additions to that?
 7 A. I don't.
 8 MAYOR LAMATINA: Do you know if this
 9 Board granted any permission on variances or any
 10 kind of approval for those conditions?
 11 MR. SCHWINDER: As far as I know, no.
 12 Q. And this specific criteria that you
 13 believe this site meets under the Local Housing and
 14 Redevelopment law?
 15 A. I believe it meets Criteria A, which
 16 is deterioration. If you go out there and actually
 17 inspect, I don't think the photographs do it
 18 justice. But those additions are crumbling,
 19 they're clearly not up to code, they are water
 20 damaged and falling apart, there's holes in the wall
 21 that you can see. Even though the front facade has
 22 been patched, you'll see that there are issues with
 23 the structure itself. And obviously, you'll see
 24 from the photographs and site inspections, that the
 25 property has not been maintained up to standards.

1 Also, the parking area itself has not
 2 been maintained. The sidewalk and all the public
 3 viewing areas adjacent to the train station in the
 4 heart of the downtown has not been maintained. I
 5 have photographs of a white pole that's, basically,
 6 half out of the ground that's been sitting there for
 7 years. It's rusted. So from those perspectives, I
 8 believe that the site meets Criteria A. It also
 9 meets Criteria D for improper layout, undefined curb
 10 cuts, not enough parking. You'll see -- and I don't
 11 even know if they have access from the rear, Lot 8,
 12 but there's really not enough parking on the site
 13 for what the current use is. I believe Criteria D
 14 is met.
 15 Also, I believe Criteria E is met.
 16 This site has a land to improvement value of .48,
 17 again, an indicator of under utilization. So I
 18 believe that under utilization, improper land use,
 19 deteriorated building, all gives this Board the
 20 right to recommend that this site in this area is
 21 blighted in accordance with the Local Redevelopment
 22 Housing Law.
 23 Q. How about the location of this
 24 property with respect to being necessary for
 25 redevelopment in the area?

1 There's a number of sites that have
 2 inefficient layout which create no opportunities for
 3 improvement. There's no way, if you look at the
 4 aerial, to improve these properties without doing
 5 redevelopment, without consolidating the properties.
 6 And that's important to note when you're looking at
 7 a redevelopment plan. You can't improve these
 8 properties singularly. You can't have them come in
 9 for a site plan application, and everything will be
 10 fixed. That's not what's going to happen here,
 11 because the majority of the properties are at
 12 capacity. They need to be done if they want to be
 13 improved. If the Borough wants to improve them,
 14 they need to be done through the redevelopment
 15 process. And the fact that they currently lack
 16 appropriate planning standards for circulation,
 17 pedestrian circulation, building design is important
 18 to note. So if any of that wants to be improved, it
 19 has to be done through the redevelopment process.

20 As I mentioned to you, a lot of them
 21 currently lack curbing along Kinderkamack Road,
 22 which creates safety issues. Unchanneled vehicles
 23 exiting and entering the site creating pedestrian
 24 hazards. So for all of those reasons, I believe the
 25 majority of the study area meet Criteria D. As I

1 mentioned to you, I think the majority of the study
 2 area meets Criteria E. As a whole, as I mentioned
 3 to you, if you're looking at the entire 34 acres,
 4 only 10 of the 82 properties meet the 2.0 standard.
 5 Only one of the properties in Block 419 meet that
 6 standard. If you look at the commercial properties
 7 within the Borough outside of the study area, they
 8 meet that standard. They're at 2.11. So there's --
 9 as I mentioned to you, there's clearly an issue
 10 here. And I believe it's related to the fact that
 11 there is poor design and arrangement in this area as
 12 a whole. And that has resulted in economic under
 13 utilization, which wouldn't be a terrible thing, but
 14 it's right in the middle of your downtown, right in
 15 your Central Business District where your master
 16 plan documents have focused on for years. So
 17 combined with the master plan goals, the
 18 underutilization, and the obsolete layout, all give
 19 rise to this Board looking at this as an area in
 20 need redevelopment. And I think you have an
 21 important area to consider as an area in need of
 22 redevelopment.

23 Q. As the Borough's planner, do you have
 24 a recommendation for the Land Use Board?

25 A. I believe that the Board should

1 recommend this area as an area in need of
 2 redevelopment, or a continued area in need of
 3 redevelopment. Because, remember, this was done in
 4 2006 and 2008. We're just reconfirming it here
 5 based on today's standards, and I think you should
 6 recommend it as a continued area in need of
 7 redevelopment to the Governing Body so that they can
 8 move forward with whatever plan is necessary.

9 MR. DOYLE: That's all we have,
 10 Mr. Chairman.

11 MR. SCHWINDER: I'm again going to
 12 read what I read earlier on in the meeting, which is
 13 what this Board is charged with. And then we will
 14 open it up for public comments. Let me read what
 15 we're charged with first.

16 This public hearing is to consider
 17 recommending to the Borough council whether or not
 18 certain blocks and lots located within the Central
 19 Business District meet the statutory criteria to be
 20 designated as a Condemnation Redevelopment Area
 21 pursuant to the New Jersey Local Redevelopment and
 22 Housing Law, and to hear all persons interested in
 23 or would be affected by said designation. And with
 24 that in mind, let me remind you that we have to be
 25 out of here by 11 o'clock.

1 Our next order of business is public
 2 comment. Members of the public are welcome to speak
 3 on any topic by coming -- on this particular topic,
 4 the area that we discussed tonight, which is the
 5 area between Kinderkamack Road, Lincoln Boulevard,
 6 Linwood and the railroad tracks.

7 Come up to the front of room, state
 8 your name and address for the record. In the
 9 interest of time, speakers are limited to five
 10 minutes, including questions and answers. In
 11 consideration of all who may wish to speak, please
 12 keep your comments brief and concise. May I have a
 13 motion to open the meeting to the general comments
 14 form the public?

15 (Motion made and seconded.)

16 MR. DOYLE: Might I suggest that,
 17 perhaps, in order of priority, although everybody
 18 should be given an opportunity to speak, but those
 19 property owners that are directly affected by this.
 20 In other words, those within Block 419, you give
 21 them priority since they came here tonight --

22 MR. SCHWINDER: Absolutely.

23 MR. DOYLE: And then anybody else, of
 24 course, can speak. Does that make sense?

25 MR. SCHWINDER: That makes sense.

1 MR. MARTIN: Mr. Doyle, I think that
 2 makes sense. There's one other priority --
 3 MR. DOYLE: Sure.
 4 MR. MARTIN: Potentially, I see some
 5 dignitaries here. If they have objectors, maybe
 6 they should step forward first.
 7 MR. DOYLE: I agree with that.
 8 MR. JAWORSKI: Thank you, Mr. Martin.
 9 First I have to apologize to the Board for my
 10 informal appearance tonight. I did not intend to
 11 step up to the microphone, but I just have a couple
 12 of questions I'd like to ask Ms. Bogart.
 13 For the record, my name is Jim
 14 Jaworski. I'm an attorney at law in State of New
 15 Jersey. I am here on behalf of 214 Kinderkamack,
 16 LLC, the owner of Block 419, Lot 4. And I really
 17 just had a few questions to supplement the record,
 18 if I could.
 19 MS. BOGART: Sure.
 20 MR. JAWORSKI: You talked about what
 21 you did in preparation for your testimony here this
 22 evening. You mentioned that you went to all of the
 23 sites, and you specifically talked to the issue of
 24 the Rancho restaurant. Did you have occasion to
 25 go inside and see the interior improvements that

1 were made to the restaurant?
 2 MS. BOGART: Yes, I have.
 3 MR. JAWORSKI: You did. And did you
 4 also see the exterior improvements that were made as
 5 well?
 6 MS. BOGART: Yes.
 7 MR. JAWORSKI: You talked about the
 8 taxes and the fact that the two to one ratio was met
 9 only by one property in the entire study area, that
 10 being this property?
 11 MS. BOGART: Yes.
 12 MR. JAWORSKI: And the standard you
 13 found around the town was about 2.11?
 14 MS. BOGART: Yes.
 15 MR. JAWORSKI: What was the standard
 16 you called off for this property in question?
 17 MS. BOGART: 2.48.
 18 MR. JAWORSKI: And the standard you
 19 mentioned around the town was 2.11?
 20 MS. BOGART: Correct.
 21 MR. JAWORSKI: Were you aware that
 22 there was an increase in the assessment for the
 23 improvements only in 2015 of about \$220,000?
 24 MS. BOGART: No.
 25 MR. JAWORSKI: Are you aware how long

1 the restaurant has been operating?
 2 MS. BOGART: I know a couple of years.
 3 MR. JAWORSKI: Couple years? You also
 4 put, I believe, four photographs of the site in
 5 question in your report. You spoke, however, about
 6 about the visual impact of this site as being one of
 7 the few most important, this one with respect to
 8 traffic proceeding southbound on Kinderkamack Road,
 9 I believe.
 10 MS. BOGART: Correct.
 11 MR. JAWORSKI: Correct me if I'm
 12 wrong, but isn't this building located at the back
 13 setback lines on both the front and the side yard
 14 line?
 15 MS. BOGART: That has nothing to do
 16 with -- with regard to my comment with visual
 17 impact.
 18 MR. JAWORSKI: I thought your comment
 19 was with respect to the empty parking lot that would
 20 be used by people driving southbound on
 21 Kinderkamack?
 22 MS. BOGART: But also the under
 23 utilization. The plan calls for a multi-story mixed
 24 use building in this location.
 25 MR. JAWORSKI: And you would see

1 exactly what as you're driving southbound on
 2 Kinderkamack?
 3 MS. BOGART: With regard to the plan?
 4 MR. JAWORSKI: With regard to the
 5 refinished exterior of the Rancho restaurant.
 6 MS. BOGART: Currently?
 7 MR. JAWORSKI: Currently.
 8 MS. BOGART: A restaurant building
 9 with an empty parking lot behind.
 10 MR. JAWORSKI: Okay. I believe you
 11 mentioned that the restaurant was a viable operation
 12 and important to the community. And did you look
 13 into how much the building permit fees were at the
 14 time that the restaurant was approved?
 15 MS. BOGART: No, I did not.
 16 MR. JAWORSKI: Thank you very much.
 17 MR. DOYLE: Thank you.
 18 MR. SCHWINDER: Would anyone else like
 19 to come up? State your name and address.
 20 MS. AGNELLO: My name is Debbie
 21 Agnello, and my property is 188 Kinderkamack Road,
 22 and I have a few questions to ask. My building
 23 houses Cork and Keg and Ranch Cleaners.
 24 MR. DOYLE: Can we identify the lot
 25 and block for the benefit of --

1 MS. AGNELLO: 419, 6.01.
 2 MR. DOYLE: Thank you.
 3 MS. AGNELLO: It's spent a long time
 4 memorizing that.
 5 Was the redevelopment area that's
 6 referred to in the notice found already to be
 7 blighted?
 8 MR. DOYLE: Yes.
 9 MS. AGNELLO: So you're not going
 10 through the process now determine if the
 11 redevelopment area is blighted?
 12 MR. DOYLE: We're reconfirming that
 13 the area continues to meet the blight standard under
 14 the Redevelopment Law.
 15 MS. AGNELLO: So what has changed
 16 since that time?
 17 MR. DOYLE: I'm not sure I understand
 18 the question.
 19 MS. AGNELLO: Well, it was previously
 20 determined to be blighted, correct? So why are you
 21 reopening this right now? So what's changed since
 22 2004, 2003, since this started.
 23 MR. DOYLE: It was my recommendation
 24 to both the Mayor and Council and to this Board that
 25 based on the age of this study, that if anybody were

1 to challenge the designation, because it was so old,
 2 a court might entertain sending us back to restudy
 3 it. So in excess of caution, we thought it only
 4 appropriate and fair to the property owners to
 5 restudy the area. Does that answer your question?
 6 MS. AGNELLO: It is does. Thank you.
 7 Has the municipality found that my
 8 property in the proposed redevelopment area is not
 9 productive?
 10 MR. DOYLE: The municipality
 11 previously determined that your property met the
 12 criteria to be designated a property in need of
 13 redevelopment.
 14 MS. AGNELLO: Is it unproductive? Is
 15 my property unproductive?
 16 MR. DOYLE: Currently your property is
 17 under utilized, and I'll allow you to speak to that,
 18 unproductive in the sense that it's under utilized.
 19 MS. BOGART: From a redevelopment
 20 prospective, unproductive is not a term -- under
 21 utilized is the term.
 22 MS. AGNELLO: So it's under utilized
 23 because of the size of the property and what's
 24 there, even though we have parking spots on that
 25 property -- so that's under utilized by having

1 parking on the property? What makes my property
 2 under utilized?
 3 MS. BOGART: I did not say that. What
 4 I did say, your site itself has a number of issues
 5 with regard to parking as you compare it to current
 6 standards, and the building is larger, which creates
 7 these issues with regard to the current standards
 8 for parking and circulation, so that's number one.
 9 So it doesn't meet current planning standards --
 10 MS. AGNELLO: Current planning
 11 standards.
 12 MS. BOGART: Correct.
 13 MS. AGNELLO: So have you interviewed
 14 any of the business owners that are in the
 15 redevelopment plan on how productive their
 16 properties are? Have you interviewed any of the
 17 property owners at all? Have you gone to meet with
 18 them or talk with them about their properties?
 19 MS. BOGART: Again, unproductive is
 20 not a term under Local Redevelopment Law --
 21 MS. AGNELLO: Then maybe I need to
 22 rephrase that. Have you spoken to any of the
 23 property owners that are in redevelopment?
 24 MS. BOGART: No.
 25 MS. AGNELLO: None.

1 MS. BOGART: No, I'm sorry, I take
 2 that back, I've spoken to one.
 3 MS. AGNELLO: Okay, just one.
 4 And the buildings that are in this
 5 redevelopment, have they all paid their taxes?
 6 MS. BOGART: That, I don't know.
 7 MS. AGNELLO: The notice states that
 8 property owners have 45 days to challenge. Does
 9 this mean we have 45 days to challenge the
 10 determination of the area you have designated to be
 11 in need of redevelopment?
 12 MR. DOYLE: Once the area is
 13 reconfirmed, you have 45 days from the time the
 14 Mayor and Council adopt that recommendation by the
 15 Land Use Board, assuming the Land Use Board accepts
 16 and adopts the recommendation of their planner.
 17 MS. AGNELLO: That might be on
 18 December 20th Town Council meeting?
 19 MR. DOYLE: I don't know whether we're
 20 going to reach that, but, yes, I would urge anybody
 21 here to carefully monitor what the -- first, of
 22 course, what this Land Use Board may or may not do
 23 with respect to this recommendation, and that
 24 assuming that they recommend that this area continue
 25 to be designated as an area in need of

1 redevelopment, I would recommend that you monitor
2 what the Mayor and Council do, because if they adopt
3 a resolution reconfirming this as an area in need of
4 redevelopment, there would be a time frame, which is
5 45 days under the law, from which you would need to
6 challenge that reconfirmation.

7 MS. AGNELLO: So it's when they vote
8 it. So it's 45 days from then, that's when the
9 challenge period would start.

10 MR. DOYLE: Yes.

11 MS. AGNELLO: And have you considered
12 the impact on the property owners by your having
13 them under this threat of redevelopment for about 13
14 or 14 years? Have you just considered the impact of
15 maybe not being able to get tenants if the tenants
16 moved out, or maybe thinking about selling their
17 property with this redevelopment hanging over their
18 head for all of these years? Who's going to finance
19 that? What bank is going to come and say, oh, gee,
20 they're in redevelopment. Who's going to finance
21 this? So have you even considered the impact on
22 the property owners? So is it your intent to push
23 this area into being in need of redevelopment? Or,
24 in other words, have purposely kept the property
25 owners under the threat of redevelopment so that

1 there would be a disincentive over course of 13
2 years for anyone to buy or even improve their
3 property?

4 MR. DOYLE: So historically and
5 factually, in 2004 the Governing Body determined
6 that this area, including your property and those
7 other properties in Block 419 met the criteria under
8 Local Housing and Redevelopment Law to be designated
9 an area of redevelopment.

10 MS. AGNELLO: 2004.

11 MR. DOYLE: In 2008 it was studied
12 again --

13 MS. AGNELLO: Again.

14 MR. DOYLE: -- and this Land Use Board
15 reconfirmed that, in fact, the area met the
16 criteria. However, at that time the plan was
17 amended, as Ms. Bogart testified, that allowed and
18 incentivized the property owners to take it upon
19 themselves to redevelop their own area. So without
20 arguing with you, because that's not what I want to
21 do, we encouraged the property owners to take it
22 upon themselves to redevelop their own areas. And
23 we gave them an incentive at that time by saying,
24 you don't just have to have a liquor store or a
25 Chinese restaurant. You can actually go up two to

1 three stories, you can have mixed use in the
2 downtown area, and we encouraged that. After eight
3 or nine years waiting as a result of that
4 encouragement, no further redevelopment or
5 improvements to the area had taken place. So now
6 what our study shows is, not only has nothing
7 happened since 2004, not only has nothing happened
8 after we -- after the Governing Body provided an
9 incentive for property owners to redevelop their
10 areas, nothing has happened, and it continues to be
11 blighted, and it continues to deteriorate. And the
12 concern that we have not only for all of the
13 taxpayers in Emerson, but the business people down
14 there as well who want to continue to thrive, is
15 that it continues to deteriorate, we're going to
16 continue to have vacancies and further deterioration
17 of downtown.

18 MS. AGNELLO: My building has not been
19 vacant in 50 years. My building has always had
20 tenants in that building, and it's a thriving
21 business.

22 MR. DOYLE: And the concern that the
23 Governing Body would have for you is that it always
24 continues to be that way. And if the area isn't
25 redeveloped, it's only a matter of time, based on

1 good planning experience and the expert testimony of
2 our planner this evening, while that might have
3 happened for the last 50 years, based on our
4 knowledge -- the planner's knowledge about planning,
5 that may not always be the case. And that's the
6 reason why the Governing Body has recommended the
7 Land Use Board go through this analysis, and that's
8 why we're before the Land Use Board tonight to say,
9 look, we want to make sure that you continue to
10 thrive, and the businesses down there continue to
11 thrive.

12 MS. AGNELLO: Thank you very much.

13 MR. SCHWINDER: Would anybody else
14 like to make a statement or comment or question?

15 Yes, sir. State your name and
16 address, please.

17 MR. VANDERKUEGEL: Ernest
18 Vanderkuegel (ph), and I'm from Rockland County and
19 New Jersey.

20 MR. MARTIN: And what's your address.

21 MR. VANDERKUEGEL: Rockland County,
22 New York.

23 MR. MARTIN: I appreciate that.

24 What's the street address? What town?

25 MR. VANDERKUEGEL: 32. I'm in

1 Congers, New York.
 2 MR. MARTIN: 32 --
 3 MR. VANDERKUEGEL: Rockland County,
 4 Congers, New York.
 5 MR. MARTIN: No, no --
 6 MR. VANDERKUEGEL: Are you an
 7 attorney.
 8 MR. MARTIN: Yes.
 9 MR. VANDERKUEGEL: Then that will
 10 suffice for you, sir.
 11 MR. MARTIN: For the record, I just
 12 need the address for your commentary because we're
 13 making a record,
 14 MR. VANDERKUEGEL: Yes. I'm from
 15 Rockland County, my name is Ernest
 16 Vanderkuegel (ph), and I'm in Congers, New York, and
 17 that will suffice.
 18 MR. MARTIN: What address?
 19 MR. VANDERKUEGEL: I just told you,
 20 Rockland County.
 21 MR. MARTIN: What street address?
 22 MR. VANDERKUEGEL: I'm not from this
 23 town. I don't have to give you my address.
 24 MR. MARTIN: Okay. I'm going to
 25 submit to the Board that we not consider any weight

1 USC Title 18 Section 241-242, whoever under any
 2 color of any law willfully subjects any person to
 3 the deprivation of any rights protected by the
 4 Constitution or laws of the United States shall be
 5 fined or imprisoned not more than one year, or both.
 6 It has been brought to our attention,
 7 and that is the taxpayers, and the group is called
 8 OBOT, Oath and Bond Observation Team, and that's who
 9 we are, and what we're here to do. So what we're
 10 stating right away, immediately, is, these taxpayers
 11 are stakeholders. They run this town with their tax
 12 dollars, and we're looking to find out who
 13 instituted this project, because this project will
 14 not go through. What we're going to do is begin at
 15 the beginning and make sure that every public
 16 officer that is in their office lawfully and
 17 properly have their oath and their bonds in place,
 18 because you do not make decisions for the
 19 stakeholders. And that's under federal law, and we
 20 also have the town law, and that was faxed again
 21 yesterday to the very helpful Ms. Jane. We faxed
 22 her 14 pages. And in that, again, was the
 23 Department of Justice letter warning local and state
 24 courts that this type of behavior is not going to be
 25 tolerated, and that was also in the Bergen Record.

1 of this man's comments.
 2 Go ahead.
 3 MR. VANDERKUEGEL: I'm sorry, what did
 4 you say before go ahead.
 5 MR. MARTIN: Continue.
 6 MR. VANDERKUEGEL: As far as I know,
 7 there's three lawyers in this room right now, and
 8 they're going to need to have their State IDs. I am
 9 a federal officer and I own several businesses. And
 10 I have been retained by taxpayers here in this room
 11 who are also federal officers and bondholders to
 12 protect their rights.
 13 So, yesterday, to your clerk, and I
 14 don't know if she's here, Ms. Jane was very helpful,
 15 and we faxed her the letter from the Department of
 16 Justice that each and every public officer in this
 17 town will be requested to read, initial each page,
 18 and return to our group, and that will be returned
 19 to the Department of Justice. And that, basically,
 20 says that this town may or may not be in compliance
 21 with their bonds. Every public officer here has to
 22 be oathed and bonded and have their State ID cards
 23 with them at all times, or they're not in this
 24 office. Lawyers have to be bonded as well, so I
 25 hope you're all covered. Here's why, sir. Under

1 I believe it's the Bergen Record newspaper. And
 2 that went federal and it was also on television, and
 3 that was last May, so I hope you saw that. Because
 4 the very first paragraph of that letter stated, or
 5 the article stated, there were serious real life
 6 consequences for violation of public office. And we
 7 are here to find out which public officers are in
 8 violation, and who presented this project that would
 9 take advantage of these taxpayers' rights. And I'm
 10 heading up that group, and we have several other
 11 federal officers, and we reserve the right to bring
 12 federal authorities to this town and take care of
 13 the business for these taxpayers.
 14 So I would just like to say to you, we
 15 will be back, and we request that information within
 16 30 days, that you all read that Department of
 17 Justice letter, that you sign and initial each page
 18 and return that back, we will be here to pick that
 19 up. We will be here at further meetings. We're
 20 simply here to make sure that the law is followed.
 21 We are bond observers, and we seek
 22 bonds. That's what we do. Because that's what we
 23 put you in your office, Oath Bond Observation Team.
 24 That's what we do. Right now, we've been alerted
 25 that these taxpayers' rights have been violated, and

26 (Pages 98 to 101)

1 A. Well, this is one of the key
 2 properties. As I mentioned previously, Block 419
 3 has two key corner properties. This is the key
 4 corner. It is immediately adjacent to the train
 5 station. It's where all your road improvements are
 6 happening. This is the property that when people
 7 come into Emerson, this is what they're going to
 8 see. This is the key element to your redevelopment
 9 plan, this is the key element to your Central
 10 Business District Plan, and all your master plan
 11 goals that have been going on since 1999.
 12 Q. And finally, directing your attention
 13 to Block 419, Lot 10, which can also be found on
 14 LUB-7, did you get a chance to make observations of
 15 Block 419, Lot 10?
 16 A. Yes, and this is the last one. This
 17 is an undersized site. There's really not too much
 18 to say about it, other than it's necessary for the
 19 redevelopment plan. It's, again, immediately
 20 adjacent to the train station. You can see that in
 21 the aerial. The fence that is located in the
 22 photograph on page 40, I believe is on the adjacent
 23 lot, but it's very difficult to tell.
 24 Unfortunately, all the parking for the site is
 25 located in the rear, and once you drive back there

1 A. Is not typical.
 2 MR. MARTIN: LUB-6 -- we didn't get a
 3 7; am I right?
 4 MR. DOYLE: LUB-6, my apologies.
 5 BY MR. DOYLE:
 6 Q. So you believe this satisfies, this
 7 specific property of Block 419, Lot 10 meets both
 8 Criteria D and E?
 9 A. Yes.
 10 Q. Is there anything special about the
 11 location of this property with respect to the area
 12 in general that would indicate that it's necessary
 13 for the effective development of the area?
 14 A. Well, as I mentioned, it's immediately
 15 adjacent to the train station, so I think it's an
 16 important corner. But it also may be important with
 17 regard to circulation. Because it's immediately
 18 adjacent to the railroad right of way. And the
 19 plan, apparently, calls for parking in the rear of
 20 the block, and if there's access to rear parking
 21 that might be -- so yes, both in location
 22 perspective and plan perspective, I think it's
 23 important.
 24 Q. I'd now like to direct your attention
 25 to the conclusion that you came to in your report.

1 again, it's all full, there's nothing you can do.
 2 There's nowhere to park to access any of the stores
 3 on he site. I'm not sure that the building is
 4 deteriorated. It doesn't seem to be as deteriorated
 5 as the rest of the buildings adjacent to it, but the
 6 site clearly exhibits faulty arrangement. Trying to
 7 get back to the parking area is very difficult, and,
 8 I believe, probably only utilized for employees.
 9 Inefficient layout and given the size
 10 of the building, there's clearly a need for outdoor
 11 storage, and you'll see that as you look at the
 12 photographs in the rear. Again, this also meets
 13 Criteria E, for under utilization. 6.5 or two is
 14 standard.
 15 And I keep bringing everything back to
 16 Criteria D, faulty arrangement, improper site
 17 design, and that clearly leads to under utilization
 18 and the lack of economic efficiency in the downtown.
 19 I think that when this Board looks at this document
 20 as a whole, they need to view that in comparison to
 21 your master plan goals.
 22 MAYOR LAMATINA: Paragraph one, the
 23 sentence says, lack of a curb cut --
 24 A. I did it again.
 25 MAYOR LAMATINA: Is not typical?

1 You've gone through each of the lots in Block 419,
 2 and you've come to the conclusion that based on your
 3 professional opinion, within a reasonable degree of
 4 certainty, each and every one of these lots, for the
 5 reasons that you've articulated, meet the criteria
 6 to be designated as properties in the area in need
 7 of redevelopment; is that accurate?
 8 A. Yes.
 9 Q. And do you have an opinion with
 10 respect to the area in general, whether it meets the
 11 criteria under the Local Housing and Redevelopment
 12 Law?
 13 A. If you'd just indulge me for two
 14 minutes, I'd like to just read to you some of my
 15 decision. I believe that the properties have a
 16 deleterious impact on the surrounding area and the
 17 properties as a whole. First of all, I believe the
 18 majority of faulty arrangement that is
 19 characteristic of Criteria D, which I went through
 20 in detail. Due to the size of the sites themselves,
 21 the size of the buildings themselves, the location
 22 of the buildings, the lack of parking, improper
 23 circulation which impacts not only pedestrian
 24 circulation, but also vehicle circulation, and it
 25 has a safety impact.

1 we're not going to stand for that. I appreciate
 2 your time, thank you very much. And please make
 3 sure all of your paperwork is in order, and you
 4 present that. You must prove compliance, and you
 5 must show proof of compliance upon demand, and this
 6 is that demand, and we request that be fulfilled.
 7 Thank you very much, and good night.
 8 MR. MARTIN: Mr. Doyle, have you
 9 properly presented notice of these hearings to the
 10 Board?
 11 MR. DOYLE: Yes.
 12 MR. MARTIN: Thank you.
 13 MR. SCHWINDER: Anybody else in the
 14 audience would like to make a statement or comment?
 15 Seeing no more hands -- yes.
 16 MS. CORDERO: Good evening. My name
 17 is Rosella Cordero. I live at 11 Chestnut Street.
 18 My property is the one -- I think that it's in the
 19 border. It's not pertaining to the 419 section;
 20 however, it's in the development area. I would like
 21 to know what's the criteria, because my neighbor is
 22 not going to be included in the development area,
 23 and how long do I have -- I mean, how long do we
 24 have to make a decision if we sell the property,
 25 or not, or -- what are we to do?

1 MR. DOYLE: Can you give us a sense of
 2 where you are?
 3 A. Yes.
 4 MR. CORDERO: My name is Eduardo. I'm
 5 Rosella's husband. I believe we're referring to
 6 Section 3.02.
 7 MR. DOYLE: .02?
 8 MR. CORDERO: Yes.
 9 MR. DOYLE: Do you have a copy of the
 10 notice?
 11 MS. CORDERO: Not with me --
 12 MR. DOYLE: But you got it in the
 13 mail?
 14 MS. CORDERO: Yes.
 15 MR. DOYLE: May I, Mr. Chairman?
 16 MR. SCHWINDER: Yes, please. Bring
 17 the mic closer.
 18 MR. DOYLE: No problem, sure. I was
 19 asked about -- what's your name again?
 20 MS. CORDERO: Rosella.
 21 MR. DOYLE: I was asked about Ms.
 22 Rosella's property. She's located at Block 214,
 23 and it appears to be Lot 3.02, or what she's
 24 identifying is 3.02. As I indicated at the
 25 beginning of the meeting, we, at this time, are not

1 providing any testimony or moving forward at this
 2 moment with the reconfirmation of your property. If
 3 we choose to do that in the future, you will receive
 4 similar notice in the mail, and we will publish it
 5 in the same way we're required as a matter of law.
 6 So right now, we're not asking this Land Use Board
 7 to take any action, any further action, with respect
 8 to your property. Whatever action may have been
 9 taken in the past, and I can tell you that your
 10 property was previously designated as property that
 11 met the criteria to be designated as an area in need
 12 of redevelopment, that continues to remain. That
 13 doesn't change. But we are not taking any further
 14 action with respect to your property, and if the
 15 Governing Body directs us to do that, you will get
 16 another notice to appear here before this Land Use
 17 Board again.
 18 MS. CORDERO: I do understand, and
 19 that is great; that is fantastic. However, I have
 20 two little kids. I don't want to move out of
 21 Emerson. We bought the house three years ago. We
 22 bought from a lady that was there 40 years, I
 23 believe, it was a single-family house. I don't know
 24 what's the criteria of you to considering that or
 25 not, however, I need to know if I need to start

1 looking for another property or what am I going to
 2 do. It's not that simple. I know that it has been
 3 years that you have that in process, but at least
 4 we -- I mean, we're not a business. We're a family,
 5 a normal family that works, and we need, like, a
 6 time frame to make arrangements if the COAH is going
 7 to redevelop and we need to be relocated.
 8 MR. DOYLE: I don't see that taking
 9 place, although I would be happy -- we didn't get a
 10 chance to see exactly what the property is, but I
 11 would be happy to take your information and work
 12 with our planner to figure out where that fits into
 13 the overall scheme, and then, not taking up the
 14 public's time, communicate with you where I believe
 15 this stands. I'm happy to do that. But, certainly,
 16 we're not taking it up tonight. It doesn't appear
 17 to be on my radar screen nor the planner's radar
 18 screen, so I'd be happy to investigate that and
 19 follow up for her.
 20 MR. SCHWINDER: Will you give Mr.
 21 Doyle your name and address, and he will get back to
 22 you.
 23 Is there anyone else?
 24 MR. HOFFMAN: For the record, Kenneth
 25 Hoffman, 61 Emwood Drive. My question is for Ms.

1 Bogart. Approximately how many times have you done
 2 reports like this in order to determine criteria for
 3 an area in need of redevelopment?
 4 MS. BOGART: Over my lifetime?
 5 MR. HOFFMAN: Yes, approximately.
 6 MS. BOGART: 20, maybe.
 7 MR. HOFFMAN: Is there ever -- in any
 8 occasion where you have not recommended an
 9 area be -- have the criteria to be redeveloped?
 10 MR. DOYLE: Actually, she did.
 11 Tonight she said that one of the buildings she
 12 didn't believe met the criteria. However, the land
 13 that is not part of the building may be necessary
 14 for site circulation for the effective redevelopment
 15 of the --
 16 MR. HOFFMAN: Okay, Mr. Doyle, you
 17 didn't listen to my question. My question was, have
 18 you ever determined that any of the area, I did not
 19 say property, you understand what I'm saying, any of
 20 the areas in any of those cases did you ever
 21 determine that they did not meet the criteria?
 22 MS. BOGART: I appreciate your comment
 23 and question. My job as a planner, I feel, is just
 24 to provide the Board and the Governing Body the
 25 tools so they can identify and determine what they

1 want to do. And typically, I'm usually brought in
 2 when it comes down to the eleventh hour, when
 3 they've had a master plan or a Central Business
 4 District plan that hasn't worked. It's like, now
 5 what do we do, can we do a redevelopment. And I go
 6 through an analysis and I say, this could meet this
 7 criteria, this could not, this could -- but the
 8 reality is, it's not my determination. It's the
 9 Governing Body; it's the Planning Board. And that's
 10 what's happened here throughout the last 15 years.
 11 It's the Governing Body and the Planning Board who
 12 have determined continually that not only does the
 13 area need improvement, but also needs redevelopment
 14 in order to improve. And my job as a planner, I
 15 feel, is just to provide them the information so
 16 that they can make that determination?
 17 MR. HOFFMAN: So my impression is that
 18 in all the cases you were involved with, you've
 19 always met the desires of the people who've
 20 appointed you?
 21 MR. BOGART: Well --
 22 MR. HOFFMAN: Thank you. That's all.
 23 MR. DOYLE: That's an unfair question.
 24 MR. PETROW: Robert Petrow, 6
 25 Hawthorne Terrace, Saddle River. I have one

1 question. Are you bonded by the State to work on
 2 this project?
 3 MR. DOYLE: I object.
 4 MR. PETROW: Do you have a bond?
 5 MR. DOYLE: I object.
 6 MR. PETROW: On what basis, might I
 7 ask?
 8 MR. DOYLE: It's not relevant to this
 9 procedure.
 10 MR. PETROW: Why isn't it?
 11 I asked a simple question, are you
 12 bonded --
 13 MR. DOYLE: It presupposes --
 14 MR. PETROW: So in other words, she's
 15 not bonded. Is that what you're telling me?
 16 MR. DOYLE: It presupposes --
 17 MR. PETROW: She's not bonded --
 18 MR. DOYLE: It presupposes --
 19 MR. PETROW: It's a yes or no answer.
 20 MR. DOYLE: It presupposes the
 21 validity of your question.
 22 MR. MARTIN: Mr. Doyle, Ms. Bogart was
 23 qualified as an expert professional planner.
 24 UNIDENTIFIED SPEAKER: But she's not
 25 bonded.

1 MR. MARTIN: Is that a requirement?
 2 No.
 3 MR. DOYLE: Thank you, Mr. Martin.
 4 MR. PETROW: So is she or is she not
 5 bonded?
 6 MR. MARTIN: She's a qualified
 7 professional planner with --
 8 MR. PETROW: She's not bonded. Do you
 9 hear that folks?
 10 MR. VANDERKUEGEL: Who's paying her.
 11 MR. SCHWINDER: Any other questions or
 12 comments? We'll take one more comment after this,
 13 if there are any.
 14 MS. McGUIRE: Jill McGuire, 154
 15 Linwood Ave. I'm just as an observer and a
 16 resident. I'm not involved in this area, but I did
 17 want to make note that I did notice that there was a
 18 discrepancy in the determination analysis today with
 19 Lot 5 in comparison to other areas in that zone, and
 20 I find that troubling as an observer.
 21 MR. DOYLE: Hold on. Lot 5?
 22 MS. McGUIRE: The one building that
 23 actually doesn't have any commercial retail
 24 residents, actually.
 25 MS. BOGART: What was the discrepancy?

1 MS. McGUIRE: I feel that it seems
2 that you found fault with pretty much every lot in
3 that zone with the exception of that Lot 5, except
4 the --

5 MS. BOGART: Lot 5 was the one lot
6 that was redeveloped in accordance with the
7 development plan.

8 MS. McGUIRE: It's vacant.

9 MS. BOGART: But it was redeveloped in
10 accordance with the redevelopment plan.

11 MS. McGUIRE: With the criteria that
12 you gave, I just feel that it seems a little --
13 there's a little bit of a discrepancy, in my opinion
14 as an observer. I'm not an expert, I'm just making
15 note as an observer.

16 MS. BOGART: Thank you.

17 MR. DOYLE: Thank you.

18 MR. BUETI: Ed Bueti, 91 Chestnut
19 Street. I have an e-mail from a resident. Her name
20 is Alicia Wallace at 198 Lincoln Boulevard, and she
21 asked me to read this off of an e-mail. I don't
22 have it printed out, so excuse me if I stumble
23 through this.

24 "First, a special thank you to Mayor
25 Lamatina and all of the municipal employees for all

1 questions are more to provoke thought and
2 conversation since I was not able to be there
3 tonight.

4 "Facade improvement programs are
5 incentive programs created to encourage property
6 owners and businesses to promote the exterior
7 appearance of their buildings and storefronts. They
8 focus on either commercial or residential properties
9 in historic and non-historic areas, and provide
10 financial incentives, such as the matching of a
11 grant or loan, a tax incentive and design
12 assistance. In addition, the Township can opt to
13 make necessary improvements mandatory by ordinance,
14 giving the owners a set amount of years to complete
15 the projects. In one of the examples
16 attached," -- and there's attachments with this, and
17 she'll e-mail you this letter along with what she's
18 proposing --

19 MR. MARTIN: Could you just have her
20 direct it to the secretary, and then the secretary
21 can --

22 MR. BUETI: Yeah, I will do that,
23 okay. I lost my place here.

24 "These programs have been very
25 successful in many other areas. Attached are two

1 their hard work and dedication. Everyone here has
2 something in common, that they want what is best for
3 their homes, their neighborhoods, their town. It is
4 hard to imagine that there hasn't been more agreeing
5 than disagreeing due to the fact that the people
6 here truly love Emerson, me included.

7 "Most agree that we need the
8 affordable housing, just as the courts have ordered.
9 There's no dispute there. Is there a better place
10 to put it? Does it have to be so big? Can it be
11 broken into two or three projects so that all the
12 apartments aren't so heavily concentrated in just
13 one area? How is it beneficial to Emerson to have
14 giant size buildings surrounded by small run-down
15 buildings? What will an additional 2 to 300 cars do
16 to the traffic? Even with the road improvements,
17 will there be an additional 2 to 300 cars on the
18 busiest corner of town? There is no white washing
19 that fact. Many commercial property owners have
20 strong ties to the area, and they feel alienated, as
21 well as the residents whose voices go unheard. Is
22 there a way to bridge the gap? Would Emerson have
23 to build a four-story building if they had offered
24 any type of incentives to current commercial
25 property owners to add affordable housing? My

1 examples currently being utilized. The third
2 attachment is an example of an explanation of the
3 benefits of the program. Any commercial property
4 owner that does not want to partake in the mandatory
5 improvement ordinance will most likely sell their
6 property, and then the new owners will make the
7 improvements using the Township's already
8 established core designs. Perhaps some combination
9 of your plan and a program like this would be a good
10 compromise, leaving some semblance of a small,
11 quaint town atmosphere that people have grown to
12 love and depend on. Thank you for your time and
13 consideration. I hope everybody has a good night."
14 And it's signed Alicia Wallace, and that's it.

15 MR. SCHWINDER: Just a comment on that
16 person's e-mail. Unfortunately, she was not here
17 tonight. We've listened to the testimony of planner
18 and our Borough redevelopment counsel, and when they
19 discussed how long this project has been discussed
20 and how only one property owner took advantage of
21 redeveloping his property.

22 So it isn't that we haven't -- we
23 haven't rushed into this, certainly, and this is a
24 project that was started before the time of many on
25 this Board, and before the current Mayor and

1 Council. So this is a project that I believe, if
2 you listened to the Borough planner tonight, is
3 something that was started in 1999, and it's been
4 going on for 17 years. So we are in the process now
5 just to reaffirm the designation of this 1.9 acres
6 as an area in need of redevelopment based on current
7 planning standards, and the recommendation of our
8 Borough planner. And we would like to have the
9 future of Emerson, downtown Emerson, be a thriving
10 area, and one that meets the standards that is going
11 to attract people to town, businesses to town, and
12 customers to businesses. So that is my response,
13 respectfully, to the person who wrote that e-mail,
14 and I respect her opinion.

15 Does anybody else have a comment?

16 MR. VANDERKUEGEL: May I make one more
17 comment, sir?

18 MR. SCHWINDER: This was the last
19 comment, as I mentioned before. I said one more
20 comment.

21 MR. VANDERKUEGEL: She does have to be
22 bonded, sir, for the record --

23 MR. SCHWINDER: We have to be out of
24 here by 11 o'clock, as I said.

25 MR. BUETI: Thank you for your answer.

1 It will be on public record so she can read it, and
2 I appreciate you giving me the opportunity to read
3 her letter, which I just read for the first time
4 myself.

5 MR. SCHWINDER: I'll entertain a
6 motion to close to the public.

7 UNIDENTIFIED SPEAKER: We have time.

8 UNIDENTIFIED SPEAKER: What are you
9 afraid of?

10 MR. SCHWINDER: We have allowed
11 numerous people to speak tonight, and we have to be
12 out of here at 11 o'clock, and we have a little more
13 business to conduct. So that's why I'm asking for a
14 motion from the Board --

15 UNIDENTIFIED SPEAKER: We have 19
16 minutes before the meeting ends.

17 (Board discussion.)

18 MR. MARTIN: There will be a
19 two-minute --

20 MS. DiPAOLA: I have a quick question
21 for Mr. Doyle.

22 MR. MARTIN: -- and everybody else,
23 two minutes until ten minutes of, and then no more
24 questions.

25 MS. DiPAOLA: Danielle DiPaola, 93

1 Union Street, Councilwoman, Borough of Emerson.

2 In light of all of all the work that
3 was being done in the construction zone, I've been
4 making a lot of phone calls to representatives,
5 State representatives with the Lieutenant Governor's
6 office. And I found out through speaking to the
7 Office of Economic Development that the only way
8 that you could give somebody a tax abatement is if
9 their area is an area in the need of redevelopment.
10 And when I found this out, I started thinking about
11 all those development areas in town that were going
12 to go through the process again -- so I just have a
13 quick question. If this is designated as an area in
14 need of redevelopment again, can we give these
15 property owners a chance to build on their
16 properties and give them incentives, like tax
17 abatements in order for them to do it themselves,
18 instead of bringing in -- instead of bringing in a
19 redevelopment firm.

20 MR. MARTIN: That might be outside of
21 her professional expertise as a planner, but --

22 MS. DiPAOLA: I was asking Mr. Doyle.

23 MR. MARTIN: Mr. Doyle is not
24 testifying. But if you can help...

25 MR. DOYLE: Are you talking about

1 Block 419, or are you talking about --

2 MS. DiPAOLA: I'm talking about whole
3 area in general, and especially 419 since that is on
4 the chopping block right now.

5 MR. DOYLE: With respect to 419, no.
6 As you know, the Governing Body has already entered
7 into an agreement with a redeveloper to redevelop
8 Block 419. So the answer with respect to 419 is no,
9 that the Governing Body has already voted to allow a
10 redeveloper to redevelop this area.

11 MS. DiPAOLA: Can I just ask you
12 before I finish, then why is this back on the
13 chopping block? Because I'm confused, as a
14 Governing Body member, why this is going through
15 again. Are we just dotting our I's and crossing our
16 T's? We've already promised something to a
17 redeveloper that we're not even sure as a Borough is
18 actually permitted by law to be handed over to them
19 by any eminent domain --

20 MR. DOYLE: It's absolutely permitted
21 by law. We could absolutely move forward. We
22 absolutely had the authority to enter into the
23 agreement based on the 2004 designation. However,
24 as I indicated at the outset of the meeting, we
25 believe that there is the potential that because of

1 the age of the study it could be challenged, so it
2 was in the interest of municipality to reconfirm
3 that this area continues to meet the criteria under
4 the Local Housing and Redevelopment Law as an area
5 in need of redevelopment. The good news is, at
6 least based on this planner's observations and
7 professional opinions, this area continues to meet
8 the requirements, 419, continues to meet the
9 requirements to confirm the designation as an area
10 in need of redevelopment.

11 With respect to the other lots and
12 blocks that received notices but which there was no
13 testimony or hearing this evening, nothing prevents
14 those property owners tomorrow morning from moving
15 forward with redeveloping their properties in
16 accordance with the current zoning, which I believe
17 is mixed use, residential, et cetera.

18 MS. DIPAOLO: Okay. And I just have a
19 comment. So all this criteria is met based on the
20 testimony of this planner. And you know me, you
21 know I like to challenge things. So just like you
22 have your legal opinion, another planner may have a
23 different opinion than Ms. Bogart?

24 MR. DOYLE: Correct.

25 MR. SCHWINDER: I will entertain a

1 motion to close to the public.

2 UNIDENTIFIED SPEAKER: One more.

3 MR. O'BRIEN: Tim O'Brien, 118 Dyer
4 Ave. You said this has been going on for a long
5 time. You're going after the business to clean up
6 and do whatever. What about the town or Borough
7 street lights that have been knocked down for years,
8 traffic cones put over them, not working. Lead by
9 example, no?

10 MR. DOYLE: I don't know what
11 specifically you're talking about --

12 MR. O'BRIEN: Oh, there's a few.

13 MR. DOYLE: What I can tell you,
14 though, is what the Governing Body has done --
15 noticed because of the improvements that you are
16 living through right now, it is, I believe, the hope
17 of the Mayor and Council, that as a result of the
18 improvements to Kinderkermack Road, we're going to
19 experience some improvement to the downtown area
20 which is being funded in part by the County, and
21 substantially in part by the redeveloper who's going
22 to be redeveloping Block 419.

23 MR. O'BRIEN: So you're going to make
24 everyone do everything first, and then the town can
25 do their thing later?

1 MR. DOYLE: Well, the town is already
2 stepping up -- I think I'm right about that, Mr.
3 Mayor.

4 MAYOR LAMATINA: \$2.4 million project
5 with the County of Bergen to redesign Kinderkermack
6 Road, that's from Lincoln Boulevard, the Borough has
7 also applied for a \$800,000 grant, transportation
8 program to do the streetscape from Lincoln Boulevard
9 North to the border of Westwood --

10 MR. O'BRIEN: Okay.

11 MAYOR LAMATINA: -- and south to the
12 border of Oradell --

13 MR. DOYLE: Which includes, by the
14 way, street lights, street lamps, pavers --

15 MR. O'BRIEN: Okay.

16 MAYOR LAMATINA: -- so we are trying.

17 MR. DOYLE: Thank you, Mr. O'Brien.

18 MR. SCHWINDER: Thank you.

19 MR. SANTANGELO: Good evening. My
20 name is Mark Santangelo. I own 85 Kinderkermack
21 Road. A comment for Mr. Doyle, or a question. You
22 said that the present owners can, outside of 419,
23 can take upon themselves to meet the redevelopment
24 criteria.

25 MR. DOYLE: Yes.

1 MR. SANTANGELO: What about those of
2 us who have already put substantial dollars into our
3 buildings since 2004 that came in front of this
4 Board, came in front of the town, and our plans were
5 approved, and we did rehab the buildings? Are we
6 still at risk, or do we come out of the
7 redevelopment area now? What happens to us?

8 MR. MARTIN: I don't think Mr.

9 Santangelo is in 419, or am I missing something --

10 MR. SANTANGELO: No, I am not in 419.
11 I made that clear --

12 MR. DOYLE: -- the rest of the area --

13 MR. SANTANGELO: Yeah. So that's my
14 question --

15 MR. DOYLE: And it's a really good
16 question.

17 MR. MARTIN: For 50 years I've driven
18 by your building. I understand where you're
19 located. I just want to make sure that that's not
20 the subject of tonight's testimony. Is that
21 correct?

22 MS. BOGART: Correct.

23 MR. DOYLE: If it's not, then it's a
24 really good question. It's a really fair question.

25 You have a right to that answer. The problem is,

1 because I don't know what's happened to your
 2 property and because I know that we -- we haven't
 3 studied it, I can't give you an opinion as to the
 4 case. I can tell you that, and this is purely
 5 anecdotal, for whatever it's worth, there was a
 6 property that was redeveloped in accordance with the
 7 local land use laws, mixed use, and you heard our
 8 planner tonight testify that she doesn't believe
 9 that the building any longer meets the criteria,
 10 however, we may need the lot, part of the lot, in
 11 order to effectively develop the balance of the
 12 redevelopment area. So to your point, and it's
 13 purely anecdotal, if buildings have been approved,
 14 there is the possibility that when and if we move to
 15 that area, Ms. Bogart may determine that your
 16 property and your building no longer meets the
 17 criteria to continue to be designated. But we
 18 haven't studied it yet. I don't want to give you
 19 false hope, but by the same token, I don't want you
 20 to lose sleep tonight. Because as you can see --
 21 MR. SANTANGELO: I won't lose sleep,
 22 trust me. The point is, you made the comment that
 23 you have the ability to conform, and a lot of us
 24 that are in this room and that own buildings that
 25 are not in 419 have done that already.

1 MR. MARTIN: I think a lot of your
 2 neighbors have done it.
 3 MR. SANTANGELO: Yes, yes, and the
 4 town never came back and said, you know what, you
 5 satisfied the criteria, and, Mr. Mayor, you were the
 6 mayor at the time, by the way, you should come out
 7 of the zone. The town never came to us --
 8 MAYOR LAMATINA: If you petition the
 9 town, the town can take you out of the zone. It's
 10 part of redevelopment law --
 11 MR. SANTANGELO: That's great, and I
 12 just want to know --
 13 MR. LAMATINA: We're trying to get
 14 done with 419 --
 15 MR. SANTANGELO: I know that. I'm
 16 trying to ask a general question because there's a
 17 lot of concern from us -- I mean, there's a lot of
 18 people here that own buildings that are not in 419.
 19 We're looking at the bigger picture, which is
 20 basically the whole downtown area, except for a few
 21 properties. That's why I'm asking that question.
 22 MS. BOGART: If I may, the adopted
 23 redevelopment plan allows for properties to be taken
 24 out of a redevelopment designation as long as they
 25 met the redevelopment criteria that was set forth.

1 MR. SANTANGELO: Right, but the
 2 criteria back in '04 and '08?
 3 MS. BOGART: I believe, and I'm not
 4 got the Governing Body or the Land Use Board, but I
 5 believe that as part of this process, as long as the
 6 property has been redeveloped, that they'll be taken
 7 out. Because right now, between '04 and '08 and
 8 today, nobody has analyzed that, to take anybody out
 9 or put anybody in --
 10 MR. SANTANGELO: Right, I just want to
 11 bring that to you --
 12 MR. DOYLE: It's absolutely a fair
 13 comment, and we're going to get there.
 14 MR. SANTANGELO: Great, I'm done.
 15 Thank you.
 16 MR. DOYLE: Thank you, sir.
 17 MR. SCHWINDER: I'd like to entertain
 18 a motion to close to the public.
 19 (Motion made and seconded; all in
 20 favor.)
 21 MR. SCHWINDER: We are now closed to
 22 the public.
 23 There is one more item that we have to
 24 discuss.
 25 (Discussion, 10:52 p.m. to 10:54 p.m.)

1 ***
 2 MR. SCHWINDER: On December the 6th
 3 Mayor and Council determined that additional
 4 amendments were necessary, and introduced on first
 5 reading Ordinance Number 1535-16 proposing the
 6 Board's recommended amendments, along with two
 7 additional amendments to the Redevelopment Plan of
 8 the Central Business District. I would like to ask
 9 Ms. Bogart to please explain what those additional
 10 amendments are, explain it to the Board, as we are
 11 requested to comment to the Mayor and Council.
 12 MS. BOGART: Sure. A couple of months
 13 ago there was discussion of some minor amendments to
 14 the Redevelopment Plan with regard to some changes
 15 in height and setback, and whatnot. And after the
 16 public hearing, this Board saw fit to recommend to
 17 the Governing Body the amendment to the
 18 Redevelopment Plan. Since then in December the
 19 Governing Body had a public hearing on it, and then
 20 introduced the ordinance last week, or so. There
 21 were two minor changes from when you saw it the
 22 first time, and so the Governing Body saw fit to
 23 have you just review it one more time and
 24 acknowledge those changes.
 25 MR. SCHWINDER: And what are those

changes?
 2 MS. BOGART: One of which was that,
 3 remember, we increased the height and allowed for a
 4 greater height towards the rear of the property
 5 along the railroad tracks, there was nothing in the
 6 ordinance that you saw that the height along the
 7 railroad tracks had to be set back from
 8 Kinderkermack Road. So the Governing Body said they
 9 wanted a minimum of five feet in setback, so those
 10 apartments that are located on the fourth story have
 11 a balcony that is a minimum of five feet so that you
 12 wouldn't see on Kinderkermack Road. So prior, that
 13 dimension was never set forth in the regulation.
 14 MR. SCHWINDER: So the purpose of that
 15 amendment is so that the fourth story would not be
 16 visible from Kinderkermack Road, or it would be set
 17 back so it wouldn't be towering over the street.
 18 MS. BOGART: That is correct. And it
 19 wouldn't be towering originally, but there was
 20 nothing in the ordinance that specifically gave it
 21 dimension. So now we have a dimension.
 22 MR. SCHWINDER: So a five-foot
 23 setback, that's number one.
 24 MS. BOGART: That's number one. The
 25 second one is with regard to parking. We had a

1 MR. MARTIN: It's just the ministerial
 2 act or the process.
 3 MR. DOYLE: That's exactly right.
 4 MR. SCHWINDER: Do any Board members
 5 have any comments or questions on this particular
 6 aspect?
 7 Then I'd like to entertain a motion to
 8 open it to the public.
 9 MR. MARTIN: Just as to the setback
 10 and any traffic studies, if needed.
 11 (Motion made and seconded; all in favor.)
 12 MR. SCHWINDER: Any comments on the
 13 two amendments that were introduced at the Mayor and
 14 Council meeting and brought to the Land Use Board?
 15 Seeing no hands, then I'll entertain a
 16 motion to close to the public.
 17 UNIDENTIFIED SPEAKER: I believe
 18 everybody is gone, and I believe that we did
 19 something wrong here. I'm the only one left here
 20 that's going to object to this fourth building?
 21 MR. MARTIN: Well, it's a setback of
 22 five feet --
 23 UNIDENTIFIED SPEAKER: I know what a
 24 setback is. It's not much. Five feet is this much.
 25 MR. MARTIN: We're not talking about a

1 great discussion about parking requirements and the
 2 shared parking and hiring a traffic expert if the
 3 developer came in and wanted a parking reduction.
 4 The Governing Body decided that instead of possibly
 5 requiring the parking expert, they wanted to mandate
 6 that the Planning Board or the Land Use Board hire a
 7 traffic expert if any developer is seeking a
 8 reduction in the parking requirement. So that is
 9 now a mandate, that we now have to have our own
 10 traffic expert to review any shared parking
 11 reduction.
 12 So there are two minor things, two
 13 things that I think help the regulations and help
 14 this Board as they go through the site planning
 15 process.
 16 MR. MARTIN: And that would be at the
 17 expense of the developer?
 18 MS. BOGART: Correct.
 19 MR. DOYLE: You actually raised that
 20 with me earlier today, Mr. Martin, when I prepared
 21 you for this. If you wanted to include that, I
 22 don't believe that's substantive enough that we
 23 would need to have the Mayor and Council reintroduce
 24 that and send it back down to you, so we don't see
 25 any issue --

1 level; the issue is a setback.
 2 UNIDENTIFIED SPEAKER: Well, I want to
 3 discuss the whole situation of this fourth floor.
 4 MR. SCHWINDER: Step forward.
 5 Give him the microphone.
 6 State your name and address for the
 7 record, please.
 8 UNIDENTIFIED SPEAKER: First of all,
 9 this thing should be done over again with public
 10 here. Everybody left. I don't think this was a
 11 good thing to do.
 12 MR. SCHWINDER: I told the public we
 13 were not completed with the meeting, we had more
 14 business to --
 15 UNIDENTIFIED SPEAKER: You were
 16 closing the public speaking, so everybody left. I'm
 17 the only one left here.
 18 MR. SCHWINDER: We closed to the
 19 public on a subject, just as we --
 20 UNIDENTIFIED SPEAKER: Is that on the
 21 agenda there, on that paper --
 22 MR. DOYLE: Yes --
 23 UNIDENTIFIED SPEAKER: About this
 24 fourth floor?
 25 MR. MARTIN: No, no, the fourth floor

1 is not the issue; it's a setback, sir. A setback --
 2 UNIDENTIFIED SPEAKER: What about the
 3 fourth floor?
 4 MR. MARTIN: It was just testified to
 5 as to a setback of five feet for the fourth floor
 6 for a balcony area; is that correct?
 7 MR. DOYLE: That's correct, Mr.
 8 Martin.
 9 UNIDENTIFIED SPEAKER: At the last
 10 meeting that I went to, it was three floors. Now,
 11 all of a sudden, we're talking four floors.
 12 MR. MARTIN: No, that's not accurate.
 13 UNIDENTIFIED SPEAKER: It's not what?
 14 MR. MARTIN: Ms. Bogart, it was four
 15 floors, and you're only testifying as to a setback;
 16 is that correct?
 17 MS. BOGART: Correct.
 18 UNIDENTIFIED SPEAKER: I heard
 19 somebody say fourth floor.
 20 MR. MARTIN: That's nothing new.
 21 MR. SCHWINDER: That was already
 22 approved.
 23 MR. MARTIN: Exactly.
 24 UNIDENTIFIED SPEAKER: When was that
 25 approved?

1 MS. BOGART: November, I believe.
 2 MR. DOYLE: At the November meeting
 3 you made a recommendation to the Mayor and Council
 4 for four stories based on --
 5 UNIDENTIFIED SPEAKER: Okay, but was
 6 it brought up to the public.
 7 MR. MARTIN: Yes, it was.
 8 MR. SCHWINDER: Yes, it was.
 9 UNIDENTIFIED SPEAKER: Were there
 10 three people at the meeting? You know what's bad,
 11 it's like there's not -- we're not communicating
 12 with us people.
 13 MR. DOYLE: The public was noticed, as
 14 required. Again, there was a presentation before
 15 the Mayor and Council, so it's been at least --
 16 UNIDENTIFIED SPEAKER: How was the
 17 public notified? I don't go to every council
 18 meeting that there is, so I don't feel like we -- as
 19 we, as the people of Emerson, have a right to go
 20 through this.
 21 MR. SCHWINDER: We don't have a vote
 22 on the amount of floors. We only recommended to the
 23 Mayor and Council --
 24 UNIDENTIFIED SPEAKER: Okay, well,
 25 then we need to know --

1 MR. SCHWINDER: -- so that was -- we
 2 recommended, they took the recommendation, they
 3 accepted the recommendation, and they put it into --
 4 they finalized it into a resolution.
 5 Tonight we are -- in the last meeting
 6 of the Mayor and Council they decided to bring forth
 7 two additional amendments to that particular
 8 ordinance. And the two additional amendments were
 9 for the fourth floor to be set back -- the fourth
 10 floor, which was already approved --
 11 UNIDENTIFIED SPEAKER: We talked about
 12 four floor, but that was the back end of the
 13 building, not five feet from Kinderkermack Road.
 14 MR. SCHWINDER: I'm sorry, it was the
 15 fourth floor on Kinderkermack Road. I'm sorry, sir,
 16 that's fourth floor on Kinderkermack Road.
 17 UNIDENTIFIED SPEAKER: I even agreed
 18 with the Mayor. I said, you know, I could handle
 19 the fourth floor in the back because it's in the
 20 back. But when you go up four floors -- there was a
 21 lady at the Council meeting the other night, she was
 22 down in Clark, or somewhere down there where the
 23 building who's doing this, or may be going to do
 24 this, has a building there that's four stories, and
 25 she says it's a monster. It is a monster.

1 MR. MARTIN: I think you're saying the
 2 same thing. The fourth floor will be pushed back
 3 off the road, so --
 4 UNIDENTIFIED SPEAKER: Not five feet,
 5 that's --
 6 MR. MARTIN: I think it's a little
 7 confusing. If the front of the building is here and
 8 it goes up three floors, the fourth floor will have
 9 to be set back five feet from --
 10 UNIDENTIFIED SPEAKER: I know what
 11 you're saying. I know what a setback is. I work in
 12 construction.
 13 MR. MARTIN: -- five feet from the
 14 road, that's not true. It's five feet back from
 15 where the third floor ends.
 16 UNIDENTIFIED SPEAKER: From where the
 17 third floor ends, how far back is that then?
 18 MS. BOGART: It would be 17 feet.
 19 MR. SCHWINDER: 17 feet from the road.
 20 UNIDENTIFIED SPEAKER: No, I got what
 21 you're saying, but that's still not the way -- the
 22 last I heard, that's still not the way it was. It
 23 was four floors in the back building.
 24 MR. SCHWINDER: We are not in a
 25 position to make any changes to what's already been

accepted as an ordinance. We are here tonight because we've been asked to approve two amendments to the master -- to the Redovelopment Plan, and what Ms. Bogart presented tonight is the five-foot setback, which the Mayor and Council had discussed, and also the ability of the town or the request to have the town hire a traffic study professional to review the plans of the applicant. That is what we've been asked to do. The fourth story has already been accepted. That was a month ago.

UNIDENTIFIED SPEAKER: I, myself, personally feel like I'm being hoodwinked, because as far -- I don't know how many people in Emerson know about this. I saw it in the paper, just the last week it came out in the paper, and that's the first I ever heard of it. Of course, I don't go to Council meetings, my bad, but the people of Emerson have to know about this.

MS. BOGART: This is the second hearing with the Land Use Board with regard to this ordinance, and we had two hearings already before the Governing Body, and we'll have a second reading for the Governing Body in a week or so.

MR. SCHWINDER: So, did you hear what Ms. Bogart --

you'll always know the dates of our meetings. You don't need to be a computer expert --

UNIDENTIFIED SPEAKER: I don't want to have to sit through, you know, nothing. That's not my deal.

MR. SCHWINDER: I saw you attended the Mayor and Council meeting the other night, you spoke up, your voice was recognized and respected just as it is tonight. But in this particular case I'm going to have to say, you're a little bit wrong on this particular aspect, because the fourth floor is already approved.

UNIDENTIFIED SPEAKER: Let me ask you one thing. Why did we do this now, why after everybody left?

MR. SCHWINDER: I announced to the public that the first part of the meeting was over, please either sit down or be quiet, we are not finished with the meeting. At 10:30 I said we have --

UNIDENTIFIED SPEAKER: You didn't elaborate on what we were going to be talking about. I think people would have stayed.

MR. DOYLE: At the beginning of the meeting Mr. Schwinder read a script of the two

UNIDENTIFIED SPEAKER: I hear that.

MR. SCHWINDER: Now, what we're doing is, we're recommending to the Mayor and Council that they approve these two amendments. And the Mayor and Council are the ones who vote on this. They only take our recommendations for or against.

UNIDENTIFIED SPEAKER: Well, here's my problem, too. I'm computer illiterate. I'll be 72 so, I just can't handle computers. So I can't go on-line, I can't do this. I have a newspaper, which -- that's the way I was brought up as, can't change. But the people of Emerson have to know about this, and I don't think that there's a lot of people that know about it.

MR. SCHWINDER: Well, the Mayor and Council meetings are published. They're noticed in the paper, they appear on-line --

UNIDENTIFIED SPEAKER: I guess I have to do something like a letter to the editor, or something --

MR. SCHWINDER: I don't know if the editor is going to help you know when to come to meetings. If you know when the meetings are -- the meetings are scheduled regularly. They're on the bulletin board in front of the municipal building,

items, which included this. The beginning of the meeting, he read a script.

MR. SCHWINDER: This was announced. Right at the beginning of the meeting.

UNIDENTIFIED SPEAKER: It wasn't on the agenda, though.

MR. DOYLE: It was.

MAYOR LAMATINA: May I point out that this public comment is on the amendment to the ordinance, so I think we really need to focus -- do you disagree with the five-foot setback?

UNIDENTIFIED SPEAKER: Absolutely. I disagree with the fourth floor. I told you already, in the back I can handle it --

MAYOR LAMATINA: The answer is you do. Thank you.

UNIDENTIFIED SPEAKER: It's clean up in the front, but not the fourth floor.

Did you find that? Can I see that?

It's not on here. This is what I was looking at. It's not on here. Good night, folks. (Discussion.)

MAYOR LAMATINA: I see it's not on the agenda, but at Mayor and Council if there's an item that wants to be added to the agenda, it can be

1 added the unanimous vote by the Board. Is that true
2 for the Land Use Board?
3 MR. DOYLE: This is a standard -- you
4 don't have to notice for this. It's just a referral
5 from the Governing Body. It's not a public hearing;
6 it's just a referral for your determination.
7 MAYOR LAMATINA: Can we add it -- do
8 we need to add it to the agenda by a vote --
9 MR. DOYLE: In fact, I think it's very
10 kind and generous that the Land Use Board chooses to
11 open it to the public. This is purely a --
12 MR. MARTIN: The point of the matter
13 is, the Governing Body makes a decision on this. So
14 this is a referral. You have your chance to tell
15 the Governing Body why you don't think the five-foot
16 setback is appropriate. And that's the determining
17 body --
18 MR. DOYLE: Mayor, the next meeting is
19 the 20th, correct?
20 MAYOR LAMATINA: Correct.
21 MR. DOYLE: So I would like to
22 announce for anybody that wants to be heard, there
23 will be a full hearing on this amendment that was
24 referred to the Land Use Board for its
25 recommendation. There will be a full hearing on

1 December 20th beginning at 7:30 p.m. in the chambers
2 of Mayor and Council.
3 MAYOR LAMATINA: Actually, the entire
4 ordinance, not just this --
5 MR. DOYLE: That's actually correct,
6 Mr. Mayor. That's right.
7 MAYOR LAMATINA: You can object to the
8 fourth story, you can object to anything that's in
9 the ordinance, that's Mayor and Council on December
10 20th.
11 UNIDENTIFIED SPEAKER: Will you put
12 that in the paper --
13 MR. DOYLE: Actually, it is noticed in
14 the paper too, Mr. Mayor. It has to be advertised.
15 MR. MARTIN: On that ordinance.
16 MAYOR LAMATINA: I'm telling you
17 tonight.
18 UNIDENTIFIED SPEAKER: Thank you.
19 MS. BOGART: As I mentioned, this
20 Board already reviewed this ordinance. It just came
21 back as a courtesy to review two minor issues. The
22 reality is, this Board's only jurisdiction is to
23 review the ordinance for consistency with the Master
24 Plan and Redevelopment Plan, which you already
25 determined that it was consistent, so -- it's not

1 supposed to be open to the public, this is a work go
2 document for your recommendations back to the
3 Governing Body.
4 MR. MARTIN: Your input is
5 appreciated, and you can test that ordinance. You
6 can go to the Governing Body. The Land Use Board
7 has no binding effect on that.
8 MR. SCHWINDER: We can't answer your
9 question.
10 UNIDENTIFIED SPEAKER: I just wish
11 that everybody could have been here to hear that,
12 that's all.
13 MR. SCHWINDER: Well, just tell your
14 friends that December 20th it will be discussed at
15 the Mayor and Council meeting.
16 MR. MARTIN: Which may be here.
17 MR. SCHWINDER: Thank you, sir.
18 MS. McGUIRE: Jill McGuire, 154
19 Linwood Ave. I wasn't planning on speaking, but
20 when he came up, I'm the girl that he was speaking
21 about who went to Westfield and saw a four-story
22 building that looked exactly like the JMF building
23 in Westfield, it was all residential though, and it
24 had a setback. And having seen it firsthand, I am
25 against the five-foot setback. I would like it to

1 be more. It is not -- it doesn't soften the look as
2 was suggested by JMF. Seeing it firsthand, in stark
3 reality, standing in front of it in the Trader Joe's
4 parking lot -- if you want to look it up and Google
5 it, it really is there, it's the building, and I'm
6 against it.
7 And as far as for clarification, what
8 happened on Tuesday was not approval of the
9 amendment. It was a first read that was voted on.
10 So just so you know, it wasn't approved, and there
11 will be a second read and public hearing on the
12 20th, which I'm aware of. And I'm sad that it
13 wasn't on the agenda this evening. I'm not saying
14 that everyone in the room was planning on listening
15 to this topic, but possibly. And I'm concerned,
16 very concerned, about this particular project, and
17 further concerned with what was going on this
18 evening with possibly how it will move forward and
19 the way that it will move forward with the property
20 owners. Like I hope that it's something that's,
21 more -- that everyone is receptive and walks away
22 with a smile on their face. And it makes me sad to
23 see that these people, businesses that I participate
24 in as a customer, Cork & Keg, Ranch Cleaners, the
25 gelato place, these are all places -- Rancho, I

1 mean, that's a nice restaurant. I mean, I felt a
 2 little sad to hear you say that it's blighted. It's
 3 a good restaurant. The Nerds play there, fun stuff
 4 going on there.
 5 MR. MARTIN: Just comments as to the
 6 five-foot setback --
 7 MS. McGUIRE: Sorry. I'm against the
 8 five-foot setback.
 9 MR. MARTIN: -- and the traffic
 10 consultant, and how that person is --
 11 MS. McGUIRE: Right. Sorry.
 12 MR. MARTIN: It's okay. You can
 13 contest that issue with the Governing Body. If the
 14 Board does nothing tonight, on the 20th they don't
 15 even have somebody recommending push it back --
 16 maybe I'm wrong, but I believe your consideration is
 17 push it back further or get rid of it. Those are
 18 two things for the Governing Body --
 19 A. Well, right. I totally -- right. If
 20 it has to be, which I understand -- I mean, look, I
 21 get it. It's big decisions that are being made, so
 22 I'm not one of those people who stomps my feet or
 23 throws a temper tantrum if things don't go my way.
 24 I know that things go on that I'm not necessarily
 25 going to like sometimes, but if the four-story

1 exists I hope that the setback maybe is a little
 2 more, because it is really high.
 3 And having seen it -- everyone else, I
 4 think, has seen the plan, where it's, like, well,
 5 this is conceptual. And all these times I've been
 6 going to the meetings and it's, like, conceptual
 7 drawings. And then it was, like, I went to go to
 8 dinner with my cousin last Saturday and I get out of
 9 my car and I walk and I'm, like, oh, my goodness,
 10 that's the building. And it was pretty interesting
 11 to see firsthand. And it's tall and it's big, and
 12 it's, you know, the setback isn't much of a setback.
 13 MR. SCHWINDER: Ms. McGuire, I applaud
 14 the fact -- I saw you at the last Mayor and Council
 15 meeting, I've seen you at other meetings. I applaud
 16 the fact that you attend, that you participate, that
 17 you state your view, and I thank you for your view
 18 tonight. But I will, just in defense of this Board,
 19 I will read to you again what I read to a full
 20 house --
 21 MS. McGUIRE: Oh, no, I heard you --
 22 MR. SCHWINDER: -- at the beginning of
 23 the meeting.
 24 MS. McGUIRE: I know.
 25 MR. SCHWINDER: So we were up front

1 that this was going to be discussed. I notified the
 2 audience that we had more business to take care of
 3 tonight, and I tried to cut the public session at
 4 10:30. As it happened, we let it continue, and here
 5 it is at 11:15, and we were supposed to be out of
 6 here, according to the Board of Education, by 11.
 7 So I just wanted to make sure that you understood
 8 that we did cover this --
 9 MS. McGUIRE: I understand. I'll be
 10 honest, I'm not even that savvy. The other night
 11 when they did the first read, I thought what
 12 everyone was voting on was pulling the reading.
 13 Because I figured when you read -- when an amendment
 14 is proposed, that they read what the amendment is.
 15 And so when nothing was read and everyone started
 16 voting, I thought they were pulling it from being
 17 read. And it wasn't until after someone said, you
 18 know, that already got voted on. And I was like,
 19 oh. So I think, you know, sometimes we residents
 20 are a little naive. But coming to these meetings,
 21 and you're all very savvy at this point, but I'm
 22 still getting my feet wet, so...
 23 MR. SCHWINDER: Well, continue to do
 24 so.
 25 MS. McGUIRE: I'm trying.

1 MR. SCHWINDER: And thank you for your
 2 comments.
 3 MS. McGUIRE: Thanks. Have a good
 4 night, everyone.
 5 MR. SCHWINDER: This is definitely the
 6 last. State your name, please, and address.
 7 MR. SCALA: Dominic Scala, 188
 8 Kinderkermack Road.
 9 MR. SCHWINDER: The topic is the
 10 five-foot setback and --
 11 MR. SCALA: Since the meeting was cut
 12 sure and not everybody else was able to speak about
 13 the first section, will that continue on the very
 14 next meeting?
 15 MR. SCHWINDER: No.
 16 MR. MARTIN: It wasn't cut short; it
 17 was a full hearing on it.
 18 MR. SCALA: People still wanted to
 19 come up, and you cut it short.
 20 MR. MARTIN: Well, we cut it short
 21 because we had additional issues --
 22 MR. SCALA: So it's not going to
 23 continue the next meeting; the first section is
 24 done?
 25 MR. MARTIN: It's been fully done,

1 public comment was cited, and no one else raised
 2 their hand, and that was it, right?
 3 MR. SCALA: No, that's not true.
 4 MR. MARTIN: I'm sorry. Maybe I'm
 5 wrong. Did anybody else observe any other hands up?
 6 MR. SCALA: You called the last
 7 person, but there were other people still waiting to
 8 come up. I got my answer. Thank you.
 9 MR. SCHWINDER: I'll entertain a
 10 motion to close to the public.
 11 (Motion made and seconded; all in favor.)
 12 MR. SCHWINDER: So we have two things
 13 that we've been asked to do. The first thing we
 14 were asked to do by the Mayor and Council was to
 15 consider recommending to the Borough whether or not
 16 certain blocks and lots located in the Central
 17 Business District meet the statutory criteria to be
 18 designated as a Condemnation Redevelopment Area
 19 pursuant to the New Jersey Local Redevelopment and
 20 Housing Law. We have heard testimony from Ms.
 21 Bogart, we have heard comments from the public, and
 22 at this point in time I would like to entertain a
 23 motion if this Board will be recommending to the
 24 Borough counsel to accept the designated area as one
 25 that is in need of redevelopment in a Condemnation

1 Redevelopment Area. So I will accept a motion on
 2 that.
 3 (Motion made.)
 4 MR. SCHWINDER: We have a motion, and
 5 that's in favor of recommending the area in need of
 6 redevelopment.
 7 MR. DOYLE: And that is only as to
 8 Block 419 and the lots identified. Block 419,
 9 Lots --
 10 MS. BOGART: 1, 2, 3, 4, 5, 6.01,
 11 6.02, 7, 8, 9, and 10. No.
 12 MR. SCHWINDER: Okay, that's on the
 13 record. Thank you. A second on that?
 14 (Motion seconded.)
 15 MR. SCHWINDER: Any discussion,
 16 further discussion tonight? Anyone?
 17 Hearing no comments, then roll call --
 18 MAYOR LAMATINA: I just have a
 19 question for Counsel. Do I vote, Mr. Doyle --
 20 MR. MARTIN: You do not.
 21 MAYOR LAMATINA: I do not vote. Thank
 22 you.
 23 MR. MARTIN: I'm sorry, I should have
 24 brought that up earlier.
 25 (Roll call; all in favor.)

1 MR. MARTIN: Mr. Schwinder, I have a
 2 resolution. I did make a change of Lincoln Avenue,
 3 that was a mistyping there, and just put public
 4 streets, so that memorializes the --
 5 MR. DOYLE: Wherever Lincoln Avenue
 6 appears in there, Mr. Martin, we'd ask that it say
 7 public streets.
 8 MR. MARTIN: Yes. My error.
 9 MR. DOYLE: No, my error, but thank
 10 you.
 11 MR. SCHWINDER: The second piece of
 12 business we were asked or were directed by the Mayor
 13 an Council to review had to do with the amendments
 14 to the Redevelopment Plan, specifically the
 15 five-foot setback on the fourth floor of any
 16 building along Kinderkermack Road in the stated
 17 area. Once again, state the area for me.
 18 MS. BOGART: Block 419, Lots 1, 2, 3,
 19 4, 5, 6.01, 6.02, 7, 8, 9, and 10.
 20 MR. SCHWINDER: Thank you. So that's
 21 the five-foot setback for the fourth floor, and also
 22 the recommendation that the Borough engage a traffic
 23 specialist to analyze the proposal by the
 24 redeveloper as it pertains to parking and traffic
 25 flow.

1 MR. MARTIN: At the expense of the
 2 developer.
 3 MR. SCHWINDER: At the expense of the
 4 developer. So I will entertain motion to make that
 5 recommendation to the Mayor and Council. So I'll
 6 await a motion.
 7 (Motion made and seconded.)
 8 MR. SCHWINDER: We have this motion on
 9 the floor. Do we have any further comment?
 10 MR. KUTZIN: So we're recommending
 11 back to the Mayor and Council that the proposed
 12 ordinance change would go to the five-foot
 13 setback --
 14 MR. SCHWINDER: For the fourth floor
 15 on buildings fronting Kinderkermack Road.
 16 MR. MARTIN: Or tertiary streets --
 17 MR. KUTZIN: Correct. My question is,
 18 after the discussion at the next Mayor and Council
 19 meeting could they potentially come back and make
 20 some further changes?
 21 MR. MARTIN: They could reject the
 22 recommendation. It is simply a recommendation; it's
 23 not binding. Or they could adjust it, or adopt it.
 24 But it's a good question, and that's why it is a --
 25 it's a recommendation, and that's it.

1 MR. KUTZIN: And even if they accept
2 the recommendation and pass the ordinance, the
3 ultimate plan that builder follows through with
4 could be something in excess of five feet?
5 MS. BOGART: No --
6 MR. MARTIN: They could also eliminate
7 two floors and make it a two-story structure. The
8 Governing Body has a lot of power in this regard.
9 The Land Use Board just wants to make sure this
10 particular finite addressing of the proposed
11 ordinance, because it's up for vote on the 20th, is
12 consistent with the Master Plan, which is what our
13 domain is.
14 MS. BOGART: Additionally, the
15 Redevelopment Plan requires that the Governing Body
16 amend the plan. The developer is not allowed to
17 come in for a variance. So you'll never see a site
18 plan for this block where they waiver from any of
19 the regulations.
20 MAYOR LAMATINA: Can't it be greater
21 than five feet? Isn't the language not to be less
22 than five-foot setback?
23 MR. DOYLE: Minimum, minimum.
24 MR. KUTZIN: So the final plans could
25 be 7 feet or 10 feet?

1 MS. BOGART: Correct, and --
2 MAYOR LAMATINA: Not the final plan,
3 it's the final ordinance adopted by the Borough on
4 the 20th.
5 MR. SCHWINDER: It says requiring a
6 minimum five-foot setback.
7 MAYOR LAMATINA: So if the Mayor and
8 Council so chose, it can make the ordinance no less
9 than seven feet --
10 MR. MARTIN: And the builder can
11 choose to build 10 feet --
12 MR. SCHWINDER: And just for
13 clarification, Ms. Bogart and Mr. Doyle, on this
14 particular aspect I think several things, maybe I
15 misspoke, but correct me if I'm wrong, the way this
16 will read is, requiring a minimum five-foot in depth
17 setback on the front facade of the fourth floor of
18 buildings facing public streets. That's the
19 amendment.
20 MR. DOYLE: Yes.
21 MS. BOGART: Yes.
22 MR. SCHWINDER: Because I think
23 misspoke before --
24 MR. ADAMS: I have a question on that.
25 If somebody votes no on that, does that mean that

1 they're saying you can have zero setback or that we
2 don't want a fourth floor?
3 MR. MARTIN: At this time the
4 recommendation would be not to do anything that's
5 already currently pending before the Governing Body.
6 MR. SCHWINDER: Did you hear what Mr.
7 Martin said?
8 MR. ADAMS: I didn't understand it.
9 I know what he said, but I didn't understand it.
10 MR. MARTIN: Right now, there's an
11 ordinance that going to be pending and will be
12 decided probably on the 20th of December. If the
13 Land Use Board rejects this proposed amendment to
14 the ordinance as a recommendation to them, at this
15 point it wouldn't be a five-foot setback of the
16 fourth floor.
17 MR. ADAMS: It would be a zero-foot
18 setback.
19 MR. MARTIN: Of the fourth floor,
20 that's correct.
21 MR. SCHWINDER: That's the worst case
22 scenario.
23 MR. MARTIN: If this Board doesn't
24 recommend anything, they can do whatever they want,
25 again, they can make it whatever they want. But if

1 pushing it back off so it's not right on top of a
2 street in Emerson is something that this Board
3 thinks is appropriate, the Board can recommend it by
4 a positive referral. If there's some rejection and
5 the Board doesn't recommend it, there's no setback
6 of the fourth floor, right now it's pending, it's
7 equal to the third and second and first floor --
8 MR. ADAMS: I guess my question is, I
9 object to zero, I object to five. How do I vote?
10 I'd like to see a ten-foot setback or a 20-foot
11 setback. How do I vote? If I say no, that means
12 I'm saying zero. If I say yes --
13 MR. MARTIN: It's a good point, and
14 your job now is to enter into a discussion period
15 and discuss with the Board members.
16 MR. ADAMS: I'm objecting to
17 five-foot, so either way, I lose.
18 MAYOR LAMATINA: Well, you don't lose.
19 You want to state what your vote is. The problem,
20 with Mayor and Council, we talked -- the developer
21 came in and talked to us about it and said anything
22 more makes the apartments too small. So 20 feet,
23 obviously, would eliminate -- so maybe five, seven
24 feet, maybe ten feet. And again, as Counsel said,
25 that's the Mayor and Council's problem. We can do

1 what we want. We need to ask for a referral, so
 2 this Board then says to Mayor and Council, we agree
 3 that a five-foot minimum setback --
 4 MR. ADAMS: I personally --
 5 MAYOR LAMATINA: -- it could be seven
 6 feet or ten feet.
 7 MR. ADAMS: I personally feel that if
 8 I vote no, I'm saying it's okay to go to zero, but
 9 if they say yes, then it's saying I can go to five
 10 foot, and I object to both. So I'm not sure how to
 11 vote --
 12 MR. MARTIN: Well, I don't think
 13 you -- you can say you want more --
 14 MR. KUTZIN: We can vote it down and
 15 make a new motion, whatever you want --
 16 MAYOR LAMATINA: You can set the
 17 motion --
 18 MR. ADAMS: But without seeing
 19 drawings and understanding all of the mechanical
 20 aspects of it, I'm not prepared to say five, six,
 21 seven, or ten.
 22 MR. SCHWINDER: Here's another thing
 23 you could do. You could vote either way, or
 24 abstain, which is not good, and if this Board
 25 decides that five feet is proposed, then I would

1 advise you to show up at the next Mayor and Council
 2 meeting and make your voice heard so that the Mayor
 3 and Council can consider something other than a
 4 minimum of five feet.
 5 MR. ADAMS: I want to participate in
 6 tonight's meeting but I'm not sure how to vote
 7 to get my point across.
 8 MR. SCHWINDER: Well, I think you've
 9 made your point.
 10 MR. ADAMS: I made it verbally, but I
 11 still don't know how to vote.
 12 MR. MARTIN: You can vote no because
 13 you think it should be greater and you want to
 14 petition for greater or at least try to get the
 15 Board members to agree with you.
 16 MR. SCHWINDER: I think it would be a
 17 mistake to vote no and not show up at the Mayor and
 18 Council meeting.
 19 MR. ADAMS: Point well taken.
 20 MR. SUDANO: How about if the Board
 21 recommended that you reach a setback that's
 22 comfortable for both the developer and the Mayor and
 23 Council and this Board, above five, if possible?
 24 MAYOR LAMATINA: I can tell you, we
 25 did discuss in Mayor and Council, and not -- but

1 before that we brought the planner in, we brought
 2 the developer in, we had an extensive discussion
 3 with Mayor and Council. And again, there was some
 4 resistance to five feet, and Mayor and Council, we
 5 think five feet is correct -- now, you can say
 6 whatever you want, but I think if you say seven
 7 feet, I think there's going to be an issue with
 8 Mayor and Council. So that's -- you can do whatever
 9 you want.
 10 Am I voting on this?
 11 MR. MARTIN: No --
 12 MR. DOYLE: So you know, whatever you
 13 recommend, you recommend. The Governing Body will
 14 take into consideration, as it always does, this
 15 Land Use Board's recommendation. But it does have
 16 the ability to be able to adopt the resolution over
 17 your recommendation, as long as it articulates the
 18 reasons why it's doing that. For example, you could
 19 say seven feet would be better, and the Governing
 20 Body, if they so choose, could say, we understand
 21 why the Land Use Board would want seven, seven might
 22 be better, having heard from the applicant, having
 23 heard from JMP, that when it does that it will
 24 reduce the size of the unit from 800 square feet for
 25 a studio to 500 hundred square feet for a studio

1 which makes it not rentable, we're going to adopt an
 2 ordinance with a five-foot setback, notwithstanding
 3 the recommendations of the Land Use Board.
 4 So you will not be crippling the Mayor
 5 and Council. To your point, you haven't heard a lot
 6 of that, but the Mayor and Council did hear that,
 7 really going much more than that, reducing the size
 8 of the unit, which they would argue -- they would
 9 argue, and I'm not suggesting they're right,
 10 unmarketable.
 11 MR. SUDANO: Are those numbers
 12 accurate? Or are you just throwing out 500 and 700
 13 square feet --
 14 MS. BOGART: He was just throwing it
 15 out, because the studios are like 500 now, so they
 16 would be much lower.
 17 MAYOR LAMATINA: And the planner, I
 18 think, has a position, correct, Ms. Bogart, you have
 19 a thought on the five-foot setback?
 20 MS. BOGART: Well, we talked a little
 21 bit about the marketability of the units because a
 22 lot of the studios are up top, and they are, right
 23 now, 500 square feet, which is minimal. And then at
 24 the Mayor and Council we talked about maintaining a
 25 balcony that was actually usable, because the

1 original concept had three foot balconies, some
 2 areas, you can't even put a chair out there. So
 3 that's why the Mayor and Council said, we want a
 4 minimum of five feet to make sure that it's actually
 5 a usable balcony.
 6 MR. SCHWINDER: Mr. Adams, perhaps,
 7 however you vote tonight and you show up at the
 8 Mayor and Council meeting, maybe there is some
 9 further discussion that can be held with the
 10 developer at the recommendation of the Mayor and
 11 Council that has something to do with the roof line.
 12 So maybe the roof line can be somewhat controlled so
 13 that at five feet it won't be as visible with a
 14 higher incline versus something less low.
 15 So these are all things that you can
 16 suggest to the Mayor and Council be investigated.
 17 I'm sure that is not something that has been
 18 discussed, but if that's going to help you with the
 19 way you feel this building is going to look over
 20 Kinderkermack Road, then I suggest that you show up
 21 at the Mayor and Council meeting and give
 22 your opinion there and make your suggestions there,
 23 and possibly those suggestions will be discussed,
 24 and may be discussed in advance. Now that Mayor has
 25 heard your comment, if there's a discussion that the

1 Mayor has or a Council member has with JMF, maybe
 2 this can be discussed one more time based
 3 on comments made at the Land Use Board meeting.
 4 MAYOR LAMATINA: Mr. Adams can make a
 5 motion to recommend a seven foot or more setback --
 6 MR. ADAMS: Well, without seeing the
 7 drawings and some architectural design, I don't know
 8 how effective the five-foot would be to not be able
 9 to see the fourth story, which is the intent, versus
 10 the seven-foot. And I don't know how high it is
 11 above, because if it's three feet high, you won't
 12 see it. But if it's four feet high, you will see
 13 it. So without having those drawings in front of
 14 me, I really can't make that --
 15 MS. BOGART: Mr. Chairman, I have a
 16 suggestion.
 17 MR. SCHWINDER: Yes, Ms. Bogart.
 18 MS. BOGART: I don't have the details
 19 of the floor plan, but maybe there's an opportunity,
 20 as the Mayor and you were suggesting, is that maybe
 21 80 percent of the units are set back five feet, and
 22 the remainder is set back seven or eight feet,
 23 depending on the floor plan. So there may be some
 24 wiggle room that Mayor and Council could look at,
 25 depending on the floor plan.

1 MR. SCHWINDER: So I think this is an
 2 issue that the Mayor should take into account and
 3 have some further discussion, and what the planner
 4 has said, because we're going to make a vote tonight
 5 that the Mayor and Council can accept or throw out.
 6 And what I hope, as a result of this meeting, that
 7 the Mayor digests what has been said tonight and
 8 tries to act on it.
 9 MAYOR LAMATINA: Thank you. I fully
 10 understand --
 11 MS. BOGART: I think that --
 12 MAYOR LAMATINA: I would urge a
 13 motion.
 14 (Motion made and seconded.)
 15 MR. SCHWINDER: Any other comments?
 16 Then I'd like to have a roll call vote
 17 on recommending this to the Mayor and Council as
 18 proposed by the planner, as -- as directed to us by
 19 the Mayor and Council in the last meeting. Roll
 20 call, please.
 21 (Mr. Adams abstained; all others in
 22 favor.)
 23 MR. SCHWINDER: That concludes our
 24 business end. The traffic study was part of that.
 25 That was all part of it.

1 Did you want to be heard, Mr. Doyle?
 2 MR. DOYLE: No. I'll get you the
 3 revised language, and all that.
 4 MR. SCHWINDER: Everybody should have
 5 received proposed dates for next year's meeting.
 6 They've been shifted around a little bit, so it's
 7 not always a first and a third Thursday. So please,
 8 there have been some mitigating circumstances, so
 9 please look it over. If you have any objection,
 10 please get back to us as quickly as possible. I'd
 11 like to have your answers back within the next week,
 12 and if I don't hear back from anybody -- it's been
 13 sent to everybody by e-mail. If I don't hear back,
 14 we're going to send it to Jane Dietsche at the
 15 Borough Hall, and Ms. Jane, she's going to
 16 memorialize that, pending conflicts.
 17 Other than that, does anybody else
 18 have anything to say? If not, I'll entertain a
 19 motion to adjourn.
 20 (Motion made and seconded; all in favor.)
 21 MR. SCHWINDER: We are adjourned at
 22 11:35. Thank you all.
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I, **TRINA B. OTHA**, a Notary Public and
Certified Court Reporter, do hereby certify that the
foregoing is a true and accurate transcript of the
proceedings as taken stenographically by and before
me at the time, place and on the date hereinafter
set forth.

Trina B. Otha, CCR
Notary Public

C E R T I F I C A T E

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Trina B. Otha

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Notary Public

A			
abandoned 53:24	addition 3:5 18:10 34:25 35:18 42:22 48:2 75:6 75:9 112:12	129:21 137:6,24,25 138:8 141:13	40:5,11 49:16,18 53:13 97:7 107:6 109:18
abatement 116:8	additional 5:9,12 22:7 111:15,17 125:3,7,9 132:7,8 145:21	Agnello 3:14 89:20,21 90:1,3,9,15,19 91:6,14 91:22 92:10,13,21,25 93:3,7,17 94:7,11 95:10 95:13 96:18 97:12	analyze 148:23 analyzed 124:8 analyzing 26:8 and/or 4:17,21,25 5:5 anecdotal 122:5,13
ability 70:17 122:23 134:6 156:16	Additionally 71:21 150:14	ago 37:25 75:8,10 104:21 125:13 134:10	announce 138:22 announced 136:16 137:3
able 72:23 94:15 112:2 145:12 156:16 159:8	additions 75:4 76:6,18	agree 11:12,13 73:2 86:7 111:7 154:2 155:15	answer 91:5 108:19 114:25 117:8 121:25 137:15 140:8 146:8
absolutely 85:22 117:20 117:21,22 124:12 137:12	address 9:11,13 19:19,21 37:2 85:8 89:19 97:16 97:20,24 98:12,18,21 98:23 105:21 129:6 145:6	agreed 132:17 agreeing 111:4 agreement 117:7,23	answers 85:10 161:11 anybody 6:3 15:8,9 57:25 85:23 90:25 93:20 97:13 102:13 114:15 124:8,9 138:22 146:5 161:12,17
abstain 154:24	addressing 150:10	ahead 99:2,4	apart 62:23 76:20
abstained 160:21	adjacent 7:19 29:8 37:2 41:14 42:10,15 45:3 46:8 47:23 48:20 49:11 51:18 52:14 54:18 63:17 67:23 72:6,7,8 75:9 77:3 78:4,20,22 79:5 80:15,18	ahold 16:8 aid 5:25 air 7:15 26:5 aisle 68:21 aisles 72:4 alerted 101:24 Alicia 110:20 113:14 alienated 111:20 Alison 9:12 allow 91:17 117:9 allowed 95:17 115:10 126:3 150:16 allows 123:23 Ambulance 49:1 64:18 65:9 66:11 amend 150:16 amended 95:17 amendment 3:20 5:13,16 125:17 126:15 137:9 138:23 141:9 144:13,14 151:19 152:13 amendments 5:9,11,12 5:18,20 125:4,6,7,10,13 128:13 132:7,8 134:2 135:4 148:13 amount 112:14 131:22 analyses 35:20 63:6 analysis 25:24 26:16 27:1,2 28:16,17,20 29:9 29:12,13,18,25 30:18 31:17,17 32:20 34:10 35:1,4,5,12,18 36:11	apologies 80:4 apologize 86:9 apparently 80:19 appear 19:2 104:16 105:16 135:17 appearance 86:10 112:7 appears 22:15 30:5 37:6 42:20 57:6 62:10,12 68:1,2,4 70:15 71:6,17 103:23 148:6 appendix 36:15 54:5 74:23 applaud 143:13,15 applicant 8:6 9:7 10:20 13:13 134:8 156:22 application 8:21 9:5 12:5 14:18,21 15:2,3,6,11 82:9 applications 3:6 5:18 applied 7:2 120:7 appointed 107:20 appreciate 43:16 44:7 97:23 102:1 106:22 115:2 appreciated 140:5 appropriate 31:15 37:23
accept 6:13 15:1 146:24 147:1 150:1 160:5	adjoin 161:19		
acceptable 21:20	adjourned 161:21		
accepted 20:17 21:4 74:7 132:3 134:1,10	adjust 149:23		
accepts 93:15	adopt 56:14 93:14 94:2 149:23 156:16 157:1		
access 34:15 44:23,24,25 45:1,5 55:8 68:24 77:11 79:2 80:20	adopted 123:22 151:3		
accommodate 66:15 71:7	adopts 93:16		
accomplish 65:20	advance 158:24		
account 160:2	advantage 54:12 101:9 113:20		
accurate 10:5 81:7 130:12 157:12 162:5	advertised 139:14		
achieve 61:6	advise 43:20 44:6 155:1		
acknowledge 125:24	advised 4:11		
acquiring 16:4	aerial 34:18 45:17 64:24 78:21 82:4		
acres 17:9 32:24 35:25 36:1 83:3 114:5	aerials 75:5		
act 128:2 160:8	aesthetic 39:14		
action 18:24 104:7,7,8 104:14	aesthetics 39:13		
active 39:7 54:1 58:11 74:21	affordable 18:3,7 59:25 111:8,25		
actual 36:13,14	aforementioned 4:19		
ad 68:14 133:7	afraid 115:9		
Adams 1:16 151:24 152:8,17 153:8,16 154:4,7,18 155:5,10,19 158:6 159:4,6 160:21	age 90:25 118:1		
add 49:7 111:25 138:7,8	agency 26:19		
added 68:15 137:25 138:1	agenda 4:4,5 6:2,6,25		

51:19 61:4 68:3 82:16
 91:4 138:16 153:3
appropriately 44:6
approval 6:7 7:4,20 16:4
 46:24 55:4 76:10 141:8
approve 6:22 9:2 10:1
 14:22 30:11 134:2
 135:4
approved 6:16,24 7:3
 8:17 9:4 15:17 89:14
 121:5 122:13 130:22,25
 132:10 136:12 141:10
approving 13:23
approximately 49:5
 50:11 60:15 65:13
 68:21,22 106:1,5
architectural 159:7
area 3:10 4:7,10,12,23
 17:4 22:8 23:12,12
 25:6,15,18 26:8,22 27:3
 27:12,20,21 28:25 29:8
 30:19,21,23 31:19,22
 32:23 33:21,22 34:8,11
 34:14 35:13,16,25 36:2
 36:3,6,7,25 37:14 38:7
 41:23 42:13,16,16,17
 42:18,21 43:10 44:18
 46:7 47:2,6,19 48:4,18
 48:25 50:25 51:2 52:5
 53:10 55:10,12,17
 56:10 57:17 58:25 59:1
 59:3,7,15,18,23 60:9,14
 60:21,24 63:15 64:19
 64:24 65:8,8,10,13 66:1
 66:5,12,19,25 69:2,24
 70:13 71:22 73:3,19
 77:1,20,25 79:7 80:11
 80:13 81:6,10,16 82:25
 83:2,7,11,19,21,21 84:1
 84:1,2,6,20 85:4,5 87:9
 90:5,11,13 91:5,8 93:10
 93:12,24,25 94:3,23
 95:6,9,15,19 96:2,5,24
 102:20,22 104:11 106:3
 106:9,18 107:13 109:16
 111:13,20 114:6,10
 116:9,9,13 117:3,10

118:3,4,7,9 119:19
 121:7,12 122:12,15
 123:20 130:6 146:18,24
 147:1,5 148:17,17
areas 27:5 35:10 37:2
 59:24 72:3,4 77:3
 95:22 96:10 106:20
 109:19 112:9,25 116:11
 158:2
argue 157:8,9
arguing 95:20
arrangement 27:7,22
 42:9 72:14 79:6,16
 81:18 83:11
arrangements 72:2
 105:6
article 101:5
articulated 81:5
articulates 156:17
Ascolese 1:21 10:24 11:2
 11:4,5,15,17,20 12:9,13
 12:15,19,23 13:6 16:8
Ascolese's 7:20
asked 103:19,21 108:11
 110:21 134:2,9 146:13
 146:14 148:12
asking 17:20 104:6
 115:13 116:22 123:21
aspect 13:24 128:6
 136:11 151:14
aspects 154:20
asphalt 58:19,25 62:15
 62:16
assemblage 28:1
assessment 23:17 30:18
 31:18 34:23 87:22
assistance 112:12
assume 70:8
assuming 45:14 55:20
 64:8 93:15,24
atmosphere 113:11
attached 112:16,25
attachment 113:2
attachments 112:16
attend 15:22 143:16
attended 136:6
attention 40:10 45:9

49:14 53:11 55:19
 56:21 61:12 64:6 67:13
 74:9 78:12 80:24 100:6
attorney 1:20 12:24
 17:14 86:14 98:7
attract 70:23 114:11
audience 102:14 144:2
auditorium 22:14
authorities 101:12
authority 26:18 117:22
available 22:13,23
Ave 3:4 109:15 119:4
 140:19
Avenue 8:19 17:10 19:22
 41:15 42:15,22 43:9
 44:23 48:21 65:7,7
 66:8,20 148:2,5
await 149:6
aware 45:21,21 53:23,23
 57:1 87:21,25 141:12
A-L-I-S-O-N 16:12
A-1 10:20,22

B

B 1:24 19:16,16 26:11
 162:3,13
back 19:9 27:22 30:3
 50:1 55:22 58:13 60:13
 65:19 68:9,25 69:2,20
 69:23 70:10 72:7 78:25
 79:7,15 88:12 91:2
 93:2 101:15,18 105:21
 117:12 123:4 124:2
 126:7,17 127:24 132:9
 132:12,19,20 133:2,9
 133:14,17,23 137:14
 139:21 140:2 142:15,17
 149:11,19 153:1 159:21
 159:22 161:10,11,12,13
background 31:14
backing 58:21 69:24
 70:2 72:20
Backlit 13:18
backward 13:17
bad 131:10 134:17
balance 122:11
balconies 158:1

balcony 126:11 130:6
 157:25 158:5
bank 94:19
based 30:12 34:14 38:18
 48:6 59:6,8 63:22,25
 81:2 84:5 90:25 96:25
 97:3 114:6 117:23
 118:6,19 131:4 159:2
basically 14:19 16:4
 26:15 39:24 46:4 58:18
 62:22 63:18 66:6,13
 69:25 71:16 75:13 77:5
 99:19 123:20
basis 7:21 55:2 108:6
becoming 47:21
beginning 49:19 72:11
 100:15 103:25 136:24
 137:1,4 139:1 143:22
behalf 86:15
behavior 100:24
believe 7:9 10:18 11:16
 11:18,21,24 12:18
 13:16 40:11 42:8 44:2
 44:4,15 46:1,7 47:8,14
 47:15 51:25 52:25
 55:18 57:16 59:8 60:19
 60:22 63:21 64:1,21
 71:12,25 73:9,10 76:13
 76:15 77:8,13,15,18
 78:22 79:8 80:6 81:15
 81:17 82:24 83:10,25
 88:4,9 89:10 101:1
 103:5 104:23 105:14
 106:12 114:1 117:25
 118:16 119:16 122:8
 124:3,5 127:22 128:17
 128:18 131:1 142:16
bench 22:15
benches 68:14
beneficial 111:13
benefit 89:25
benefits 54:25 113:3
Bergen 100:25 101:1
 120:5
best 8:3 111:2
better 38:13 111:9
 156:19,22

beyond 11:22 12:21 30:25 31:2	74:14 76:9 77:19 79:19 83:19,24,25 84:13 86:9 90:24 93:15,15,22 95:14 97:7,8 98:25 102:10 104:6,17 106:24 107:9,11 113:25 115:14 115:17 121:4 124:4 125:10,16 127:6,6,14 128:4,14 134:20 135:25 138:1,2,10,24 139:20 140:6 142:14 143:18 144:6 146:23 150:9 152:13,23 153:2,3,5,15 154:2,24 155:15,20,23 156:21 157:3 159:3	bond 100:8 101:21,23 108:4 bonded 99:22,24 108:1 108:12,15,17,25 109:5 109:8 114:22 bondholders 99:11 bonds 99:21 100:17 101:22 border 102:19 120:9,12 borough 1:1 2:7 4:3 17:1 17:14 26:22,23 27:19 28:8 37:3,6 38:2 44:22 48:24,25 49:8,10 51:20 61:5 64:7 65:11,23 66:10,20,23 82:13 83:7 84:17 113:18 114:2,8 116:1 117:17 119:6 120:6 146:15,24 148:22 151:3 161:15 Borough's 5:9,23 29:1 83:23 bottom 75:12,24 bought 104:21,22 Boulevard 2:5 17:10 41:13 85:5 110:20 120:6,8 break 18:8 breakfast 50:22 brick 72:24 bridge 111:22 Bridgette 18:10 brief 19:25 85:12 briefly 71:11 Bridgette 1:22 3:12 5:23 19:20 43:19 bring 20:11,12 33:24 101:11 103:16 124:11 132:6 bringing 79:15 116:18 116:18 broken 74:3,4,5 111:11 brought 100:6 107:1 128:14 131:6 135:11 147:24 156:1,1 brown 75:7 Budweiser 57:13 Bueti 3:17 110:18,18	112:22 114:25 build 56:14 111:23 116:15 151:11 builder 150:3 151:10 building 7:11 8:21 11:15 11:23 12:25 13:11 16:21 23:16 24:25 29:21 32:14,18 39:9,10 45:24 49:1,7 51:8,22 54:14 55:15 56:3,16 57:4,19,22,23 58:5,20 59:10 61:3 65:10 68:2 68:7,16 69:10,25 71:13 71:17,18 72:25 74:18 74:24 75:20 77:19 79:3 79:10 82:17 88:12,24 89:8,13,22 92:6 96:18 96:19,20 106:13 109:22 111:23 121:18 122:9,16 128:20 132:13,23,24 133:7,23 135:25 140:22 140:22 141:5 143:10 148:16 158:19 buildings 5:15 24:10 26:2,13,15 27:5 37:20 39:7,15 71:6 73:17 79:5 81:21,22 93:4 106:11 111:14,15 112:7 121:3,5 122:13,24 123:18 149:15 151:18 built 56:14 bulletin 135:25 Burr 2:5 busiest 111:18 business 3:10 9:12,19 15:6 16:15 17:2 18:18 19:19,21 23:10,11 28:10,13 33:8 37:9,10 37:15,16 38:25 39:6 46:13 47:20 51:5 59:21 62:2 63:3,15,19,20 65:17 70:17,20,23,24 75:19 76:3 78:10 83:15 84:19 85:1 92:14 96:13 96:21 101:13 105:4 107:3 115:13 119:5 125:8 129:14 144:2
big 66:10 111:10 142:21 143:11 bigger 123:19 binding 140:7 149:23 Bing 34:19 37:12 bit 25:23 44:19 46:6 73:20 110:13 136:10 157:21 161:6 black 14:14,15 blight 90:13 blighted 77:21 90:7,11 90:20 96:11 142:2 blind 69:24 block 4:14,15 17:21 18:13 19:5 21:13 22:5 27:20 30:21 31:2,16,16 33:1,21 34:1,12,18,19 35:24 37:13 40:11 41:4 41:9,12 42:10 45:7,9 49:3,15 52:11,20 53:12 53:13,21 55:19 56:19 56:21 61:13 64:7,13 65:8 67:16,22 69:7 74:10,18 78:2,13,15 80:7,20 81:1 83:5 85:20 86:16 89:25 95:7 103:22 117:1,4,8,13 119:22 147:8,8 148:18 150:18 blocks 3:9 4:12 5:1 17:1 18:19 21:12 84:18 118:12 146:16 blue 34:13 board 1:1,12,20,21,22 4:3,6,13,20 5:2,6,7,10 5:17,19,19,22,25 6:10 6:18 8:24 10:18,25 12:23 13:12 17:18,20 19:9,10 20:18 21:18,19 22:3,21 23:4,6 25:9 30:4 36:11 39:2 41:8 43:18 44:3,8 45:13,20 47:12 49:19 53:20,22 56:23 60:22 63:5 64:8 64:9 67:7,19,20 73:15	74:14 76:9 77:19 79:19 83:19,24,25 84:13 86:9 90:24 93:15,15,22 95:14 97:7,8 98:25 102:10 104:6,17 106:24 107:9,11 113:25 115:14 115:17 121:4 124:4 125:10,16 127:6,6,14 128:4,14 134:20 135:25 138:1,2,10,24 139:20 140:6 142:14 143:18 144:6 146:23 150:9 152:13,23 153:2,3,5,15 154:2,24 155:15,20,23 156:21 157:3 159:3 boarded 50:4 62:20,24 boards 20:18 Board's 12:18 41:10 125:6 139:22 156:15 boats 80:7 body 18:6 84:7 95:5 96:8 96:23 97:6 104:15 106:24 107:9,11 117:6 117:9,14 119:14 124:4 125:17,19,22 126:8 127:4 134:22,23 138:5 138:13,15,17 140:3,6 142:13,18 150:8,15 152:5 156:13,20 Bogart 1:22 3:12 5:23 18:11 19:20,20 21:11 40:23 69:9 86:12,19 87:2,6,11,14,17,20,24 88:2,10,15,22 89:3,6,8 89:15 91:19 92:3,12,19 92:24 93:1,6 95:17 106:1,4,6,22 107:21 108:22 109:25 110:5,9 110:16 118:23 121:22 122:15 123:22 124:3 125:9,12 126:2,18,24 127:18 130:14,17 131:1 133:18 134:4,19,25 139:19 146:21 147:10 148:18 150:5,14 151:1 151:13,21 157:14,18,20 159:15,17,18 160:11		

146:17 148:12 160:24 businesses 29:4 69:18 97:10 99:9 112:6 114:11,12 141:23 busy 42:16 buy 95:2 B-O-G-A-R-T 19:21 B-R-I-G-E-T-T-E 19:21	107:3 125:8 146:16 Centre 2:5 certain 3:9 4:7 5:8,11,18 8:8 17:1 84:18 146:16 certainly 18:20 43:11 105:15 113:23 certainty 48:8,18 52:10 81:4 certified 1:25 18:17 20:5 20:14 21:6 162:4 certify 162:4 cetera 118:17 chair 9:14 158:2 Chairman 1:13 7:8 12:23 17:17 43:15 44:12 56:12 67:1 72:1 84:10 103:15 159:15 challenge 91:1 93:8,9 94:6,9 118:21 challenged 118:1 chambers 139:1 chance 78:14 105:10 116:15 138:14 change 104:13 135:12 148:2 149:12 changed 90:15,21 changes 3:20 6:10,11 7:7 24:22 125:14,21,24 126:1 133:25 149:20 Chapter 11:11 12:6 character 39:11 characteristic 35:16 81:19 characteristics 26:4 43:3 charged 14:20 84:13,15 Chestnut 102:17 110:18 Chinese 70:18 95:25 choose 104:3 151:11 156:20 chooses 138:10 chopping 117:4,13 chose 151:8 Christopher 1:20 chunk 66:10 circulation 54:20,23 55:7,7,13 57:6,12,20 62:17 70:6 72:3 80:17	81:23,24,24 82:16,17 92:8 106:14 circumstances 161:8 cited 146:1 clarification 141:7 151:13 Clark 132:22 clean 16:20 119:5 137:17 cleaners 57:3 89:23 141:24 clear 121:11 clearly 46:8 60:10,11 64:20 76:19 79:6,10,17 83:9 clerk 22:22 99:13 clockwise 41:12 close 15:10 59:22 70:1 115:6 119:1 124:18 128:16 146:10 closed 15:13 124:21 129:18 closely 72:12 closer 20:12 103:17 closing 129:16 Club 3:7 9:6 10:1 COAH 17:23 18:1,2 105:6 code 11:11 12:25 58:13 76:19 codes 54:12 Cole 2:4 17:15 collision 72:21 color 100:2 colors 14:12,13 column 61:15 combination 27:13,18 113:8 combine 32:20 combined 30:16 32:17 54:20,22 83:17 come 18:9 19:9 56:15 78:7 81:2 82:8 85:7 89:19 94:19 121:6 123:6 135:22 145:19 146:8 149:19 150:17 comes 12:17 107:2 comfortable 155:22	coming 13:17 52:15,20 71:17 85:3 144:20 Commencing 1:11 comment 4:20 5:24 15:8 43:16 85:2 88:16,18 97:14 102:14 106:22 109:12 113:15 114:15 114:17,19,20 118:19 120:21 122:22 124:13 125:11 137:9 146:1 149:9 158:25 commentary 98:12 comments 6:9,11 7:6,23 8:12,14,24,25 13:12 14:16 19:3 48:19 72:19 84:14 85:12,13 99:1 109:12 128:5,12 142:5 145:2 146:21 147:17 159:3 160:15 commercial 26:13 35:10 35:10,12,17 36:6 51:16 59:14 62:8 68:7 74:18 83:6 109:23 111:19,24 112:8 113:3 Commission 8:4,10 common 111:2 commonly 11:11 communicate 105:14 communicating 131:11 community 27:15 43:21 43:22 89:12 commuter 42:16 48:25 64:18 65:10,20 66:12 company 10:4 compare 53:3 92:5 compared 35:6 comparison 79:20 109:19 complete 16:22 112:14 completed 129:13 completely 61:4 completion 56:7 compliance 12:16 99:20 102:4,5 component 61:22 comprehensive 37:18 39:5
C C 2:2 26:17,24 162:1,1 California 10:3 call 8:14 11:11 13:6 15:15,16 51:12 147:17 147:25 160:16,20 called 87:16 100:7 146:6 calls 36:4,7,9,14 80:19 88:23 116:4 Cantina 33:9 34:21 capacity 82:12 car 43:10 59:1 69:1,19 72:7 143:9 card 16:7 cards 99:22 care 54:9 74:1 101:12 144:2 carefully 63:7 93:21 cars 111:15,17 case 30:12 72:16 97:5 122:4 136:9 152:21 cases 106:20 107:18 caused 27:23 caution 91:3 caving 41:22 CBD 37:7,8 61:2 65:22 73:6 CCR 162:13 cell 6:3 cement 69:7 center 9:23 15:7 65:12 centered 28:25 central 3:10 17:2 23:10 23:11 28:10,13 37:8,10 37:14,15,16 38:25 39:6 45:19 46:13 47:19 51:5 59:21 63:3,15,19,20 65:16 78:9 83:15 84:18			

comprise 4:12
compromise 113:10
computer 135:8 136:2
computers 135:9
concave 41:23
concentrated 111:12
concept 13:25 158:1
conceptual 143:5,6
concern 54:16 96:12,22
 123:17
concerned 141:15,16,17
concert 42:24
concise 85:12
conclude 19:7
concluded 59:17
concludes 160:23
conclusion 47:8 80:25
 81:2
concrete 69:6 71:14
Condemnation 3:10 4:10
 17:4 84:20 146:18,25
condition 27:23 28:3
 53:25 68:3,3
conditioning 7:15
conditions 25:1,16,19,20
 26:6 27:25 32:14,18
 46:4 73:8 76:10
conductive 26:5
conduct 115:13
conducted 49:15 75:19
 75:20
cones 119:8
confirm 11:5 71:11
 118:9
confirmed 12:14 43:4
 47:11 73:10
conflicts 161:16
conform 122:23
conformance 12:8
confused 117:13
confusing 133:7
Congers 98:1,4,16
connect 54:17
consequences 101:6
consider 4:6 5:6,13
 16:25 17:21 35:2,20
 36:18 37:4 83:21 84:16

98:25 146:15 155:3
consideration 4:14 47:18
 85:11 113:13 142:16
 156:14
considered 4:23 29:6
 94:11,14,21
considering 104:24
consistency 139:23
consistent 54:15 59:20
 63:11 73:4 139:25
 150:12
consolidating 82:5
consolidation 37:21
 38:15
Constitution 100:4
construction 39:9 116:3
 133:12
consultant 5:17 142:10
contained 5:21
containers 68:16
contamination 54:3
contaminations 54:1
contest 142:13
continually 39:2 107:12
continue 4:9 67:3 93:24
 96:14,16 97:9,10 99:5
 122:17 144:4,23 145:13
 145:23
continued 18:21 23:12
 84:2,6
continues 90:13 96:10,11
 96:15,24 104:12 118:3
 118:7,8
continuous 37:20
contractor 13:5 16:3,8
contributing 28:4
controlled 158:12
conversation 112:2
cooler 57:13,17
coolers 71:5 75:7,15,17
cooperation 6:1
coordinate 54:20 55:1,6
coordinated 37:18
coordination 39:9
copies 22:13,17
copy 6:8 8:22 13:10
 15:23 18:9,11 21:18

22:18 103:9
Cordero 3:15,15 102:16
 102:17 103:4,8,11,14
 103:20 104:18
core 113:8
Cork 89:23 141:24
corner 33:6 34:21 52:12
 52:13,25 53:6 67:22,22
 78:3,4 80:16 111:18
Corps 49:1 64:18 65:9
 66:11
correct 8:11 9:24 10:1,6
 10:16 11:17,20 12:19
 12:22 16:13 17:19 21:2
 25:3 38:15 40:12 46:25
 47:9 69:21 70:3 87:20
 88:10,11 90:20 92:12
 118:24 121:21,22
 126:18 127:18 130:6,7
 130:16,17 138:19,20
 139:5 149:17 151:1,15
 152:20 156:5 157:18
correction 6:11
corrections 6:10 7:7 8:24
 9:1
correspondence 6:17,18
council 5:8 6:1 17:1 18:2
 84:17 90:24 93:14,18
 94:2 114:1 119:17
 125:3,11 127:23 128:14
 131:3,15,17,23 132:6
 132:21 134:5,17 135:3
 135:5,16 136:7 137:24
 139:2,9 140:15 143:14
 146:14 148:13 149:5,11
 149:18 151:8 153:20
 154:2 155:1,3,18,23,25
 156:3,4,8 157:5,6,24
 158:3,8,11,16,21 159:1
 159:24 160:5,17,19
Councilwoman 116:1
Council's 153:25
counsel 1:21 2:7 43:17
 113:18 146:24 147:19
 153:24
country 10:5,15
county 26:18 97:18,21

98:3,15,20 119:20
 120:5
couple 42:12 75:5,9
 86:11 88:2,3 125:12
course 85:24 93:22 95:1
 134:16
court 1:25 91:2 162:4
courtesy 139:21
courts 100:24 111:8
cousin 143:8
cover 144:8
coverage 27:10 50:9,11
 74:19
covered 62:21 99:25
create 37:5,18,19,19
 38:12 39:7 57:7 73:18
 82:2
created 37:7,17 38:5
 75:16 112:5
creates 57:5 73:20 82:22
 92:6
creating 57:11,20 82:23
creeping 75:3
crippling 157:4
criteria 4:8 17:3 25:6,10
 25:23,24 26:1,7,10,11
 26:16,17,24,25 27:3,5
 27:18,18,20,23 28:6,17
 28:19,19,23 29:10,11
 29:19 30:1,2,9,12,15,16
 32:16,17 33:2 38:19
 39:25 42:7,9,23,24,25
 43:3 44:2,16 47:9,14
 52:1 58:7 59:9 63:21
 63:23 64:3,3,21 71:11
 71:13,24,25 72:9,10,11
 73:9 74:7 76:12,15
 77:8,9,13,15 79:13,16
 80:8 81:5,11,19 82:25
 83:2 84:19 91:12 95:7
 95:16 102:21 104:11,24
 106:2,9,12,21 107:7
 110:11 118:3,19 120:24
 122:9,17 123:5,25
 124:2 146:17
cross 55:8
crossing 52:16 117:15

crumbling 69:5 71:14
 76:18
curb 58:19 60:14,16 61:9
 68:8 70:1 72:3 74:19
 77:9 79:23
curbing 82:21
current 77:13 92:5,7,9
 92:10 111:24 113:25
 114:6 118:16
currently 41:15 61:23
 82:15,21 89:6,7 91:16
 113:1 152:5
custodians 16:20
customer 141:24
customers 114:12
cut 60:14,16 61:9 68:8
 79:23 144:3 145:11,16
 145:19,20
cuts 72:3 74:19 77:10

D

D 3:1 26:25 27:3,5,18
 30:16 32:16 42:9,25
 43:4 44:17 52:1 59:9
 63:21 71:25 72:9,12
 73:9 77:9,13 79:16
 80:8 81:19 82:25
damage 42:3 71:15
damaged 76:20
Danielle 3:18 115:25
date 22:10,11 162:7
dated 31:10
dates 136:1 161:5
dating 33:16 50:1
days 93:8,9,13 94:5,8
 101:16
deal 17:23 136:5
Debbie 3:14 89:20
decade 36:23 39:2,17
December 1:8 4:2 22:10
 93:18 125:2,18 139:1,9
 140:14 152:12
decided 34:9 38:3 127:4
 132:6 152:12
decides 154:25
decision 15:21 44:5,8
 81:15 102:24 138:13

decisions 100:18 142:21
deck 3:5 8:22
declare 25:6
DeCOTHS 2:4 17:15
dedication 111:1
deep 49:6
defense 143:18
deficient 50:18
defined 60:14
definitely 145:5
degree 48:8,17 52:9 81:3
deleterious 27:11 81:16
delineated 25:12
demand 102:5,6
density 38:19
DEP 29:22,24 54:2,4
Department 23:16 50:2
 74:24 99:15,19 100:23
 101:16
depend 113:12
depending 159:23,25
deprivation 100:3
depth 49:9 65:18 66:14
 66:18 151:16
derived 14:4
describe 70:8
described 70:7
describes 39:24
design 23:9 27:8,23
 32:14 39:11 55:1 66:2
 72:15 79:17 82:17
 83:11 112:11 159:7
designated 4:9 17:3 81:6
 84:20 91:12 93:10,25
 95:8 104:10,11 116:13
 122:17 146:18,24
designation 3:9 4:18,23
 17:7 38:3,4 84:23 91:1
 114:5 117:23 118:9
 123:24
designed 14:8,9 69:4
designs 113:8
desirable 56:9
desires 107:19
despite 70:20
detail 30:10 73:5 81:20
detailed 36:25 54:7

details 13:7 41:3 159:18
deteriorate 96:11,15
deteriorated 53:25 77:19
 79:4,4
deteriorating 42:1 45:4
 62:18,22
deterioration 63:21
 73:18 76:16 96:16
determination 58:6
 93:10 107:8,16 109:18
 138:6
determine 90:10 106:2
 106:21,25 122:15
determined 7:24 8:1
 90:20 91:11 95:5
 106:18 107:12 125:3
 139:25
determining 138:16
detrimental 27:14
develop 39:20 65:15
 122:11
developed 28:10 29:3,4,6
 59:24 61:3 73:3
developer 127:3,7,17
 149:2,4 150:16 153:20
 155:22 156:2 158:10
developing 59:19
development 24:25 40:3
 44:18 48:4 52:5 53:4
 55:17 59:25 63:14
 80:13 102:20,22 110:7
 116:7,11
diameter 12:11
Dietsche 161:14
different 28:18 34:14
 68:5 118:23
difficult 49:3,9 69:14
 70:10 78:23 79:7
digests 160:7
dignitaries 86:5
dilapidated 26:3 45:23
 47:22 71:13
dilapidation 27:6
diligence 23:21
dimension 12:24 126:13
 126:21,21
dimensions 59:6

dining 65:16
dinner 143:8
DiPaola 3:18 115:20,25
 115:25 116:22 117:2,11
 118:18
dire 41:19
direct 40:10 49:14 53:11
 64:6 80:24 112:20
directed 5:8 148:12
 160:18
directing 55:19 67:13
 74:9 78:12
directly 7:12 48:23 85:19
directs 104:15
dirt 46:6 62:14,15
disagree 137:11,13
disagreeing 111:5
discontinuance 26:12
discourage 28:1 60:8
discourages 60:10
discouraging 60:18
discrepancy 109:18,25
 110:13
discuss 124:24 129:3
 153:15 155:25
discussed 72:1,2 85:4
 113:19,19 134:5 140:14
 144:1 158:18,23,24
 159:2
discussing 18:15
discussion 17:12,13
 115:17 124:25 125:13
 127:1 137:22 147:15,16
 149:18 153:14 156:2
 158:9,25 160:3
disincentive 95:1
dispute 111:9
disrepair 42:6
distance 11:14 13:2
District 3:10 17:2 23:10
 23:11 28:10,13 37:9,10
 37:15,17 38:25 39:6
 46:14 47:20 51:5 59:21
 63:4,15,19,20 65:17
 78:10 83:15 84:19
 107:4 125:8 146:17
diverse 27:24

divided 34:11,13	148:5,9 150:23 151:13	efficiently 55:9	118:25 124:17 128:7,15
document 30:8 36:15,22	151:20 156:12 161:1,2	eight 11:16,22 12:21	146:9,22 149:4 161:18
39:23 54:5 79:19 140:2	Dr 3:3	13:1 25:16,23 29:11	entire 12:21 31:18 32:25
documents 23:19 28:8,8	drawings 143:7 154:19	30:1,2,8 62:10 96:2	34:8 35:25 38:7 48:4
28:14 39:18 59:2 60:12	159:7,13	159:22	55:17 60:21 83:3 87:9
66:16 83:16	drive 7:1 68:21 72:4	eight-foot 7:13	139:3
doing 24:13 74:1 82:4	78:25 105:25	either 18:16 24:9 26:24	entirety 44:19
132:23 135:2 156:18	driven 121:17	27:24 112:8 136:18	entity 26:19
dollars 100:12 121:2	driver 72:23	153:17 154:23	environmental 29:22
domain 117:19 150:13	drivers 71:2	elaborate 136:22	58:10 68:11 74:20
Dominic 3:23 145:7	driving 88:20 89:1	element 78:8,9	envisioned 65:16,22
door 7:12 69:25 72:25	due 4:11 23:21 81:20	eleventh 107:2	equal 153:7
dotting 117:15	111:5	eliminate 150:6 153:23	equates 36:4
doubling 70:9	duly 9:8 19:17	Emerson 1:1,10 4:3 9:22	equipment 71:8
Doug 1:16,21 17:13	dumpster 46:6	10:11 16:15 27:19	Ernest 3:14 97:17 98:15
DOUGLAS 2:4	duty 18:7	37:12,13 58:2 78:7	error 148:8,9
downtown 28:12 37:1,14	Dyer 119:3	96:13 104:21 111:6,13	especially 117:3
51:4 60:9 70:22 77:4		111:22 114:9,9 116:1	Esq 1:20,21 2:4 3:13
79:18 83:14 96:2,17	E	131:19 134:13,17	established 113:8
114:9 119:19 123:20	E 2:2,2 3:1 9:8 19:16,16	135:12 153:2	et 118:17
downtowns 60:5	26:25 27:18,20 28:6,17	Emerson-Junior 1:9	EVAN 1:14
Doyle 1:21 2:4 17:13,16	29:19 30:15 32:17	eminent 117:19	evening 4:1 19:7 22:3
17:17 18:2,5 20:1,3,10	42:23,24 43:4 44:17	emphasizing 39:1	27:13 57:15 86:22 97:2
20:16 21:3,10,16 22:12	47:9 59:9,11 63:23	employees 70:9 79:8	102:16 118:13 120:19
22:19,25 30:13 31:10	64:4,21 72:10,11 73:9	110:25	141:13,18
33:16 40:16,19,22	77:15 79:13 80:8 83:2	empty 46:4 47:22 50:21	evening's 18:24
43:15 44:13 48:7,10,14	162:1,1	51:3 53:8 88:19 89:9	everybody 6:7 7:5 13:9
49:13 53:15 56:11,20	Eagle 3:3 7:1	Emwood 105:25	20:7 32:4 85:17 113:13
66:6 67:1,5,12 73:13	earlier 65:14 84:12	enclosed 46:7	115:22 128:18 129:10
80:4,5 84:9 85:16,23	127:20 147:24	encourage 37:20,24 39:8	129:16 136:15 140:11
86:1,3,7 89:17,24 90:2	economic 79:18 83:12	40:2 51:21 54:13,20	145:12 161:4,13
90:8,12,17,23 91:10,16	116:7	55:8 60:8 112:5	evidence 10:18 71:9
93:12,19 94:10 95:4,11	economically 28:13	encouraged 95:21 96:2	evidenced 71:14
95:14 96:22 102:8,11	Ed 3:17 110:18	encouragement 96:4	exact 59:1
103:1,7,9,12,15,18,21	edification 41:11	encouraging 39:14	exactly 13:25 89:1
105:8,21 106:10,16	editor 135:19,22	ends 115:16 133:15,17	105:10 128:3 130:23
107:23 108:3,5,8,13,16	Eduardo 3:15 103:4	engage 148:22	140:22
108:18,20,22 109:3,21	Education 144:6	engineer 1:21 10:25,25	examination 20:2 38:24
110:17 115:21 116:22	effect 75:4 140:7	enhance 37:21 39:13,14	example 113:2 119:9
116:23,25 117:5,20	effective 29:8 44:18 48:4	enhanced 38:18	156:18
118:24 119:10,13 120:1	52:4 53:1,10 55:12,17	ensure 23:11,20 54:13	examples 112:15 113:1
120:13,17,21,25 121:12	60:21,23 63:14 64:23	enter 117:22 153:14	exceed 35:14
121:15,23 124:12,16	66:1,5,25 80:13 106:14	entered 117:6	exceeds 34:23
127:19 128:3 129:22	159:8	entering 82:23	exception 110:3
130:7 131:2,13 136:24	effectively 122:11	entertain 6:9,13,21 8:23	excess 91:3 150:4
137:7 138:3,9,18,21	efficiency 79:18	9:1 13:12 14:17,21	excessive 27:10 74:19
139:5,13 147:7,19	efficient 22:22	15:10 91:2 115:5	excuse 62:14 110:22

<p>exhibit 21:19,25 23:5,5 33:22 34:8 40:14 41:5 41:17 43:6 45:19 49:21 53:16 62:7 65:6 74:13 exhibiting 42:2 exhibits 41:3 43:3 46:3 73:8 79:6 existing 24:25 33:23 34:15 46:3 50:17 51:11 51:12 53:3 57:4 exists 143:1 exiting 82:23 expect 36:6 expeditions 9:15 expense 127:17 149:1,3 experience 73:21 97:1 119:19 expert 8:4 20:17 21:4,7 97:1 108:23 110:14 127:2,5,7,10 136:2 expertise 116:21 explain 27:4 30:3 32:3 40:23 41:7 44:19 53:20 56:23 64:12 125:9,10 explanation 113:2 expound 73:19 extend 11:15 extensive 156:2 exterior 57:11,19 87:4 89:5 112:6 extremely 65:25 eyebrows 62:4 e-mail 7:6 110:19,21 112:17 113:16 114:13 161:13</p> <hr/> <p style="text-align: center;">F</p> <p>F 1:20 2:4 12:12 28:19 162:1 facade 5:14 38:1 62:19 62:23 76:21 112:4 151:17 face 141:22 faces 57:22,23 facilities 27:10 facing 5:15 151:18 fact 12:20 39:24 44:15</p>	<p>45:2 46:12 50:10 51:2 53:2 61:2 82:15 83:10 87:8 95:15 111:5,19 138:9 143:14,16 factors 27:14 32:12,13 48:6 facts 42:19 59:8 factually 95:5 fair 72:8 91:4 121:24 124:12 falling 42:3 62:18,23,25 68:19 76:20 falls 29:19 42:7 false 122:19 familiar 25:4,8 64:9 familiarized 25:5 family 3:4 7:2 8:20 105:4 105:5 fantastic 104:19 far 75:4 76:11 99:6 133:17 134:13 141:7 fault 110:2 faulty 27:7,22,22 42:9 72:2,14,14 79:6,16 81:18 favor 6:15,23 8:16 9:3 15:4,12,16 124:20 128:11 146:11 147:5,25 160:22 161:20 faxed 99:15 100:20,21 federal 99:9,11 100:19 101:2,11,12 feel 106:23 107:15 110:1 110:12 111:20 131:18 134:12 154:7 158:19 feeling 12:18 fees 89:13 feet 12:13 49:6 50:14,16 58:18,21 60:15 65:13 65:19 66:14,18 68:21 68:22 126:9,11 128:22 128:24 130:5 132:13 133:4,9,13,14,18,19 142:22 144:22 150:4,21 150:25,25 151:9,11 153:22,24,24 154:6,6 154:25 155:4 156:4,5,7</p>	<p>156:19,24,25 157:13,23 158:4,13 159:11,12,21 159:22 felt 142:1 fence 78:21 fenced-in 43:10 field 48:8 figure 60:17 105:12 figured 144:13 file 46:23 fill 37:22 final 58:6 150:24 151:2,3 finalized 132:4 finally 12:7 78:12 finance 94:18,20 financial 112:10 find 50:25 75:2 100:12 101:7 109:20 137:19 Fine 9:16 fined 100:5 finish 16:20 117:12 finished 56:3,16 136:19 finite 150:10 firm 17:15 116:19 first 6:6 22:20 23:3 25:22 25:25 27:3 30:7,22 38:4,14,14 41:4 52:13 64:15 75:5 81:17 84:15 86:6,9 93:21 101:4 110:24 115:3 119:24 125:4,22 129:8 134:16 136:17 141:9 144:11 145:13,23 146:13 153:7 161:7 firsthand 140:24 141:2 143:11 fit 51:23 125:16,22 fitness 9:21 fits 105:12 FitzPatrick 2:4 17:15 five 11:19 12:24 13:1 36:17 39:14 61:20 62:8 62:11 85:9 126:9,11 128:22,24 130:5 132:13 133:4,9,13,14 150:4,21 153:9,23 154:9,20,25 155:4,23 156:4,5 158:4</p>	<p>158:13 159:21 five-feet 126:22 150:22 five-foot 5:14 134:4 137:11 138:15 140:25 142:6,8 145:10 148:15 148:21 149:12 151:6,16 152:15 153:17 154:3 157:2,19 159:8 fix 74:4 fixed 82:10 fixing 74:3 flatbed 43:11 floor 5:15 62:8 129:3,24 129:25 130:3,5,19 132:9,10,12,15,16,19 133:2,8,15,17 136:11 137:13,18 148:15,21 149:9,14 151:17 152:2 152:16,19 153:6,7 159:19,23,25 flooring 41:24 floors 130:10,11,15 131:22 132:20 133:8,23 150:7 flow 148:25 flower 13:25 14:3 focus 17:11 30:20 33:20 34:1 73:15 112:8 137:10 focused 83:16 focusing 17:9 34:18 folks 109:9 137:21 follow 8:9 105:19 followed 101:20 following 4:14 30:17 follows 150:3 foot 49:9 154:10 158:1 159:5 foregoing 162:5 form 7:4 85:14 forming 44:4 forth 25:17 123:25 126:13 132:6 162:8 forward 9:7 69:19 75:13 84:8 86:6 104:1 117:21 118:15 129:4 141:18,19 found 56:22 61:13,20</p>
---	--	---	---

74:12 78:13 87:13 90:6 91:7 110:2 116:6,10 four 10:7 39:12 51:14 69:16,17 88:4 130:11 130:14 131:4 132:12,20 132:24 133:23 159:12 fourth 5:15 126:10,15 128:20 129:3,24,25 130:3,5,19 132:9,9,15 132:16,19 133:2,8 134:9 136:11 137:13,18 139:8 148:15,21 149:14 151:17 152:2,16,19 153:6 159:9 four-story 111:23 140:21 142:25 frame 94:4 105:6 franchise 9:20 franchises 10:15 Frank 2:5 friends 140:14 front 7:12,25 8:2 13:16 22:14 49:4 58:20 59:6 62:21 65:12 66:12 67:25 68:2,7 69:16 70:7 71:19,22 75:23 76:21 85:7 88:13 121:3 121:4 133:7 135:25 137:18 141:3 143:25 151:17 159:13 frontage 37:20 fronting 149:15 fronts 69:10 fulfilled 28:15 102:6 fulfilling 56:13 full 9:11 69:1 79:1 138:23,25 143:19 145:17 fully 28:2 145:25 160:9 fun 142:3 funded 119:20 further 19:8,12 40:2,3 57:12,20 96:4,16 101:19 104:7,13 141:17 142:17 147:16 149:9,20 158:9 160:3 further 59:19	future 5:2 104:3 114:9 <hr/> G G 19:16,16 28:19 gap 111:22 Gary 1:13,15,21 gather 31:14 gee 94:19 gelato 141:25 general 30:22 39:15 80:12 81:10 85:13 117:3 123:16 generality 26:2 generally 30:3 66:14 generous 138:10 getting 15:25 16:5 144:22 giant 111:14 girl 140:20 girth 8:8 GIS 34:20 give 13:5 25:14 43:20 48:5 83:18 85:20 98:23 103:1 105:20 116:8,14 116:16 122:3,18 129:5 158:21 given 50:10 53:2 60:25 70:16 79:9 85:18 gives 58:20 77:19 giving 112:14 115:2 Glenpointe 2:5 go 7:15 11:2,22 13:6 19:24 25:22 26:8 28:21 30:9 33:25 40:4 41:12 43:24 53:5 55:22 64:15 67:2 68:8,25 69:18 72:15 76:16 86:25 95:25 97:7 99:2,4 100:14 107:5 111:21 116:12 127:14 131:17 131:19 132:20 134:16 135:9 140:1,6 142:23 142:24 143:7 149:12 154:8,9 goal 39:4,8,10,12,13 59:3 goals 37:6,17 38:24 39:3 39:15 46:14,15 47:19	51:10 56:12 59:20,21 60:1 61:2,2 63:3,3,7,11 63:20,25 65:21 73:4,6,6 78:11 79:21 83:17 Godwin 19:22 goes 27:22 30:25 31:2 37:3 39:16 42:24 73:22 133:8 going 6:5 8:2 10:19 11:2 11:7 12:3 13:2 16:9 17:11,20 18:14 21:18 25:21 26:16 29:14 30:1 33:11 34:2 35:15 40:16 41:11 44:2 52:17,17,19 52:22 53:15,16 65:1 67:3,5,6 71:2 76:1 78:7 78:11 82:10 84:11 90:9 93:20 94:18,19,20 96:15 98:24 99:8 100:14,24 102:1,22 105:1,6 114:4,10 116:11 117:14 119:4,5 119:18,21,23 124:13 128:20 132:23 135:22 136:10,22 141:17 142:4 142:25 143:6 144:1 145:22 152:11 156:7 157:1,7 158:18,19 160:4 161:14,15 good 4:1 10:10 16:15 48:5 97:1 102:7,16 113:9,13 118:5 120:19 121:15,24 129:11 137:21 142:3 145:3 149:24 153:13 154:24 goodness 143:9 goods 47:23 Google 37:12 64:25 141:4 GOURSKY 1:15 7:24 13:14,19,22 36:16 Governing 18:6 84:7 95:5 96:8,23 97:6 104:15 106:24 107:9,11 117:6,9,14 119:14 124:4 125:17,19,22 126:8 127:4 134:22,23	138:5,13,15 140:3,6 142:13,18 150:8,15 152:5 156:13,19 Governor's 116:5 grant 112:11 120:7 granted 36:5 76:9 grass 42:13,17 43:9 gravel 46:5 62:14 great 13:22 14:2 40:15 55:5 104:19 123:11 124:14 127:1 greater 31:24 51:17 126:4 150:20 155:13,14 ground 62:8 74:22 77:6 groundwater 54:3 group 99:18 100:7 101:10 growing 27:21 62:15 75:4 grown 113:11 growth 28:24 29:6 59:23 70:22 guardrail 62:18 guess 13:20,23 40:7 68:14 135:18 153:8 gutters 42:2,3 71:15 <hr/> H H 11:11 25:25 28:23 half 62:14,14,15,15 77:6 halfway 46:7 Hall 161:15 hand 15:10 146:2 handed 117:18 handle 132:18 135:9 137:14 hands 70:2 102:15 128:15 146:5 hanging 94:17 happen 39:4 43:21 65:18 65:24 66:2,17,22 68:1 82:10 happened 38:7 39:4 40:3 96:7,7,10 97:3 107:10 122:1 141:8 144:4 happening 18:8 60:2 78:6
---	--	--	---

<p> happens 68:1 121:7 happy 13:6 105:9,11,15 105:18 hard 111:1,4 Hawthorne 107:25 hay 46:6 hazard 73:1 hazards 82:24 head 94:18 heading 101:10 health 27:14 28:5 50:2 hear 6:4 17:6 18:21 19:2 20:7 84:22 109:9 134:24 135:1 140:11 142:2 152:6 157:6 161:12,13 heard 122:7 130:18 133:22 134:16 138:22 143:21 146:20,21 155:2 156:22,23 157:5 158:25 161:1 hearing 3:9 4:6,13,24 5:22 6:12 8:13,25 16:25 19:7,13 21:8 31:19 43:24 48:13 84:16 118:13 125:16,19 134:20 138:5,23,25 141:11 145:17 147:17 hearings 18:21 102:9 134:21 heart 28:11 46:13,14 77:4 heavily 27:1 111:12 height 125:15 126:3,4,6 held 158:9 help 116:24 127:13,13 135:22 158:18 helpful 99:14 100:21 hereinbefore 162:7 he'll 13:6 hidden 72:24 high 1:9 36:10 143:2 159:10,11,12 higher 36:7 72:17 158:14 highly 36:5 hire 127:6 134:7 hiring 127:2 </p>	<p> historic 112:9 historically 95:4 hoc 68:14 Hoffman 3:16 105:24,25 106:5,7,16 107:17,22 hold 39:16 109:21 holes 41:21 62:19 69:6,7 71:14 76:20 home 14:10,11 18:17 73:23 homes 111:3 honest 144:10 hoodwinked 134:12 Hook 3:7 9:6,13 hope 19:6 99:25 101:3 113:13 119:16 122:19 141:20 143:1 160:6 hopefully 8:5 10:10 73:12 hour 107:2 house 43:10 47:22 104:21,23 143:20 houses 89:23 housing 4:9 17:5 18:3,7 23:15,22 25:17 26:18 32:16 37:4 60:1 76:13 77:22 81:11 84:22 95:8 111:8,25 118:4 146:20 hundred 14:3 49:5,9 50:9,10 65:13,19 66:14 66:18 156:25 husband 103:5 </p> <hr/> <p> ice 57:17 ID 99:22 identical 18:23 identification 10:23 21:23 31:5 33:13 34:5 40:21 53:18 65:3 67:11 identified 21:13 25:25 30:24 34:12 36:24 43:5 58:12,14 59:2 63:8 74:25 147:8 identifies 26:12 30:14 41:20 identify 23:6,8 30:8 31:3 </p>	<p> 33:4,15 37:24 89:24 106:25 identifying 30:20 33:21 66:7 103:24 IDs 99:8 illegal 50:2 illiterate 135:8 illuminate 11:6 illuminated 13:14,16 illustrate 46:21 imagine 111:4 immediately 42:15 45:2 48:20 52:14 56:13,18 63:17 67:23 78:4,19 80:14,17 100:10 impact 42:18 50:24 51:1 51:5 52:18,22,23 71:23 72:5 73:19,20 74:3 81:16,25 88:6,17 94:12 94:14,21 impacts 42:20 81:23 impedes 27:25 impediment 57:20 impeding 62:17 impervious 7:10 50:9,11 important 26:1,7 27:2,8 27:11,12,19 28:6,23,24 29:2 31:25 36:22 39:1 42:5 43:25 44:21 45:4 45:5 48:24 51:6,21 52:12 53:1,9 58:16,24 60:23 73:15 80:16,16 80:23 82:6,17 83:21 88:7 89:12 impression 48:5 107:17 imprisoned 100:5 improper 72:4 77:9,18 79:16 81:22 improperly 32:11 improve 39:7,12 59:4 82:4,7,13 95:2 107:14 improved 35:5 46:5 82:13,18 improvement 31:24 43:1 46:10 59:12 63:24 64:19 72:16 77:16 82:3 107:13 112:4 113:5 </p>	<p> 119:19 improvements 27:6 28:2 32:7,9 38:1,1 39:12 49:8 65:15 66:16,21 78:5 86:25 87:4,23 96:5 111:16 112:13 113:7 119:15,18 improving 73:24 inappropriate 42:14,17 incentive 95:23 96:9 112:5,11 incentives 111:24 112:10 116:16 incentivized 95:18 inches 11:16,19,22 12:21 12:24 13:1 incline 158:14 include 54:19 74:5 127:21 included 102:22 111:6 137:1 includes 7:9 67:20 120:13 including 62:21 85:10 95:6 increase 37:23 38:18 39:12 87:22 increased 126:3 indicate 31:7 33:18 34:2 34:6 52:7 57:21 71:6 80:12 indicated 18:13 32:22 44:14 45:10 52:3 60:19 103:24 117:24 indicator 32:10,12 77:17 individual 24:6 38:10,16 39:20 54:9 55:2,3 indulge 81:13 industrial 26:14 inefficient 79:9 82:2 informal 86:10 information 4:25 22:8 31:14 101:15 105:11 107:15 initial 99:17 101:17 input 47:13 140:4 inside 24:10 57:11 62:4 </p>
---	--	--	--

matching 112:10	92:17 106:21 107:6	met 8:4 23:21 28:17	15:10,12,14 85:13,15
material 57:16	118:3,7,8 120:23	71:24,25 72:9,10 77:14	115:6,14 119:1 124:18
materials 16:5 43:13	146:17	77:15 87:8 91:11 95:7	124:19 128:7,11,16
75:17	meeting 1:1 4:2,15 5:3	95:15 104:11 106:12	146:10,11,23 147:1,3,4
matter 96:25 104:5	6:3,5 7:3 9:10 15:20	107:19 118:19 123:25	147:14 149:4,6,7,8
138:12	16:22,24 17:16 18:24	mic 103:17	154:15,17 159:5 160:13
maximum 11:14 12:12	19:10,11 84:12 85:13	microphone 20:12 86:11	160:14 161:19,20
13:2	93:18 103:25 115:16	129:5	mounted 11:22
mayor 1:15 5:8,25 17:18	117:24 128:14 129:13	middle 51:3 62:17 65:9	move 84:8 104:20 117:21
56:5 61:7 76:5,8 79:22	130:10 131:2,10,18	66:11 74:13 83:14	122:14 141:18,19
79:25 90:24 93:14 94:2	132:5,21 136:7,17,19	Midland 19:22	moved 94:16
110:24 113:25 119:17	136:25 137:2,4 138:18	million 120:4	moving 104:1 118:14
120:3,4,11,16 123:5,6,8	140:15 143:15,23	mimic 63:2	multi-story 88:23
125:3,11 127:23 128:13	145:11,14,23 149:19	mind 84:24	multi-tenant 68:7 74:17
131:3,15,23 132:6,18	155:2,6,18 158:8,21	minimal 157:23	municipal 1:1 22:22
134:5 135:3,4,15 136:7	159:3 160:6,19 161:5	minimum 5:14 28:9	110:25 135:25
137:8,15,23,24 138:7	meetings 101:19 134:17	55:13 126:9,11 150:23	municipality 26:18
138:18,20 139:2,3,6,7,9	135:16,23,23,24 136:1	150:23 151:6,16 154:3	30:11 32:25 35:7,8,11
139:14,16 140:15	143:6,15 144:20	155:4 158:4	35:17 36:1,10 64:1
143:14 146:14 147:18	meets 4:7 33:2 43:3 44:2	ministerial 128:1	91:7,10 118:2
147:21 148:12 149:5,11	44:16 47:9,14 49:23	minor 125:13,21 127:12	
149:18 150:20 151:2,7	52:1 55:11 58:7 59:9	139:21	N
151:7 153:18,20,25	63:21 64:21 71:12	minutes 6:7,8,13,16	N 2:2 3:1 9:8,8
154:2,5,16 155:1,2,17	76:13,15 77:8,9 79:12	81:14 85:10 115:16,23	naive 144:20
155:22,24,25 156:3,4,8	80:7 81:10 83:2 114:10	115:23	name 9:11 19:19 85:8
157:4,6,17,24 158:3,8	122:9,16	missing 121:9	86:13 89:19,20 97:15
158:10,16,21,24 159:1	member 6:10 117:14	misspoke 151:15,23	98:15 102:16 103:4,19
159:4,20,24 160:2,5,7,9	159:1	mistake 155:17	105:21 110:19 120:20
160:12,17,19	members 1:12 3:13,21	mistyping 148:3	129:6 145:6
McGuire 3:17,22 109:14	17:18 21:17 44:3,8	mitigating 161:8	narrative 56:25
109:14,22 110:1,8,11	85:2 128:4 153:15	mixed 28:11 51:14,15	necessarily 35:16 142:24
140:18,18 142:7,11	155:15	56:12,16 59:24 61:19	necessary 16:3 25:6
143:13,21,24 144:9,25	memorialize 8:19 161:16	88:23 96:1 118:17	28:21 44:17 48:3 52:4
145:3	memorialized 15:23,24	122:7	54:18 55:11,14,15,16
McKENDRY 1:16	memorializes 148:4	modest 37:23	55:16 60:20 63:14
mean 35:8 51:15 64:3	memorializing 7:4 15:21	moment 72:22 104:2	64:23 65:25 66:4,21,24
93:9 102:23 105:4	memorizing 90:4	monitor 93:21 94:1	71:8 77:24 78:18 80:12
123:17 142:1,1,20	mention 31:13 35:3,21	monitored 54:3	84:8 106:13 112:13
151:25	36:20 60:25 65:14	monitoring 29:24	125:4
meaning 14:5 37:8	66:15	monster 132:25,25	need 11:1 19:9 23:7,12
means 29:4,6 42:23	mentioned 27:17 30:13	month 134:10	23:13 25:7 36:24 37:1
44:20 153:11	30:15 31:21 34:9,21	months 125:12	41:19 50:25 57:7 65:23
mechanical 154:19	43:1 54:10 59:14 63:20	morals 27:15	79:10,20 81:6 82:12,14
meet 17:3 23:12 25:18,20	63:22 66:8 72:11 76:2	morning 22:20 118:14	83:20,21 84:1,2,6 91:12
30:11,14 32:23 38:19	78:2 80:14 82:20 83:1	motion 6:13,15,22,23	92:21 93:11,25 94:3,5
73:9 81:5 82:25 83:4,5	83:2,9 86:22 87:19	8:15,16 9:1,3 14:17,21	94:23 98:12 99:8
83:8 84:19 90:13 92:9	89:11 114:19 139:19	14:22,23,24,25 15:1,4	104:11,25,25 105:5,7

106:3 107:13 111:7 114:6 116:9,14 118:5 118:10 122:10 127:23 131:25 136:2 137:10 138:8 146:25 147:5 154:1 needed 49:10 50:24 71:1 128:10 needs 75:20 107:13 negative 51:1,5 71:23 72:5 73:18,20 74:2 negatively 42:18 neighbor 73:24 74:1 102:21 neighborhoods 111:3 neighboring 38:12 neighbors 123:2 Nerds 142:3 never 65:24 66:2,17 123:4,7 126:13 150:17 new 1:10 2:6 4:8 10:7 17:4 19:22 20:5,15 21:7 39:10 53:15 54:4 84:21 86:14 97:19,22 98:1,4,16 113:6 130:20 146:19 154:15 news 118:5 newspaper 101:1 135:10 nice 142:1 night 11:7 102:7 113:13 132:21 136:7 137:21 144:10 145:4 nine 96:3 NJMES 54:1 58:11 74:21 non-historic 112:9 normal 9:10 105:5 North 120:9 northwestern 41:14 Notary 162:3,14 note 4:25 29:2 42:5 45:4 48:24 50:12 58:10,17 68:23 82:6,18 109:17 110:15 noted 60:11 68:10 notes 73:11,12 noteworthy 36:5,11	37:11 notice 5:3 18:15,23,24 19:1,8,12 48:22 90:6 93:7 102:9 103:10 104:4,16 109:17 138:4 noticed 17:24 119:15 131:13 135:16 139:13 notices 118:12 notified 131:17 144:1 notify 4:4 notifying 5:4 notwithstanding 157:2 November 6:7 24:18,18 41:2 131:1,2 number 8:6 23:25 28:7 28:17 29:2,7,23,24 37:5 37:17 39:5 45:24 46:9 46:21 47:16 50:1 57:10 57:15 60:11 68:9,14 69:4,8 75:15 82:1 92:4 92:8 125:5 126:23,24 numbers 157:11 numerous 4:12 10:4 36:23 54:6 115:11 O O 9:8 19:16 oath 100:8,17 101:23 oathed 99:22 object 108:3,5 128:20 139:7,8 153:9,9 154:10 objecting 153:16 objection 161:9 objections 19:3 objectors 86:5 obligated 69:19 obligations 17:24 OBOT 100:8 observation 43:7 100:8 101:23 observations 24:1 41:8 43:18,23 44:1,4,11 53:21 56:24 64:13,15 67:15,19 74:15 78:14 118:6 observe 61:18 146:5 observer 109:15,20	110:14,15 observers 101:21 obsolescence 27:7 obsolescent 26:3 obsolete 27:11 30:17 59:9 83:18 obtained 76:6 obviously 36:20 45:20 46:11 47:10,12 50:5 51:18 55:3 57:1 73:2 75:18 76:23 153:23 occasion 86:24 106:8 occupied 41:15 43:11 45:22 56:18 61:24 62:1 64:17 66:11 offered 111:23 office 14:10,11 18:19 99:24 100:16 101:6,23 116:6,7 officer 99:9,16,21 100:16 officers 99:11 101:7,11 oh 94:19 119:12 143:9,21 144:19 okay 10:20,21 11:3,9,25 12:1,4 13:3,22 15:5,25 16:6,9,10 61:25 68:2 71:20 89:10 93:3 98:24 106:16 112:23 118:18 120:10,15 131:5,24 142:12 147:12 154:8 old 3:7 9:6,13 91:1 once 11:22 19:1 78:25 93:12 148:17 ones 72:18 135:5 one-story 45:22 53:24 57:2 61:3 68:6 74:17 ongoing 29:23 on-line 22:18,23 135:10 135:17 on-site 41:25 42:19 68:1 71:1 74:19 open 9:19 15:1,5,7 84:14 85:13 128:8 138:11 140:1 operating 62:3 88:1 operation 89:11 opinion 44:16 48:2 60:7	81:3,9 110:13 114:14 118:22,23 122:3 158:22 opinions 48:7 118:7 opportunities 37:22 82:2 opportunity 4:20 19:2,3 24:9 38:10 53:12 70:22 85:18 115:2 159:19 opposed 36:9 opposite 61:5 opt 112:12 Oradell 120:12 order 17:23 25:6 54:17 65:14,19 66:15,21 85:1 85:17 102:3 106:2 107:14 116:17 122:11 ordered 111:8 ordinance 5:21 11:10 39:23 50:13 51:11,12 51:23 112:13 113:5 125:5,20 126:6,20 132:8 134:1,21 137:10 139:4,9,15,20,23 140:5 149:12 150:2,11 151:3 151:8 152:11,14 157:2 ordinances 23:20 original 158:1 originally 126:19 Otha 1:24 162:3,13 outdoor 57:7 68:13 79:10 outlined 33:23 outset 117:24 outside 12:25 59:15 83:7 116:20 120:22 outward 13:17 overall 22:8 31:22 32:22 45:6 73:2 105:13 overcrowding 27:7 overlaid 33:23 owned 26:17 48:23,25 64:7 66:10,19,23 owner 4:17,21 38:17,20 39:20 54:9,12 86:16 113:4,20 owners 5:5 17:24 38:10 38:12 46:2 72:7,8 85:19 91:4 92:14,17,23
--	---	--	---

93:8,94:12,22,25 95:18
95:21 96:9 111:19,25
112:6,14 113:6 116:15
118:14 120:22 141:20
ownership 27:24
owns 65:11
O'Brien 3:18 119:3,3,12
119:23 120:10,15,17
o'clock 16:19 41:12
84:25 114:24 115:12

P

P 2:2,2
pack 16:19
page 3:2 25:12 28:21
30:9,14,17 31:7,9 33:25
36:12,25 39:17 40:7,11
41:18 43:6 45:9,17
49:20 56:25 57:9,10
58:3,15 61:8,12 62:6
64:10 67:6,13 68:11,12
68:18 74:9,25 75:2,6
78:22 99:17 101:17
pages 30:5 39:22 100:22
paid 93:5
painstaking 73:5
paint 62:22,25
pallets 57:16
paper 18:17 129:21
134:14,15 135:17
139:12,14
paperwork 102:3
paragraph 61:8 79:22
101:4
parameters 12:11
park 19:22 43:11 51:1
70:9 79:2
parked 42:13 50:13
62:12
parking 5:16 41:25
42:11,19,21 44:25 45:1
45:23 46:2,5,17,19,22
46:25 47:2 49:1,7,25
50:2,12,14,15,22,23
51:3,20 53:7 55:6,16
57:6,12,17 59:6 61:4
62:9,10,13 64:18,20

65:10,17,20,20 66:12
67:25 69:1,12,17 70:13
70:14 71:1,22 72:4
74:19,20 75:22 77:1,10
77:12 78:24 79:7 80:19
80:20 81:22 88:19 89:9
91:24 92:1,5,8 126:25
127:1,2,3,5,8,10 141:4
148:24
parks 43:8
part 16:24 63:18 72:15
106:13 119:20,21
122:10 123:10 124:5
136:17 160:24,25
partake 113:4
partially 59:11
participate 141:23
143:16 155:5
particular 7:4 14:18
43:8 47:25 51:13 59:18
59:22 85:3 128:5 132:7
136:9,11 141:16 150:10
151:14
particularly 46:12 53:2
63:13 71:19
pass 150:2
passing 58:2
patched 76:22
pavers 120:14
Pavonia 3:4 8:19
paying 109:10
pedestrian 28:12 39:13
50:8 54:24 55:7 59:4,5
60:3,16 68:9 72:6
81:23 82:17,23
pedestrians 58:22,25
59:3 60:13 73:1
pending 152:5,11 153:6
161:16
people 18:5,9 22:17
46:21 50:25 56:10 62:3
69:18 70:23 72:22 78:6
88:20 96:13 107:19
111:5 113:11 114:11
115:11 123:18 131:10
131:12,19 134:13,17
135:12,14 136:23

141:23 142:22 145:18
146:7
percent 7:9 14:3 32:24
36:2,3,4,8 50:9,10 51:4
53:8 159:21
perform 53:13
performed 18:10 35:1
49:19
period 26:21 94:9 153:14
permission 76:9
permit 89:13
permits 46:18 76:6
permitted 7:10 40:1,1
47:3 117:18,20
person 4:17,22 5:24
17:12 100:2 114:13
142:10 146:7
personal 43:18 44:4
personally 23:23 134:12
154:4,7
persons 5:5 17:6 84:22
person's 113:16
perspective 53:9 54:16
55:5,13 58:24 59:18
63:10 80:22,22
perspectives 66:3 77:7
pertain 48:20
pertaining 102:19
pertains 148:24
petition 123:8 155:14
Petrow 3:16 107:24,24
108:4,6,10,14,17,19
109:4,8
ph 97:18 98:16
phone 6:3 116:4
phones 6:5
photograph 58:4 75:10
75:12,24 78:22
photographs 23:18
40:25 41:1,4,16 42:4
43:5 45:16 47:12 62:6
62:7,20,24 68:12 71:5
73:11 76:17,24 77:5
79:12 88:4
photos 75:1
piano 22:15
pick 15:23 101:18

picture 123:19
pictures 56:25 57:8 63:7
69:5
piece 26:22 47:25 53:6
148:11
Pilates 3:7 9:6,20 10:1,4
10:11,17 15:6
place 18:17 22:17 50:25
76:3 96:5 100:17 105:9
111:9 112:23 141:25
162:7
places 141:25
plan 3:20 5:10 15:24
23:8,19 28:8,17 29:5
36:18,23 37:1,5,7,17,19
38:5 39:6,19 44:24
45:6 46:18,24 53:1
54:15,19 55:4 59:2,20
59:21 60:1,8,11 61:2
63:4,8,11 65:17,22,22
66:16 73:6 78:9,10,10
78:19 79:21 80:19,22
82:7,9 83:16,17 84:8
88:23 89:3 92:15 95:16
107:3,4 110:7,10 113:9
123:23 125:7,14,18
134:3 139:24,24 143:4
148:14 150:3,12,15,16
150:18 151:2 159:19,23
159:25
planner 1:22 3:12 5:24
19:15 20:4,5,14 21:3,6
21:6 48:16 56:17 60:7
67:7 73:21 83:23 93:16
97:2 105:12 106:23
107:14 108:23 109:7
113:17 114:2,8 116:21
118:20,22 122:8 156:1
157:17 160:3,18
planner's 97:4 105:17
118:6
planning 21:4 23:3 34:10
36:20 39:17 46:14
47:19 48:10,18 52:9,23
53:9 54:16 58:23 59:17
63:10 74:7 82:16 92:9
92:10 97:1,4 107:9,11

114:7 127:6,14 140:19 141:14 plans 15:7 51:10,24 121:4 134:8 150:24 play 142:3 Plaza 3:7 please 4:11,25 6:4 7:7 8:15 9:7 15:15 17:8 18:1 31:8 32:5 33:19 41:7 52:7 53:20 56:23 61:18 67:4,19 85:11 97:16 102:2 103:16 125:9 129:7 136:18 145:6 160:20 161:7,9 161:10 plenty 31:25 plywood 68:16 69:7 71:16 75:9 point 6:9 15:23 47:16 52:21 56:11,15 66:7 122:12,22 137:8 138:12 144:21 146:22 152:15 153:13 155:7,9,19 157:5 pole 62:16 77:5 police 29:21 35:20,22 36:4,7,8,13,14 poor 83:11 porch 41:23 portion 30:8 45:18,19 65:11 68:25 position 133:25 157:18 positioned 63:13 positive 153:4 possess 26:3 possibility 72:21 122:14 possible 8:3 155:23 161:10 possibly 38:12 60:13 127:4 141:15,18 158:23 posted 22:18,23 potential 4:18 35:19 117:25 potentially 28:3 44:24 52:4 70:25 86:4 149:19 power 150:8 prayer 43:19	preparation 23:1 86:21 prepare 21:11 23:2 prepared 6:14 20:20 22:2 30:5 127:20 154:20 prescribed 8:3 present 1:12,19 102:4 120:22 presentation 5:23 131:14 presented 10:18 101:8 102:9 134:4 presupposes 108:13,16 108:18,20 pretty 63:10 70:1 110:2 143:10 prevents 43:17 118:13 previous 20:25 30:20 54:5 previously 5:20 21:24 26:13 30:15 32:15 34:9 45:22,24 53:24 54:11 59:14 63:22 78:2 90:19 91:11 104:10 primarily 13:24 principally 47:3 principles 28:24 29:7 printed 64:24 110:22 prior 35:23 47:21 56:7 126:12 priority 85:17,21 86:2 probable 69:16 probably 10:7 79:8 152:12 problem 12:2 20:10 103:18 121:25 135:8 153:19,25 problems 70:21 procedure 108:9 proceed 8:21 proceeding 88:8 proceedings 1:5 162:6 proces 82:19 process 23:16 43:25 82:15 90:10 105:3 114:4 116:12 124:5 127:15 128:2 productive 28:3 91:9	92:15 professional 21:6 44:16 48:10,18 81:3 108:23 109:7 116:21 118:7 134:7 professionals 43:19 program 113:3,9 120:8 programs 112:4,5,24 project 52:24 53:5,7 100:13,13 101:8 108:2 113:19,24 114:1 120:4 141:16 projects 111:11 112:15 promised 117:16 promote 63:3 112:6 proof 102:5 proper 27:21 64:2 properly 54:17 71:18 100:17 102:9 properties 4:19 5:6 18:14 23:7,24 24:17 25:19 29:3,14 30:23 31:22,23 32:23 35:10 35:12,17 49:11 51:19 52:12,25 59:15 72:13 78:2,3 81:6,15,17 82:4 82:5,8,11 83:4,5,6 92:16,18 95:7 112:8 116:16 118:15 123:21 123:23 property 4:17,21 5:5 7:14 17:24 18:25 24:7 26:22 27:25 32:2,11 38:11,17,17,20 39:18 39:20,21 40:4,5 42:25 43:2,8 45:1,11 47:25 48:3,6 49:10,23 50:4 51:18 52:13,17,19,22 53:6 54:9,10,11,14,17 55:23,24 58:14 60:20 60:22 63:12,16 64:22 68:13,17,20 72:6,8 73:24,25 74:2,4,5,25 75:11 76:25 77:24 78:6 80:7,11 85:19 87:9,10 87:16 89:21 91:4,8,11 91:12,15,16,23,25 92:1	92:1,17,23 93:8 94:12 94:17,22,24 95:3,6,18 95:21 96:9 102:18,24 103:22 104:2,8,10,10 104:14 105:1,10 106:19 111:19,25 112:5 113:3 113:6,20,21 116:15 118:14 122:2,6,16 124:6 126:4 141:19 proposal 148:23 proposed 3:20 5:21 91:8 144:14 149:11 150:10 152:13 154:25 160:18 161:5 proposing 112:18 125:5 prospective 23:4 36:21 52:24 91:20 protect 99:12 protected 100:3 prove 102:4 provide 18:7 47:13 53:10 65:17 106:24 107:15 112:9 provided 4:21 5:3,10 21:17 96:8 provides 62:6 providing 51:18,19 104:1 provoke 112:1 proximity 61:1 public 3:9,13,21 4:5,6 15:2,6,11,14 16:25 18:6 22:14 23:4 28:4 44:25 44:25 45:21 53:23 58:1 66:9 71:24 72:5 77:2 84:14,16 85:1,2,14 99:16,21 100:15 101:6 101:7 115:1,6 119:1 124:18,22 125:16,19 128:8,16 129:9,12,16 129:19 131:6,13,17 136:17 137:9 138:5,11 140:1 141:11 144:3 146:1,10,21 148:3,7 151:18 162:3,14 publication 18:16 public's 41:10 105:14
--	---	--	--

publish 104:4
published 135:16
pull 31:15 40:13 42:17
 58:20,21 60:12 69:18
pulling 35:24 57:25
 58:17 59:1 144:12,16
pulls 37:13
purchased 46:1 50:5
purely 23:6,10 122:4,13
 138:11
purpose 126:14
purposely 94:24
purposes 21:7 26:14
pursuant 17:4 84:21
 146:19
push 94:22 142:15,17
pushed 133:2
pushing 153:1
put 49:6 64:8 67:7 88:4
 101:23 111:10 119:8
 121:2 124:9 132:3
 139:11 148:3 158:2
p.m 1:11 11:6 124:25,25
 139:1

Q

quaint 113:11
qualifications 19:25
qualified 21:5 108:23
 109:6
qualifies 42:9
question 11:3 13:5 14:2
 61:7 87:16 88:5 90:18
 91:5 97:14 105:25
 106:17,17,23 107:23
 108:1,11,21 115:20
 116:13 120:21 121:14
 121:16,24,24 123:16,21
 140:9 147:19 149:17,24
 151:24 153:8
questions 8:12,13,23,25
 13:13 14:16 85:10
 86:12,17 89:22 109:11
 112:1 115:24 128:5
quick 115:20 116:13
quickly 161:10
quiet 136:18

quite 70:19,20

R

R 2:2 9:8,8 19:16,16
 162:1
radar 105:17,17
railroad 17:11 37:2
 42:11 52:16 57:24
 80:18 85:6 126:5,7
raise 50:20
raised 127:19 146:1
raising 15:9
Ranch 89:23 141:24
Ranchero 33:9 34:21
 86:24 89:5 141:25
range 37:19 39:6
ratio 31:23 32:4,8,23,24
 33:2 34:23 35:4,13,15
 43:1 59:15 64:19 72:17
 87:8
ration 49:23
ratios 35:7
reach 93:20 155:21
read 6:20 81:14 84:12,12
 84:14 99:17 101:16
 110:21 115:1,2,3
 136:25 137:2 141:9,11
 143:19,19 144:11,13,14
 144:15,17 151:16
reading 125:5 134:22
 144:12
ready 16:5
reaffirm 114:5
real 27:24 101:5
reality 107:8 139:22
 141:3
realize 58:24
really 14:19 44:6 66:21
 71:18 74:1 77:12 78:17
 86:16 121:15,24,24
 137:10 141:5 143:2
 157:7 159:14
rear 3:3,5 7:2 8:20 24:10
 57:21,23 58:5 68:1,5,12
 68:17,24 70:8,9,12
 71:19,21 75:11 76:1
 77:11 78:25 79:12
 80:19,20 126:4
reason 27:6 28:5 31:25
 33:24 38:25 50:12,20
 51:25 68:23 97:6
reasonable 48:8,17 52:9
 81:3
reasons 72:1 81:5 82:24
 156:18
recall 8:8 24:13,16
receive 18:22 19:1,8,12
 104:3
received 6:8 7:6 8:22
 13:10 16:3 18:15,23
 46:24 118:12 161:5
receptive 141:21
recognize 21:25
recognized 136:8
recommend 77:20 84:1,6
 93:24 94:1 125:16
 152:24 153:3,5 156:13
 156:13 159:5
recommendation 5:25
 83:24 90:23 93:14,16
 93:23 114:7 131:3
 132:2,3 138:25 148:22
 149:5,22,22,25 150:2
 152:4,14 156:15,17
 158:10
recommendations 135:6
 140:2 157:3
recommended 5:20
 56:17 97:6 106:8 125:6
 131:22 132:2 155:21
recommending 5:11
 16:25 84:17 135:3
 142:15 146:15,23 147:5
 149:10 160:17
reconfirm 118:2
reconfirmation 94:6
 104:2
reconfirmed 93:13 95:15
reconfirming 84:4 90:12
 94:3
record 7:9 9:9,10 19:18
 21:16 22:9,12 24:1
 32:21 33:14 56:19
 64:10 85:8 86:13,17

98:11,13 100:25 101:1
 105:24 114:22 115:1
 129:7 147:13
records 23:17,17 28:16
 29:21,21 30:18 31:18
 35:20,22 45:17
recycling 57:16
red 33:23
redesign 120:5
redevelop 38:11,17
 39:18 49:3 95:19,22
 96:9 105:7 117:7,10
redeveloped 38:8 50:5
 51:8,22 54:6,11,14
 55:11,23 96:25 106:9
 110:6,9 122:6 124:6
redeveloper 117:7,10,17
 119:21 148:24
redeveloping 113:21
 118:15 119:22
redevelopment 1:21 2:7
 3:10,20 4:8,10 5:9 17:4
 17:5,14 20:20 23:7,8,9
 23:13,15,22 25:7,17
 26:19,19 29:8 32:16
 36:12 37:4,5,22 38:3,4
 38:5 44:18,24 45:6
 51:10 52:13,24 53:1,5,7
 53:10 54:13,15,18,19
 54:25 55:5,12 58:8
 60:21,23 63:4 64:23
 65:8 66:1,5,25 76:14
 77:21,25 78:8,19 81:7
 81:11 82:5,7,14,19
 83:20,22 84:2,3,7,20,21
 90:5,11,14 91:8,13,19
 92:15,20,23 93:5,11
 94:1,4,13,17,20,23,25
 95:8,9 96:4 104:12
 106:3,14 107:5,13
 110:10 113:18 114:6
 116:9,14,19 118:4,5,10
 120:23 121:7 122:12
 123:10,23,24,25 125:7
 125:14,18 134:3 139:24
 146:18,19,25 147:1,6
 148:14 150:15

reduce 37:21 156:24
reduced 40:2
reducing 157:7
reduction 127:3,8,11
reference 45:15
referenced 55:20
referral 138:4,6,14 153:4
 154:1
referred 60:4 90:6
 138:24
referring 103:5
refinished 89:5
reflected 24:4
regard 29:22 31:17
 34:11 46:12 48:19 50:7
 52:11 54:7 57:5 70:6
 80:17 88:16 89:3,4
 92:5,7 125:14 126:25
 134:20 150:8
regarding 22:8
registered 18:18
regular 6:2
regularly 19:10 135:24
regulation 126:13
regulations 23:9 37:24
 127:13 150:19
rehab 37:25 121:5
rehabilitation 41:19
reintroduce 127:23
reject 149:21
rejection 153:4
rejects 152:13
relate 22:5
related 72:12 83:10
relating 5:1
relaxed 39:25,25
relevant 108:8
relied 26:7,9 27:1 29:10
 29:12
relocated 105:7
rely 26:11,15,24 29:13
 43:23
remain 4:24 25:2 104:12
remainder 33:3 34:13
 159:22
remained 25:1 26:20
remember 17:8 84:3

126:3
remind 84:24
renovations 39:9 41:19
rentable 157:1
rented 56:3,7
reopening 90:21
repeat 31:19
repeated 38:24 74:24
rephrase 92:22
replace 8:7
report 5:11 22:2 25:13
 25:13 26:9 28:7 31:6,8
 38:24 41:1,18 43:6
 44:14 45:18 57:1 58:12
 63:6 67:14 80:25 88:5
Reporter 1:25 162:4
reports 36:14 43:20 54:4
 74:23 106:2
representatives 116:4,5
request 101:15 102:6
 134:6
requested 49:8 99:17
 125:11
require 5:17
required 5:4 8:7 12:5
 23:21 29:7 30:14 38:14
 104:5 131:14
requirement 5:16 109:1
 127:8
requirements 8:10 118:8
 118:9 127:1
requires 30:10 50:14
 150:15
requiring 5:14 127:5
 151:5,16
research 46:17
reserve 101:11
residence 3:3 7:1 41:16
 45:22 47:24
resident 42:10 109:16
 110:19
residential 51:17 61:21
 62:9,11 73:23 112:8
 118:17 140:23
residents 109:24 111:21
 144:19
resistance 156:4

resolution 6:25 7:5,21
 8:15,18,23 9:2 15:21,24
 94:3 132:4 148:2
 156:16
RESOLUTIONS 3:2
respect 18:25 19:5,13
 21:12 30:2 35:19 41:8
 64:13 71:10 77:24
 80:11 81:10 88:7,19
 93:23 104:7,14 114:14
 117:5,8 118:11
respected 136:8
respectfully 114:13
response 114:12
responses 6:12
rest 35:7 36:9 48:12 79:5
 121:12
restaurant 33:9 46:8
 47:24 49:22 50:16,17
 51:7 70:18 75:14,17
 86:24 87:1 88:1 89:5,8
 89:11,14 95:25 142:1,3
restaurants 51:21 71:8
restudy 91:2,5
result 24:21 73:18 96:3
 119:17 160:6
resulted 83:12
resulting 28:2
retail 61:22 62:11 69:10
 109:23
retain 5:17
retained 99:10
return 44:10 99:18
 101:18
returned 99:18
reveal 46:17
review 5:8,19 125:23
 127:10 134:8 139:21,23
 148:13
reviewed 5:20 14:18
 23:16,17,18,19 36:11
 139:20
reviewing 4:13 5:12 63:6
revised 161:3
rid 142:17
right 6:4 7:11 8:8 10:11
 11:24 13:2 16:2 26:23

44:23 46:23 48:21
 49:21 58:3 61:16 65:24
 66:9 67:8 70:5,24
 75:12 77:20 80:3,18
 83:14,14 90:21 99:7
 100:10 101:11,24 104:6
 117:4 119:16 120:2
 121:25 124:1,7,10
 128:3 131:19 137:4
 139:6 142:11,19,19
 146:2 152:10 153:1,6
 157:9,22
rights 99:12 100:3 101:9
 101:25
right-hand 33:22 34:7
 34:17
rise 83:19
risk 121:6
River 107:25
road 3:7 5:16 9:6,13
 17:10 34:22 35:23 38:1
 45:2 49:5 52:21,23
 58:18 65:13 66:13,22
 69:20 70:3 72:23 78:5
 82:21 85:5 88:8 89:21
 111:16 119:18 120:6,21
 126:8,12,16 132:13,15
 132:16 133:3,14,19
 145:8 148:16 149:15
 158:20
Robert 1:16 3:16 107:24
Rockland 97:18,21 98:3
 98:15,20
roll 8:14 15:15,16 147:17
 147:25 160:16,19
roof 41:22,22,23,24
 158:11,12
room 16:18 41:25 85:7
 99:7,10 122:24 141:14
 159:24
Rosella 3:15 102:17
 103:20
Rosella's 103:5,22
run 66:13 70:19 100:11
run-down 111:14
rushed 113:23
rusted 77:7

S			
s 2:2 9:8 32:21	69:23 70:16 72:19	69:4 71:2,4 72:12,24	seven 151:9 153:23
Sabino 3:4 8:19	73:16 76:11 84:11	75:6,23 76:21,22,23	154:5,21 156:6,19,21
sad 141:12,22 142:2	85:22,25 89:18 97:13	77:10 78:8,20 79:11	156:21 159:5,22
Saddle 107:25	102:13 103:16 105:20	86:4,25 87:4 88:25	seven-foot 159:10
safe 28:12 60:17	109:11 113:15 114:18	105:8,10 122:20 126:12	severe 72:25
safety 27:14 28:5 39:13	114:23 115:5,10 118:25	127:24 137:19,23	severely 50:13 53:25
59:4,5 60:3 68:9 72:6	120:18 124:17,21 125:2	141:23 143:11 150:17	Shade 8:4,10
72:25 81:25 82:22	125:25 126:14,22 128:4	153:10 159:9,12,12	shape 12:10
sanitary 27:9	128:12 129:4,12,18	seeing 15:9 18:16 102:15	share 19:3 44:3
Santangelo 3:19 120:19	130:21 131:8,21 132:1	128:15 141:2 154:18	shared 65:20 127:2,10
120:20 121:1,9,10,13	132:14 133:19,24	159:6	shed 68:18,20,22
122:21 123:3,11,15	134:24 135:2,15,21	seek 39:10 101:21	sheds 68:14,15
124:1,10,14	136:6,16,25 137:3	seeking 127:7	she'll 112:17
sat 47:17	140:8,13,17 143:13,22	seen 46:20 47:1,13 62:19	shift 70:13,15
satisfied 123:5	143:25 144:23 145:1,5	140:24 143:3,4,15	shifted 161:6
satisfies 80:6	145:9,15 146:9,12	sell 102:24 113:5	shopping 9:23 15:7
Saturday 143:8	147:4,12,15 148:1,11	selling 50:2 94:16	ShopRite 3:7 9:23 15:7
savvy 144:10,21	148:20 149:3,8,14	semblance 113:10	short 16:22 145:16,19,20
saw 101:3 125:16,21,22	151:5,12,22 152:6,21	send 127:24 161:14	show 21:24 26:9 34:20
126:6 134:14 136:6	154:22 155:8,16 158:6	sending 91:2	60:22 102:5 155:1,17
140:21 143:14	159:17 160:1,15,23	Senior 1:9	158:7,20
saying 38:9 66:23 95:23	161:4,21	sense 85:24,25 86:2	showed 75:9
106:19 133:1,11,21	screen 105:17,18	91:18 103:1	shown 35:4
141:13 152:1 153:12	screened 7:19	sent 161:13	shows 96:6
154:8,9	script 136:25 137:2	sentence 61:8 79:23	side 7:11,17,18 12:22
says 27:5,20 37:1 79:23	seats 50:16,18	separate 70:6	20:12 33:22 34:7,16,17
99:20 132:25 151:5	second 25:21 27:5 29:19	serious 101:5	58:4 65:7 68:18 88:13
154:2	49:2 126:25 134:19,22	service 53:7 64:20	sided 69:24
Scala 3:23 145:7,7,11,18	141:11 147:13 148:11	serving 28:4	sidewalk 49:8 58:23
145:22 146:3,6	153:7	session 144:3	65:15,21 77:2
scape 39:11	seconded 6:15,23 8:16	set 25:17 53:4 69:3	sidewalks 71:22
scenario 152:22	9:3 14:23 15:4,12	112:14 123:25 126:7,13	siding 41:21 62:19
scheduled 19:10 135:24	85:15 124:19 128:11	126:16 132:9 133:9	sign 3:7 10:13 11:6,15,18
scheme 105:13	146:11 147:14 149:7	154:16 159:21,22 162:8	11:21 12:7,15,21 13:15
School 1:9	160:14 161:20	setback 3:3,5 5:14 7:2	101:17
Schwinder 1:13 4:1 6:16	secretary 1:22 6:18	8:20 37:21 40:2 88:13	signage 12:10 50:3
6:21,24 7:17,22 8:1,11	22:22 112:20,20	125:15 126:9,23 128:9	signed 113:14
8:17 9:4,16 13:4,9,18	section 11:11 12:6,12	128:21,24 129:1 130:1	significantly 46:11 50:18
14:8,11,15,24 15:5,13	31:16,16 34:12 66:2	130:1,5,15 133:11	silence 6:4
15:17,19 16:2,14,18	100:1 102:19 103:6	134:5 137:11 138:16	similar 25:1,2 35:8,14
18:1,4 20:7,11 22:16,24	145:13,23	140:24,25 142:6,8	49:16 62:7 67:24 72:13
30:25 32:3 33:4,7 37:8	sections 31:20 34:14	143:1,12,12 145:10	74:12 104:4
38:9 43:7 47:21 54:22	see 28:7,16 32:23 41:3,5	148:15,21 149:13	similarly 45:10 56:22
55:22 56:2,6,9 61:24	41:16 42:1,4 46:4	150:22 151:6,17 152:1	67:15
62:2 67:4 69:9,12,15,17	49:24 52:17,19 55:3	152:15,18 153:5,10,11	simple 32:7 105:2 108:11
	57:7 58:2 62:15,23	154:3 155:21 157:2,19	simply 101:20 149:22
	63:9 66:21 68:13,17	159:5	single-family 73:23

104:23	south 52:14,21 70:3 120:11	138:3	storefronts 39:7,8 112:7
singularly 82:8	southbound 88:8,20 89:1	standards 25:5,10 32:1 38:18 76:25 82:16 84:5 92:6,7,9,11 114:7,10	stores 79:2
sir 97:15 98:10 99:25 114:17,22 124:16 130:1 132:15 140:17	southern 67:22	standing 15:9 57:17 141:3	stories 51:14 96:1 131:4 132:24
sit 136:4,18	space 26:5 50:14	stands 105:15	story 68:5 126:10,15 134:9 139:8 159:9
site 23:18 32:13,14,18,19 41:2 42:11 43:4 44:11 46:18,24 47:11 50:6,7,8 50:19,21,24 51:9 52:20 53:23 54:1,2 55:1,1,4,9 55:10 57:3,6,6,14 58:11 58:11,17 59:12 60:8 62:9 64:17 68:4 70:7 70:19 71:5 73:3,10 74:20,21,21 75:3,14,18 75:22,24 76:2,13,24 77:8,12,16,20 78:17,24 79:3,6,16 82:9,23 88:4 88:6 92:4 106:14 127:14 150:17	spaces 50:12,15,19 62:10 69:1,13,17	stark 141:2	straight 65:7
sites 29:23 59:5 72:15 81:20 82:1 86:23	spaces 50:12,15,19 62:10 69:1,13,17	start 16:4 41:12 94:9 104:25	street 1:10 7:12 39:11 97:24 98:21 102:17 110:19 116:1 119:7 120:14,14 126:17 153:2
sits 55:15	speak 73:16 85:2,11,18 85:24 91:17 115:11 145:12	started 31:13,14 35:21 36:19 60:25 65:14 66:15 90:22 113:24 114:3 116:10 144:15	streets 148:4,7 149:16 151:18
sitting 77:6	Speaker 3:22 108:24 115:7,8,15 119:2 128:17,23 129:2,8,15 129:20,23 130:2,9,13 130:18,24 131:5,9,16 131:24 132:11,17 133:4 133:10,16,20 134:11 135:1,7,18 136:3,13,21 137:5,12,17 139:11,18 140:10	starting 26:1 27:3 30:9 36:24 68:6	streetscape 120:8
situation 71:3 129:3	speakers 20:9 85:9	starts 30:13	strictly 30:1
six 154:20	speaking 25:14 116:6 129:16 140:19,20	state 7:7 9:11 19:19 20:5 20:15 21:7 42:6 85:7 86:14 89:19 97:15 99:8 99:22 100:23 108:1 116:5 129:6 143:17 145:6 148:17 153:19	stricture 63:2
size 12:11,13 59:10 79:9 81:20,21 91:23 111:14 156:24 157:7	special 14:5 80:10 110:24	stated 101:4,5 148:16	strip 65:11
sleep 122:20,21	specialist 148:23	statement 97:14 102:14	striped 70:12
slightly 36:7,10 62:12 75:21	species 8:7	states 10:4 93:7 100:4	striping 47:5
small 9:21 42:13 61:22 75:18 111:14 113:10 153:22	specific 4:23 70:13 76:12 80:7	stating 100:10	strong 111:20
smart 28:24 29:6 59:23	specifically 5:13 10:13 27:20 32:25 45:9 67:14 86:23 119:11 126:20 148:14	station 29:1,9 37:2 52:14 59:23 61:1 63:17 67:23 75:13 77:3 78:5,20 80:15	structure 7:14,19 41:18 42:6 53:24 57:2 61:19 61:20,21 62:8 75:16 76:23 150:7
smile 141:22	spent 90:3	statutory 4:7 17:3 84:19 146:17	structures 7:13 69:8
soften 141:1	spoke 29:15 88:5 136:7	stay 18:20,22	studied 95:11 122:3,18
solely 39:21	spoken 92:22 93:2	stayed 136:23	studies 20:21 128:10
somebody 116:8 130:19 142:15 151:25	spots 91:24	stenographically 162:6	studio 9:20,21 156:25,25
somewhat 158:12	square 156:24,25 157:13 157:23	step 9:7 86:6,11 129:4	studios 157:15,22
soon 56:13,15	stacked 74:20	stepping 120:2	study 18:10 21:11 22:8 23:12 25:18 26:21 27:12,16,19 28:25 30:19,21,23 31:19,22 32:22 33:20,22 34:8,11 34:14 35:13,16,25 36:3 40:8 59:15 82:25 83:1 83:7 87:9 90:25 96:6 118:1 134:7 160:24
sorry 73:17 93:1 99:3 132:14,15 142:7,11 146:4 147:23	stagnant 28:2 47:16	STEVE 1:17	stuff 16:5 142:3
	stakeholders 100:11,19	stomps 142:22	stumble 110:22
	stand 102:1	stops 63:18	subject 12:12 26:8 46:18 49:25 58:13 121:20 129:19
	standard 10:17 43:2 46:10 59:13 63:25 72:18 79:14 83:4,6,8 87:12,15,18 90:13	storage 42:1 57:7 68:14 68:15,16,18,20 69:8 75:17 79:11	subjects 100:2
		store 47:23 57:3 69:10 95:24	submit 98:25
		stored 57:11	subsequent 18:23
			subsequently 54:8,14

substandard 26:2 41:20
substantial 49:6 57:5,19
 121:2
substantially 64:22
 119:21
substantive 127:22
successful 112:25
SUDANO 1:14 155:20
 157:11
sudden 75:8 130:11
suffice 98:10,17
suggest 23:8 32:1 85:16
 158:16,20
suggested 141:2
suggesting 22:20 157:9
 159:20
suggestion 159:16
suggestions 158:22,23
suggests 46:24
Suite 2:6 19:22
summarized 36:13
summary 18:8
superimposed 13:11
supplement 86:17
support 37:23
supposed 61:10 140:1
 144:5
sure 11:4 14:3 20:1
 22:23 25:12 28:20 30:7
 32:6 34:7 43:14 44:21
 45:21 52:8 53:22,22
 58:9 60:25 63:9,10
 64:14,16 67:20 69:5
 71:12 74:11 79:3 86:3
 86:19 90:17 97:9
 100:15 101:20 102:3
 103:18 117:17 121:19
 125:12 144:7 145:12
 150:9 154:10 155:6
 158:4,17
surface 7:10
surrounded 28:25
 111:14
surrounding 42:18 50:25
 51:2 81:16
survive 8:5,6
sworn 9:8 19:15,17

synopsis 11:1
system 39:11

T

T 19:16,16,16 162:1,1
table 14:25,25 20:13
 30:4
take 20:25 47:18 70:1,25
 93:1 95:18,21 101:9,12
 104:7 105:11 109:12
 120:23 123:9 124:8
 135:6 144:2 156:14
 160:2
taken 18:25 34:19 41:1
 54:9 56:12 57:14 75:11
 75:12 96:5 104:9
 123:23 124:6 155:19
 162:6
take-out 70:18
talk 25:23 30:22 60:3
 92:18
talked 86:20,23 87:7
 132:11 153:20,21
 157:20,24
talking 30:16 32:5 42:23
 56:19 60:4 72:20
 116:25 117:1,2 119:11
 128:25 130:11 136:22
talks 28:23 38:1
tall 143:11
tantrum 142:23
tax 18:18 23:17,19 28:16
 30:18 31:18 32:21
 34:23 45:17 48:22
 100:11 112:11 116:8,16
taxes 87:8 93:5
taxpayers 96:13 99:10
 100:7,10 101:9,13,25
Team 100:8 101:23
Teaneck 2:6
television 101:2
tell 16:3 78:23 104:9
 119:13 122:4 138:14
 140:13 155:24
telling 108:15 139:16
temper 142:23
temporary 69:8 75:16

ten 20:24 26:21 31:22
 32:23 73:6 115:23
 153:24 154:6,21
tenants 94:15,15 96:20
ten-foot 153:10
term 91:20,21 92:20
termination 74:22
terms 32:7
Terrace 107:25
terrible 83:13
tertiary 149:16
test 140:5
testified 95:17 130:4
testify 48:15 122:8
testifying 116:24 130:15
testimony 5:1 19:2 70:17
 86:21 97:1 104:1
 113:17 118:13,20
 121:20 146:20
thank 6:1 7:22 13:8,22
 15:18 16:16 17:17,18
 18:4 21:8,9 22:24
 31:12 44:12 45:8 48:11
 48:14 64:12 86:8 89:16
 89:17 90:2 91:6 97:12
 102:2,7,12 107:22
 109:3 110:16,17,24
 113:12 114:25 120:17
 120:18 124:15,16
 137:16 139:18 140:17
 143:17 145:1 146:8
 147:13,21 148:9,20
 160:9 161:22
Thanks 145:3
theory 74:3
thickness 11:19
thing 12:12 17:19 21:1
 22:20 35:3 53:4 58:16
 69:2 83:13 119:25
 129:9,11 133:2 136:14
 146:13 154:22
things 23:1 36:22 54:21
 118:21 127:12,13
 142:18,23,24 146:12
 151:14 158:15
think 12:2 14:2 27:2,15
 36:19,21 37:11 39:1

42:22 43:2,25 44:21
 45:4 53:9 55:11 56:1
 56:11 57:14 60:14 61:1
 62:12 71:24 72:8,10
 73:14,22 76:17 79:19
 80:15,22 83:1,20 84:5
 86:1 102:18 120:2
 121:8 123:1 127:13
 129:10 133:1,6 135:13
 136:23 137:10 138:9,15
 143:4 144:19 151:14,22
 154:12 155:8,13,16
 156:5,6,7 157:18 160:1
 160:11
thinking 72:22 94:16
 116:10
thinks 153:3
third 113:1 133:15,17
 153:7 161:7
THOMAS 1:14
thought 23:3 31:15 42:5
 88:18 91:3 112:1
 144:11,16 157:19
threading 62:4
threat 94:13,25
three 13:2 24:15,19
 39:10 41:3 49:12,24
 50:14,15 51:14 55:25
 56:1,2 63:16 67:2,21
 69:11,15 96:1 99:7
 104:21 111:11 130:10
 131:10 133:8 158:1
 159:11
thrive 70:17 96:14 97:10
 97:11
thriving 96:20 114:9
throw 160:5
throwing 157:12,14
throws 142:23
Thursday 1:8 4:2 161:7
ties 111:20
Tim 3:18 119:3
time 5:6 6:9 15:23 16:19
 16:22 19:4,15 37:11
 44:6,10 50:21 51:4
 53:8 67:5 70:19 85:9
 89:14 90:3,16 93:13

<p>94:4,95:16,23 96:25 102:2 103:25 105:6,14 113:12,24 115:3,7 119:5 123:6 125:22,23 146:22 152:3 159:2 162:7 times 20:23 23:25 24:13 42:12 50:23 99:23 106:1 143:5 tire 46:21 title 27:24 100:1 today 24:19,21 25:2 28:9 28:15 39:16 61:24 62:1 109:18 124:8 127:20 today's 22:11 84:5 token 122:19 told 98:19 129:12 137:13 tolerated 100:25 tomorrow 22:20 118:14 tonight 5:2,12,19 7:3 14:20 17:8,12,20 18:15 18:20 22:17 27:9 34:18 44:9 85:4,21 86:10 97:8 105:16 106:11 112:3 113:17 114:2 115:11 122:8,20 132:5 134:1,4 136:9 139:17 142:14 143:18 144:3 147:16 158:7 160:4,7 tonight's 4:4,5,15 6:2 121:20 155:6 tools 106:25 top 153:1 157:22 topic 85:3,3 141:15 145:9 torn 45:25 totalling 6:20 totally 142:19 towering 126:17,19 town 10:25 36:6,8 52:15 57:25 87:13,19 93:18 97:24 98:23 99:17,20 100:11,20 101:12 111:3 111:18 113:11 114:11 114:11 116:11 119:6,24 120:1 121:4 123:4,7,9,9 134:6,7</p>	<p>towns 43:22 Township 112:12 Township's 113:7 tracks 17:11 46:21 52:16 57:24 85:6 126:5,7 Trader 141:3 traffic 70:2 88:8 111:16 119:8 127:2,7,10 128:10 134:7 142:9 148:22,24 160:24 trailer 43:12 57:13 train 29:1,9 52:14 59:22 61:1 63:17,18 67:23 75:13 77:3 78:4,20 80:15 transcript 1:4 162:5 translate 50:15 translates 36:2 50:24 transportation 58:1 120:7 traveling 70:3 travelled 36:6 tree 7:25 8:2,3,3,4,5,7,10 tried 70:8 144:3 tries 160:8 trim 8:2 Trina 1:24 162:3,13 troubling 109:20 truck 68:19,22 trucks 42:13,17 true 39:16 133:14 138:1 146:3 162:5 truly 43:15 111:6 trust 49:15 122:22 try 16:21 40:2 49:6 54:13 72:7 155:14 trying 48:15 61:5 70:10 70:21 79:6 120:16 123:13,16 144:25 Tuesday 141:8 turn 17:16 45:8 65:4 67:6 Turning 56:21 61:12 twelve 32:24 twice 55:25 two 5:12 26:25 31:24 32:8,10 34:24 35:14</p>	<p>38:7 39:8 49:3,11,24 52:12,25 56:5,6 69:15 70:5 74:11 78:3 79:13 81:13 87:8 95:25 104:20 111:11 112:25 115:23 125:6,21 127:12 127:12 128:13 132:7,8 134:2,21 135:4 136:25 139:21 142:18 146:12 150:7 two-family 42:20 two-hour 42:21 two-minute 115:19 two-story 41:16 62:8 150:7 type 9:18 37:13 100:24 111:24 typical 61:9,11 79:25 80:1 typically 107:1 typo 61:9 T's 117:16</p> <hr/> <p style="text-align: center;">U</p> <p>ultimate 150:3 unanimous 138:1 Unchanneled 82:22 uncontrolled 68:8 undefined 58:22 72:3,3 77:9 undersized 57:3 76:3 78:17 understand 23:5 30:4 44:9 90:17 104:18 106:19 121:18 142:20 144:9 152:8,9 156:20 160:10 understanding 10:3 154:19 understands 32:4 understood 144:7 undertaking 28:1 underutilization 47:15 63:23 83:18 underutilized 46:12 unfair 107:23 unfortunately 50:6 51:8</p>	<p>71:4 78:24 113:16 unheard 111:21 Unidentified 3:22 20:9 108:24 115:7,8,15 119:2 128:17,23 129:2 129:8,15,20,23 130:2,9 130:13,18,24 131:5,9 131:16,24 132:11,17 133:4,10,16,20 134:11 135:1,7,18 136:3,13,21 137:5,12,17 139:11,18 140:10 unfiled 39:10 unimproved 26:20 Union 116:1 unit 3:7 9:6,13 156:24 157:8 United 100:4 units 7:15 61:21 62:9,11 157:21 159:21 unmarketable 157:10 unproductive 91:14,15 91:18,20 92:19 unsafe 26:2 41:20 59:3 unsanitary 26:3 unwholesome 26:5 upgrade 36:24 uphold 39:5 upper 58:4 75:11 upward 50:17 urge 43:23 93:20 160:12 usable 157:25 158:5 USC 100:1 use 1:1 4:3 5:7,10 17:18 17:20 19:9,10 20:18 21:18,19 22:3,21 23:6 25:9 26:12 27:11 28:11 30:4 37:4,24 43:17 44:3,8 47:3,18 49:19 51:6,14,15 56:12,16 59:25 61:20 64:9 73:4 77:13,18 83:24 88:24 93:15,15,22 95:14 96:1 97:7,8 104:6,16 118:17 122:7,7 124:4 127:6 128:14 134:20 138:2,10 138:24 140:6 150:9</p>
--	--	--	--

152:13 156:15,21 157:3 159:3 useful 28:3 uses 34:15 40:1,1 usually 107:1 utilization 27:21 29:20 34:25 35:19 42:24 51:17 59:12 64:2 77:17 77:18 79:17 83:13 88:23 utilization.6.5 79:13 utilized 25:24 27:4 28:20 32:2,20 45:3 46:8 47:24 48:1 49:24 66:4 66:24 72:16 79:8 91:17 91:18,21,22,25 92:2 113:1 utilizing 32:11 64:20	143:17 viewing 77:3 violated 101:25 violation 101:6,8 violations 45:25 50:1 54:7 58:14 68:10 74:24 visible 126:16 158:13 vision 23:9 29:5 46:15 visit 24:17,21 visits 24:20 visual 52:22 53:6 88:6,16 voice 136:8 155:2 voices 111:21 volunteer 64:18 vote 8:14,14 15:14 44:1 94:7 131:21 135:5 138:1,8 147:19,21 150:11 153:9,11,19 154:8,11,14,23 155:6 155:11,12,17 158:7 160:4,16 voted 117:9 141:9 144:18 votes 151:25 voting 144:12,16 156:10 vouchers 6:17,19,20,22 6:24	82:12 95:20 96:14 97:9 104:20 107:1 109:17 111:2 113:4 121:19 122:18,19 123:12 124:10 129:2 136:3 141:4 152:2,24,25 153:19 154:1,13,15 155:5,13 156:6,9,21 158:3 161:1 wanted 126:9 127:3,5,21 144:7 145:18 wants 74:5 82:13,18 137:25 138:22 150:9 Warner 9:12,12,18 16:16 warning 100:23 washing 111:18 wasn't 14:8 47:24 137:5 140:19 141:10,13 144:17 145:16 water 42:2 74:22 76:19 watered 71:16 way 18:23 26:23 41:11 41:17 44:23 48:21 51:8 53:3,3 54:19 56:18 61:15 65:18,24 66:9,13 68:23 69:3 75:10 80:18 82:3 96:24 104:5 111:22 116:7 120:14 123:6 133:21,22 135:11 141:19 142:23 151:15 153:17 154:23 158:19 ways 28:12 weeds 50:4 62:15 week 125:20 134:15,23 161:11 weight 98:25 welcome 4:2 9:10 15:19 16:14 18:11,20 38:20 85:2 welfare 27:15 28:5 went 30:17 47:20 73:5 81:19 86:22 101:2 130:10 140:21 143:7 West 2:5 western 65:7 Westfield 140:21,23	Westwood 120:9 wet 144:22 we'll 10:10 11:25 109:12 134:22 we're 10:19 13:23 14:20 15:5 16:23 17:20 18:14 27:8,12 34:2,17 64:8 67:5 74:11 84:4,15 90:12 93:19 96:15 97:8 98:12 100:9,9,12,14 101:19 102:1 103:5 104:5,6 105:4,4,16 117:17 119:18 123:13 123:19 124:13 128:25 130:11 131:11 135:2,3 149:10 157:1 160:4 161:14 we've 39:18 101:24 113:17 117:16 134:2,9 146:13 whatnot 32:15 34:16 38:2 57:18 125:15 white 14:14,15 77:5 111:18 who've 107:19 wide 60:15 65:14 74:19 wider 65:21 wiggle 159:24 willfully 100:2 willing 5:24 window 58:1 74:4,5 windows 42:2 62:20,21 62:24 74:3 wise 15:22 wish 85:11 140:10 wit 59:21 withstanding 44:15 WITNESS 3:11 13:8 wonderful 22:21 51:7 words 85:20 94:24 108:14 work 16:21 22:21 66:3 105:11 108:1 111:1 116:2 133:11 140:1 worked 107:4 working 26:6 51:9 119:8 works 32:19 41:11 55:8
V vacancies 96:16 vacant 26:15,20 46:9 61:23 96:19 110:8 validity 108:21 valuable 28:4 value 29:17,18 31:23,24 32:6 35:5,5 46:10 59:12 63:24 72:17 77:16 Vanderkneigel 3:14 97:17,18,21,25 98:3,6,9 98:14,16,19,22 99:3,6 109:10 114:16,21 variance 3:7 150:17 variances 76:9 vehicle 43:8 55:6 72:20 72:21 81:24 vehicles 50:3 60:12 82:22 vehicular 54:22 ventilation 27:9 verbally 155:10 versus 59:13 158:14 159:9 viable 28:13 29:3 51:6 70:20 89:11 view 34:19 79:20 143:17	W W 2:5 9:8 waiting 96:3 146:7 waiver 150:18 walk 23:15,23 25:9 44:11 45:13 49:18 58:22 60:13,16,17 67:18 143:9 walkable 60:5,9 walking 58:25 72:22 walks 141:21 walkways 50:8 wall 69:6 76:20 Wallace 110:20 113:14 walls 69:4 71:15 want 18:22 19:24 24:22 30:20 33:10,25 35:3 39:3 40:13 53:4 58:10 63:2,9 64:24 73:25		

105:5	\$100,000 32:7	115 3:18	153:22
worst 152:21	\$2.4 120:4	118 3:3 7:1 119:3	20th 93:18 138:19 139:1
worth 122:5	\$200,000 32:8	119 3:18	139:10 140:14 141:12
wouldn't 27:1 83:13	\$220,000 87:23	12 36:12 46:15 68:22	142:14 150:11 151:4
126:12,17,19 152:15	\$8,360.58 6:20	12/8/16 31:10 33:17	152:12
wrong 70:4 88:12 128:19	\$800,000 120:7	40:19 53:16 65:1	20-foot 153:10
136:10 142:16 146:5		120 3:19	2001 20:15
151:15	0	12270 58:12	2002 37:7
wrote 54:12 114:13	02 103:7	125 3:20	2003 28:9,14 37:16 38:23
W-A-R-N-E-R 16:11	04 124:2,7	12778 74:22	90:22
	045 46:10	128 3:22	2004 38:3 43:24 90:22
X	07630 1:10	13 28:14 36:25 37:25	95:5,10 96:7 117:23
X 1:7 3:1	07666 2:6	39:22 58:21 94:13 95:1	121:3
	08 124:2,7	131 1:10	2006 38:5 50:1 84:4
Y		138 50:16	2007 38:8,24 39:4 68:10
Yahoo 37:12	1	14 39:17,22 41:2 94:14	2008 38:15,22 84:4 95:11
yard 3:3,5 7:2 8:20 88:13	1 4:15 10:20 17:21 19:5	100:22	2010 50:4
Yeah 13:21 22:19 112:22	21:13,19,25 22:6 23:5	14th 24:18	2011 45:24
121:13	40:12 41:5,9,13 42:8	140 3:22	2015 68:10 87:23
year 20:24 38:2 70:23,23	44:22 48:20,22 49:12	145 3:23	2016 1:8 4:2 22:10
70:24,24 100:5	65:25 66:20 147:10	15 7:10 20:6,15 24:24	21 45:9,17
years 8:6 20:6,15 21:1	148:18	48:1 61:6 107:10	214 86:15 103:22
24:25 26:21 28:14	1,535 36:1	1535-16 125:5	22 45:17 46:3
36:16,17,23 37:25 46:9	1.23 59:13	154 109:14 140:18	220 50:17
46:15 47:17,23 48:1	1.5 72:17	16 3:9	23 3:4 8:19 49:20
56:17 61:6 73:7 75:5,8	1.9 17:9 114:5	17 114:4 133:18,19	230 50:17
75:10 77:7 83:16 88:2	10 4:16 17:22 19:6 21:14	18 40:8 100:1	232-2 11:11 12:6
88:3 94:14,18 95:2	22:6 24:24 31:9 61:6	188 89:21 145:7	232-3 12:12
96:3,19 97:3 104:21,22	67:21 68:25 78:13,15	19 3:12 40:11 115:15	24 12:13
105:3 107:10 112:14	80:7 83:4 147:11	19.1 7:9	241-242 100:1
114:4 119:7 121:17	148:19 150:25 151:11	198 110:20	27 57:1 58:15 64:19
year's 161:5	10th 6:7	1999 36:24 37:1 78:11	68:21
yesterday 61:25 99:13	10:30 136:19 144:4	114:3	28 57:9,10 58:3
100:21	10:52 124:25		29 57:1 61:8
York 97:22 98:1,4,16	10:54 124:25	2	29th 24:18
	102 3:15	2 4:15 17:21 19:5,22	
Z	103 3:15	21:13 22:6 41:5 45:10	3
zero 152:1 153:9,12	105 3:16	45:16 48:20,23 49:12	3 4:15 12:6 17:21 19:6
154:8	107 3:16	65:25 66:20 111:15,17	21:13 22:6 25:13 28:22
zero-foot 152:17	109 3:17	147:10 148:18	40:17 41:5 46:2 49:15
zone 7:14 57:4 109:19	11 11:6 16:19 33:1 41:12	2.0 43:1 46:11 59:13	65:25 66:20 147:10
110:3 116:3 123:7,9	84:25 102:17 114:24	63:24 72:18 83:4	148:18
zoning 23:20 33:23	115:12 144:6	2.1 35:13	3.02 103:6,23,24
39:23,25 51:11,23	11:15 144:5	2.11 59:16 83:8 87:13,19	30 50:19 61:12 101:16
118:16	11:30 16:23	2.2 36:2,3	300 111:15,17
	11:35 161:22	2.48 33:2 87:17	31 2:6 62:6
69	110 3:17	20 41:18 43:6 106:6	32 36:4,8 64:11 97:25

1

2

98:2 33 58:18 34 32:24 35:25 67:6,13 68:11 83:3 35 68:12,18 37 74:10,25 38 75:2,6	57 60:15 <hr/> 6 6 30:5 107:24 6th 125:2 6.01 4:16 17:21 19:6 21:13 22:6 53:19 55:20 56:22,24 90:1 147:10 148:19 6.02 4:16 17:22 19:6 21:14 22:6 53:19 61:13 61:17,19 147:11 148:19 61 105:25 648 19:22	93 115:25 97 3:14
<hr/> 4 4 4:15 17:21 19:6 21:13 22:6 30:9 33:3,6 34:21 41:6 46:2 49:15 86:16 147:10 148:19 40 50:19 78:22 104:22 419 4:15 17:21 18:14 19:5 21:13 22:5 27:20 30:21 31:2 33:1 34:1 34:12,18,19 35:24 37:14 40:12 41:4,9,13 45:7,10 49:15 52:11,20 53:12,13,21 55:19 56:19,21 61:13 64:7,13 65:8 67:22 74:10,18 78:2,13,15 80:7 81:1 83:5 85:20 86:16 90:1 95:7 102:19 117:1,3,5,8 117:8 118:8 119:22 120:22 121:9,10 122:25 123:14,18 147:8,8 148:18 437 3:7 9:5,13 45 93:8,9,13 94:5,8 452277 54:2 46 50:11,15 48 77:16	<hr/> 7 7 3:3 4:16 17:22 19:6 21:14 22:6 30:5 48:23 48:25 64:7,13 65:9 66:9,19,23 80:3 147:11 148:19 150:25 7:30 139:1 700 157:12 72 135:8 78 63:24	
<hr/> 5 5 3:7 9:6,13 17:21 19:6 21:13 22:6 30:14,17 53:12,13,19,21 56:19 109:19,21 110:3,5 147:10 148:19 5th 15:20 16:1,1 50 96:19 97:3 121:17 500 156:25 157:12,15,23 55 60:15 56 60:15	<hr/> 8 8 1:8 3:4 4:2,16 17:22 19:6 21:14 22:6,10 30:5 67:14,21 68:6,11 68:25 71:10,12 73:8 77:11 147:11 148:19 8:15 1:11 80 159:21 800 156:24 82 30:23 31:21 83:4 85 120:20 86 3:13 43:1 89 3:14	
	<hr/> 9 9 3:7 4:16 17:22 19:6 21:14 22:6 67:21 68:24 71:9 74:10 147:11 148:19 90 51:4 53:8 91 110:18	

EXHIBIT D

**RESOLUTION OF THE MUNICIPAL LAND USE BOARD
THE BOROUGH OF EMERSON**

In the matter of:

**RECOMMENDING TO THE MAYOR AND COUNCIL THE DESIGNATION OF
BLOCK 419, LOTS 1, 2, 3, 4, 5, 6.01, 6.02, 7, 8, 9, AND 10 AS A CONDEMNATION
REDEVELOPMENT AREA PURSUANT TO THE NEW JERSEY LOCAL
REDEVELOPMENT AND HOUSING LAW, N.J.S.A. 40A:12A-1 ET SEQ.**

WHEREAS, on August 16, 2016, the Mayor and Council of the Borough of Emerson (“Governing Body”) adopted Resolution No. 221-16 authorizing and directing the Land Use Board of the Borough of Emerson (“Board”) to conduct an investigation to determine and recommend whether a certain area located within the Central Business District, including Lots 1, 2, 3, 4 & 5 on Block 412; Lots 1, 2, 3, 4, 5, 6.01, 6.02, 7, 8, 9 & 10 on Block 419; Lots 2 & 16 on Block 420; Lots 1,10,11,12,13,14,15,16,17 &18 on Block 422; Lots 2, 3, 4, 5, & 6 on Block 603; Lots 3 & 4 on Block 606; Lots 1, 2, 4, 5.01, 5.02, 6, 7, 8, 9.01, 9.02, & 10 on Block 610; Lots 1 & 2 on Block 613; Lot 1 on Block 615; Lots 1, 16, 17, 19, 20, 21, 22, 23 & 24 on Block 616; and Lot 1 on 617.01 on the Official Tax Assessment Map of the Borough of Emerson (“Study Area”), meets the statutory criteria to qualify as a condemnation “area in need of redevelopment” (“Condemnation Redevelopment Area”) pursuant to the New Jersey Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1, et seq., (“LRHL”); and,

WHEREAS, pursuant to N.J.S.A. 40A:12A-4(b), a municipal planning board has the power to conduct, when authorized and directed by the Governing Body, a preliminary investigation, hearings and make recommendations to the Governing Body as to whether an area meets the statutory criteria as a Condemnation Redevelopment Area; and,

WHEREAS, in order to complete the investigation of the Study Area the Board retained Brigitte Bogart PP, AICP, CGW of Planning & Design Professionals, LLC (“Planner Bogart”), to serve as planning consultants and to prepare a report and assist the Board in the investigation and analysis of the LRHL statutory criteria as it pertains to the Study Area; and,

WHEREAS, Planner Bogart has prepared a map delineating the boundaries of the Study Area with a statement of basis for the investigation to be kept on file at the Borough Clerk’s office in accordance with N.J.S.A. 40A:12A-6; and,

WHEREAS, the Board’s Planner Bogart has recommended and the Board has determined to divide the Study Area into subsections and conduct an investigation of an area, specifically Block 419, Lots 1, 2, 3, 4, 5, 6.01, 6.02, 7, 8, 9, and 10 (“Subsection A”) in accordance with the guidelines set forth in N.J.S.A. 40A:12A-6 to determine whether the Study Area, specifically Subsection A, meets the statutory criteria to be designated as a Condemnation Redevelopment Area; and,

WHEREAS, a report was prepared by Planner Bogart, entitled “Determination of Area in Need of Redevelopment” dated December 8, 2016, providing an investigation of Subsection A and

a recommendation that it meets the criteria set forth under N.J.S.A. 40A:12A-5 to be deemed a Condemnation Redevelopment Area ("Report") identified as LUB-1, attached hereto and incorporated herein as Exhibit A; and,

WHEREAS, pursuant to the requirements set forth in N.J.S.A. 40A:12A-6, the Board caused proper notice of the hearing to be published once a week for two (2) consecutive weeks in *The Record* and caused a copy of the notice to be mailed, at least ten (10) days prior to the date set for the hearing, to the last owner of the property and persons in interest of the property within the Study Area according to the tax assessment records of the Borough of Emerson; and,

WHEREAS, the Board conducted a public hearing on Subsection A on December 8, 2016; and,

WHEREAS, the Board advised all of those in attendance that only the properties identified in Subsection A would be discussed during this hearing and that all other property owners and/or persons of interest within the Study Area would be noticed for a hearing regarding all the other properties; and,

WHEREAS, the Planner Bogart prepared Report was presented to the Board that set forth certain findings, recommendations, and conclusions with respect to the eligibility of Subsection A as an "area in need of redevelopment" in accordance with the provisions N.J.S.A. 40A:12A-5; and,

WHEREAS, Professional Planner Bogart was accepted as an expert and presented extensive testimony supporting and supplementing the aforesaid Report and addressing the statutory criteria set forth under N.J.S.A. 40A:12A-5; and,

WHEREAS, all persons present and affected by the potential designation were given an opportunity to be heard by the Board and any testimony and/or evidence presented was made part of the public record; and,

WHEREAS, the following individuals of the public were heard and their testimony was made part of the record:

- 1) Jim Jaworski, Esq. on behalf of 214 Kinderkamack, LLC, Block 419, Lot 4 located at 214 Kinderkamack Road.
- 2) Debbie Agnello, Block 419, Lot 6.01 located at 188 and 190 Kinderkamack Road.
- 3) Ernest Vanderkuegel from Congers, Rockland County, New York (not a subject property owner or person in interest for this hearing).
- 4) Rosella and Eduardo Cordero, stated 11 Chestnut Street (Block 405, Lot 4 on the Borough tax record, but property owners stated Block 214, Lot 3.02 on the record at the hearing. Also, not a subject property owner or person in interest for this hearing).
- 5) Kenneth Hoffman, 61 Emwood Drive (not a subject property owner or person in interest for this hearing).
- 6) Robert Petrow, 6 Hawthorne Terrace, Saddle River (not a subject property owner or person in interest for this hearing).

7) Jill McGuire, 154 Linwood Ave. (not a subject property owner or person in interest for this hearing).

8) Ed Bueti, 61 Chestnut Street (not subject property owner or person in interest for this hearing). Mr. Bueti read an e-mail written by Alisha Wallace (not present) who owns 198 Lincoln Blvd. (not a subject property owner or person in interest for this hearing).

9) Danielle DiPaola, 93 Union Street (not a subject property owner or person in interest for this hearing)

10) Tim O'Brien, 118 Dyer Avenue (not a subject property owner or person in interest for this hearing).

11) Mark Santangelo, 85 Kinderkamack Road (not subject property owner or person in interest for this hearing).

WHEREAS, no written objections were received during the hearing; and,

WHEREAS, the Board of the Borough of Emerson makes the following factual findings and conclusions based on the Report and testimony of Bogart:

1. The preliminary investigation of Subsection A of the Study Area indicates that the proposed redevelopment area meets the statutory criteria found in N.J.S.A. 40A:12A-5 of the L.R.H.L.;

2. In general, the majority of Subsection A of the Study Area exhibits faulty arrangement that is characteristic of meeting Criteria "d". The faulty arrangement is due to the size and location of the buildings, lack of parking and improper circulation aisles. This creates a site with an inefficient layout with no opportunities to improve. Given the uses and building sizes on a number of lots, there is a need for outdoor storage and display which is inappropriate and leads to further decay. Furthermore, the lack of a curbing along Kinderkamack Road creates safety issues with un-channeled vehicles exiting and entering the sites and/or backing out onto Kinderkamack Road;

3. The majority of Subsection A of the Study Area exhibits poor design and arrangement which are indicators that the area is not being properly utilized and exhibits economic underutilization. This is clear evidence that the area as a whole is underutilized in accordance with statutory criteria "e", as well as the broader land use and planning goals of the municipality;

4. Subsection A as a whole is not fully productive and developing in a manner that furthers or is consistent with the Borough's plan and the proximity to the train station which offers excellent opportunities for smart growth and transit-oriented development;

5. The proposed designation of Subsection A as a Condemnation Redevelopment Area would allow for the creation of a Redevelopment Plan for the area that can encourage creative design, require streetscape improvements, and permit uses that will be compatible with the area's proximity to the train station. These changes would be compatible to the vision of the Smart Growth principles of the New Jersey State Plan and the Borough's Master Plan, which goals have been on the books since 1999 and have

been re-examined frequently (i.e., 2003, 2004, 2006, 2008) since then with little or no progress.

6. Subsection A is suitable for improved utilization, employment and tax generating uses that could serve the health, safety and welfare of the community, including but not limited to allowing for the Borough to comply with its court mandated Council on Affordable Housing Obligation;

7. Many of the structures identified in Subsection A are in unsafe conditions with boarded-up windows, falling roofs, crumbling windows, unimproved driveways, lack of parking, faulty arrangements and the presence of debris throughout;

8. The inclusion of the properties located within Subsection A within the boundaries of the Redevelopment Area are necessary for the effective redevelopment of the entire Redevelopment Area as a whole;

9. There is sufficient credible evidence to support the finding that the designation of the Subsection A as a Condemnation Redevelopment Area authorizes the municipality, if necessary, to exercise the power of eminent domain to acquire any property in Subsection A; and

10. The Report, identified as LUB-1, is incorporated herein together with its findings and conclusions.

NOW, THEREFORE BE IT RESOLVED, that the Municipal Land Use Board of the Borough of Emerson does hereby state as follows:

1. That all of the recitals, including all findings and conclusions of facts set forth hereinabove together with the Report (LUB-1) (attached hereto as Exhibit A) are incorporated and adopted by reference herein.

2. That the Board has caused to be undertaken proper notice of the public hearing which was held during the Board's consideration of this matter on December 8, 2016.

3. Such public hearing was held in accordance with law and the Board heard and considered public comment regarding the study and the designation of Subsection A of the Study Area as a Condemnation Redevelopment Area.

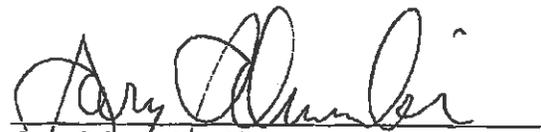
4. The Board has considered public comments and the Report, specifically the findings and recommendations made therein, with regard to each of the properties studied in Subsection A of the Study Area and hereby adopts all of the findings and recommendations of the Report and specifically finds that each of the subject parcels in Subsection A meets one or more of the criteria for redevelopment pursuant to N.J.S.A. 40A:12A-5 as more specifically described and set forth in the Report and hereinabove.

5. The Planning Board recommends that Block 419, Lots 1, 2, 3, 4, 5, 6.01, 6.02, 7, 8, 9, and 10 be and are hereby recommended to the Mayor and Council for use of all those powers provided by the Legislature to designate the area as a condemnation "area in need of redevelopment" pursuant to the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1, et seq.; and

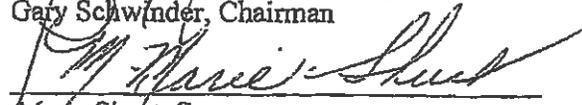
6. The Board Secretary shall forward a copy of the Report together with a copy of this Resolution to the Governing Body of the Borough of Emerson and shall otherwise circulate, file and distribute same in accordance with the law.

The undersigned certifies that the within Resolution was adopted by the Board and memorialized herein on January 5, 2017.

Dated: 1/5/17


 Gary Schwinder, Chairman

Dated: 1/5/17


 Marie Shust, Secretary

OFFERED BY:
 SECONDED BY:
 VOTE: Ayes:
 Nays:
 Abstain:

Yes	No	Abstain	Absent	Not Eligible
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Adams			✓	
Callagee	N/E			x
DeOrio	N/E			x
Goursky	✓			
Kutzin	✓			
Malone	✓			
McKendry			✓	
Ortiz	N/E			x
Reiger	N/E			x
Sudano	✓			
Tripodi, Councilman	N/E			x
Lamatina, Mayor	N/E			x
Schwinder, Chairman	✓			