

COUNTY OF HUDSON
PLANNING BOARD

: TRANSCRIPT
MEETING OF THE COUNTY OF : OF
HUDSON PLANNING BOARD : PROCEEDINGS

6:30 p.m.
Wednesday, April 20, 2011
567 Pavonia Avenue
Jersey City, New Jersey

B E F O R E:

- DANIEL CHOFFO, CHAIRMAN
- MARY AVAGLIANO, COMMISSIONER
- DEMETRIO ARENCIBIA, COMMISSIONER
- RENEE BETTINGER, COMMISSIONER
- JUDE FITZGIBBONS, COMMISSIONER
- RUSHABH MEHTA, COMMISSIONER
- KENNEDY NG, COMMISSIONER
- BILL O'DEA, COMMISSIONER
- ANTHONY ROMANO, COMMISSIONER

A L S O P R E S E N T:

JOHN CURLEY, ESQ.
Board Attorney

STEPHEN MARKS, PP, AICP
Planning Director
DANIELA CIAMMARUCONI,
Planning Aide

MEGAN MASSEY, AICP
Principal Planner

Job No. NJ308681

1 CHAIRMAN CHOFFO: Good evening. I
2 would like to call the meeting to order for the
3 Hudson County Planning Board for this evening,
4 April 20th, at 6:30 p.m. in the Freeholder's
5 chambers.

6 Mr. Curley, has this meeting been
7 properly advertised?

8 MR. CURLEY: Yes, Mr. Chairman, the
9 meeting has been properly advertised in
10 accordance with the open public meetings act and
11 the notice of the meeting has been posted on the
12 bulletin boards of both the County Clerk's office
13 and at the Board of Chosen Freeholders.

14 CHAIRMAN CHOFFO: Thank you.
15 Could we please stand to salute the Flag.

16 (All rise to salute the Flag.)

17 CHAIRMAN CHOFFO: Mr. Marks, could
18 we please have a roll call.

19 DIRECTOR MARKS: Commissioner
20 Arencibia?

21 COMMISSIONER ARENCIBIA: Here.

22 DIRECTOR MARKS: Commissioner
23 Avagliano?

24 COMMISSIONER AVAGLIANO: Here.

25 DIRECTOR MARKS: Commissioner

1 Bettinger?

2 COMMISSIONER BETTINGER: Here.

3 DIRECTOR MARKS: Commissioner

4 DiDomenico?

5 Absent.

6 Commissioner Fitzgibbons?

7 COMMISSIONER FITZGIBBONS: Here.

8 DIRECTOR MARKS: Commissioner

9 Holloway?

10 Absent.

11 Commissioner Mehta?

12 COMMISSIONER MEHTA: Here.

13 DIRECTOR MARKS: Commissioner

14 Munoz?

15 Absent.

16 Commissioner Ng?

17 COMMISSIONER NG: Here.

18 DIRECTOR MARKS: Commissioner

19 O'Dea?

20 COMMISSIONER O'DEA: Here.

21 DIRECTOR MARKS: Commissioner

22 Romano?

23 COMMISSIONER ROMANO: Here.

24 DIRECTOR MARKS: Chairman Choffo?

25 CHAIRMAN CHOFFO: Here.

1 DIRECTOR MARKS: Mr. Chairman, we
2 have a quorum.

3 CHAIRMAN CHOFFO: Did all the
4 Commissioners get a chance to review the minutes
5 from the meeting of March 16, 2011? If so, could
6 I get a motion.

7 COMMISSIONER FITZGIBBONS: I make a
8 motion to accept the minutes as read.

9 COMMISSIONER AVAGLIANO: Second.

10 DIRECTOR MARKS: Mr. Chairman, on a
11 motion made by Commissioner Fitzgibbons, seconded
12 by Commissioner Avagliano, Commissioner
13 Arencibia?

14 COMMISSIONER ARENCIBIA: Aye.

15 DIRECTOR MARKS: Commissioner
16 Avagliano?

17 COMMISSIONER AVAGLIANO: Aye.

18 DIRECTOR MARKS: Commissioner
19 Bettinger?

20 COMMISSIONER BETTINGER: Aye.

21 DIRECTOR MARKS: Commissioner
22 Fitzgibbons?

23 COMMISSIONER FITZGIBBONS: Aye.

24 DIRECTOR MARKS: Commissioner
25 Mehta?

1 COMMISSIONER MEHTA: Aye.

2 DIRECTOR MARKS: Commissioner Ng?

3 COMMISSIONER NG: Aye.

4 DIRECTOR MARKS: Commissioner

5 O'Dea?

6 COMMISSIONER O'DEA: I wasn't here

7 so I abstain.

8 DIRECTOR MARKS: Commissioner

9 Romano?

10 COMMISSIONER ROMANO: Aye.

11 DIRECTOR MARKS: Mr. Chairman?

12 CHAIRMAN CHOFFO: Aye.

13 DIRECTOR MARKS: Mr. Chairman, the
14 motion passed.

15 Mr. Chairman, the next item is 5-A
16 on the agenda, the memorization of applications
17 heard at last meeting.

18 Mr. Chairman, I just want to bring
19 your attention to a letter we received that is in
20 your packets this evening.

21 The letter is from -- it is on
22 Jersey City letterhead. The letter is signed by
23 Robert Cotter the Planning Director for Jersey
24 City and there was an attachment to that or an
25 accompanying document that is regarding the

1 on-street bike parking and I just want to bring
2 the Board's attention to the fact that Mr. Cotter
3 is objecting to the -- at last month's meeting,
4 for the Cornucopia Supermarket on Kennedy
5 Boulevard which was 3085 Kennedy Boulevard.

6 The Board had directed the
7 applicant to remove the bike racks from the
8 county right-of-way. They were in the buffer
9 strip between the curb and the sidewalks.

10 So I just want to bring the Board's
11 attention to the fact that bike parking, I guess
12 within municipal right-of-way, is within the --
13 both the Jersey City Journal Square 2060
14 redevelopment plan which was approved or adopted
15 by the City of Jersey City last year, last
16 summer, as well as the Jersey City circulation
17 element that was approved by the City of Jersey
18 City about a year and a half ago in 2009.

19 And Mr. Cotter points out the fact
20 that this Board awarded the City of Jersey City
21 with two Smart Growth awards for both of those
22 plans and it is those plans that call for more
23 bicycle and pedestrian amenities including bike
24 racks.

25 So I just want to bring that to

1 your attention. Mr. Curley advised me just now
2 that in order for the Board to I guess change the
3 memorialized resolution, it would have to -- the
4 Board would have to reopen the public hearing for
5 it. I am not advocating that or recommending
6 that, I just want to bring it to the Board's
7 attention.

8 CHAIRMAN CHOFFO: Is the applicant
9 here tonight, Steve, do you know?

10 DIRECTOR MARKS: No.

11 CHAIRMAN CHOFFO: Is the applicant
12 aware of this letter that came to us from Jersey
13 City?

14 DIRECTOR MARKS: I did speak to him
15 immediately after last month's meeting. I did
16 speak with the design engineer for the Cornucopia
17 project and he was a little miffed, a little --
18 just upset. He felt like he was betwixed between
19 the city and the county.

20 The city directed him to do one
21 thing and the county had directed him to do
22 something else, so he was basically asking me
23 which is it. It is the county's right-of-way,
24 but the County Planning Board certainly has
25 discretion and jurisdiction over the matter so it

1 is really up to the Board to decide whether to
2 allow the bike racks to remain in the
3 rights-of-way.

4 CHAIRMAN CHOFFO: We have two of
5 our Freeholders with us, so if they have any
6 questions, by all means.

7 And I would also defer to Demetrio
8 to see what his opinion is on it.

9 COMMISSIONER ARENCIBIA: Well, I
10 think the -- as I remember, the bike racks would
11 be along the curb and they would be within the
12 county's right-of-way.

13 I don't object to bike racks,
14 almost every applicant has provided bike racks,
15 but on their property. It is up to the applicant
16 to maintain those bike racks on their property.

17 I know the county has bike racks in
18 the parks, but I am not aware of any bike racks
19 within the county's right-of-way that the county
20 maintains or -- I am not sure that we have the
21 room with pedestrians that also use the sidewalk.

22 There is a law that prohibits
23 bicyclists on sidewalks, so if there is an
24 instance if we allow it now, and obviously if we
25 do allow it I think it would set a precedence for

1 us to permit anybody to do this.

2 CHAIRMAN CHOFFO: I thought it was
3 more of a safety issue rather than even the
4 right-of-way issue with the size of the
5 sidewalks, as I recall in the last meeting.

6 COMMISSIONER ARENCIBIA: I think
7 all we are saying really is the bike racks should
8 be on the applicant's property.

9 CHAIRMAN CHOFFO: Commissioner
10 Fitzgibbons.

11 COMMISSIONER FITZGIBBONS: This
12 thing, if he had room on his own property for the
13 bike racks, I don't know what brought this to the
14 attention of the Director here, but we approved
15 the project and there is a problem with him
16 having bikes put on the guy's -- bike racks put
17 on this fellow's property?

18 I mean, the bike racks are going to
19 be there and it is going to conform with what we
20 want. The reason we do ask applicants to put
21 bike racks on their property --

22 CHAIRMAN CHOFFO: He wants to put
23 it -- go ahead, Steve.

24 DIRECTOR MARKS: Mr. Chairman, I
25 think the design engineer for Cornucopia brought

1 it to the city's attention because it was a
2 specific condition or requirement in Jersey City
3 to have bike racks either on the property or
4 involved with the site plan application, but
5 because of the nature of the existing building,
6 they weren't raising the building, they weren't
7 putting up a new building, they were
8 rehabilitating an existing building.

9 There wasn't enough room to put
10 bike racks -- I think there was even a zero lot
11 line.

12 The building went up right to the
13 county right-of-way. There wasn't room for the
14 bike racks to be on the -- I guess solidly within
15 the property of the applicant developer.

16 So the applicant, I think, felt a
17 little put upon that Jersey City directed him to
18 do one thing and the county directed them to do
19 something else. I think it was the design
20 engineer who went back to Jersey City and asked
21 what do you want me to do.

22 CHAIRMAN CHOFFO: Steve, is there
23 on-street parking right now in front of this?

24 DIRECTOR MARKS: No, that was the
25 other issue with this. It is right by -- I

1 don't recall the name of the school that is right
2 there.

3 COMMISSIONER BETTINGER: Mr.
4 Chairman, I have been observing that in the past
5 month because this is an area where I live and
6 there is cuing with cars to the corner every day
7 when there is dismissal of the school and my
8 other concern is there are senior citizen
9 buildings across the street, so that is -- I am
10 sure they will be utilizing this Cornucopia
11 Market and I have a concern that, you know, we
12 have an issue of safety for the seniors to walk,
13 you know, if there is a bike rack there and
14 school is getting out, and cars. I think that
15 is a safety issue there for the sidewalk.

16 COMMISSIONER FITZGIBBONS: My
17 concern is this. We did approve this thing.

18 Now, does this affect Jersey City?
19 Do they have to go back to -- maybe the lawyer
20 would know.

21 Would the people have to go back to
22 the Jersey City Planning Board to approve putting
23 a bike rack on their property?

24 MR. CURLEY: They would not be
25 permitted to put the bike rack on the county

1 right-of-way because of the county's resolution
2 and it is one of the conditions of the resolution
3 as adopted by the Board verbally. They don't
4 have to go back to the city immediately. They
5 have to report to the city, not the county, since
6 they took this action.

7 COMMISSIONER ARENCIBIA: I just
8 wanted to add, the applicant as I remember has a
9 parking garage and they probably could
10 accommodate the bike rack inside the parking
11 garage. I am not sure if they can, but I would
12 just explore that. Ask the applicant to explore
13 that.

14 COMMISSIONER FITZGIBBONS: Mr.
15 Chairman.

16 CHAIRMAN CHOFFO: Yes.

17 COMMISSIONER FITZGIBBONS: Last
18 time we discussed that and the applicant as well
19 as his attorney agree that they will accommodate
20 the bike rack on the, they will I think lesser
21 the one parking space and accommodate on the
22 street instead of parking, and in Hoboken -- and
23 all the other county vehicles have a problem that
24 we are not giving a reason for the right-of-way
25 and to do that type of thing we are doing with

1 the Freeholders permission and other things also,
2 and like another comment by Commissioner
3 Bettinger, that it is a safety issue because
4 there is a school nearby. Route 139 and Kennedy
5 Boulevard is a heavily traveled road and they do
6 not designate a bike lane there and it is not
7 feasible that a bike will be traveling on that
8 road and I think that Cornucopia's back side, the
9 other entrance is on the side street and the side
10 street will be the more appropriate place for the
11 bike lane where they can accommodate, and a bike
12 rack can come from the same avenue on the side
13 street or on the back street of the premises.

14 I am not in favor for them putting
15 the bike rack on the county right-of-way.

16 CHAIRMAN CHOFFO: Go ahead.

17 COMMISSIONER ROMANO: I thought it
18 was understood at the last meeting with their
19 attorney that they couldn't do this.

20 DIRECTOR MARKS: Mr. Chairman, it
21 was. I am just bringing the City of Jersey City
22 -- the Planning Director for the City of Jersey
23 City objected to it. I wanted the letter -- the
24 letter is addressed to the Chairman and the
25 Board. I wanted to bring it to your attention.

1 It is the Board's prerogative to
2 approve or memorialize the nature of approval
3 with the conditions as is. I thought it was
4 appropriate to bring it to your attention before
5 you voted.

6 CHAIRMAN CHOFFO: It is good you
7 did, Steve. Obviously what our County Engineer
8 and Commissioner said, I don't think any
9 Commissioner wants to change at this point
10 because we would be setting a precedent and we
11 don't want to do that.

12 Did they explore doing something
13 like this, putting the bike rack in the street?

14 DIRECTOR MARKS: That didn't even
15 move forth. Mr. Cotter had forwarded the letter
16 and the link, so Daniela had forwarded the letter
17 to you all as Commissioners and the length -- and
18 we printed it out in case you didn't see it or
19 you didn't get to download it or read it, you
20 would have it available tonight.

21 COMMISSIONER FITZGIBBONS: Mr.
22 Chairman, they give you a picture of the street
23 and then Kennedy Boulevard, I can tell you that
24 right now.

25 COMMISSIONER O'DEA: It is

1 ridiculous.

2 COMMISSIONER FITZGIBBONS: There
3 will be no bike rack with a trailer coming down
4 Kennedy Boulevard.

5 COMMISSIONER O'DEA: We will get
6 sued as an attractive nuisance.

7 COMMISSIONER FITZGIBBONS: It is a
8 county road and we don't want to set the whole
9 responsibility.

10 MR. CURLEY: Mr. Chairman, the
11 resolution was adopted at the last meeting. The
12 memorializing resolution reflects what the Board
13 decided. If there is to be an application for
14 reconsideration it has to be made by the
15 applicant and not by the Jersey City Planning
16 Director.

17 CHAIRMAN CHOFFO: They would have
18 to come in front of us and reapply?

19 MR. CURLEY: Correct. And I think
20 it would be inappropriate to change the
21 resolution without giving them the opportunity to
22 be heard.

23 CHAIRMAN CHOFFO: I think no
24 Commissioner wants to change this.

25 DIRECTOR MARKS: So section 5-A on

1 the agenda is memorialization of resolutions
2 approved at the last meeting.

3 Beginning with application
4 2010-083-SP, MCPK Realty, located at 3085 Kennedy
5 Boulevard which is Block 634, b.99 also known as
6 B 152 in the City of Jersey City.

7 Next is application is 2010-089-SP,
8 Hurricane Associates, located at 1200 Harrison
9 Avenue which is Block 275, Lot 1 in the Town of
10 Kearny.

11 Last is 2011-016-SP Julietta Ugaz,
12 applicant, located at 314 Park Avenue which is
13 Block 314, Lot 32 in the City of Hoboken.

14 CHAIRMAN CHOFFO: Do I have a
15 motion?

16 COMMISSIONER MEHTA: I make a
17 motion.

18 COMMISSIONER BETTINGER: I will
19 second the motion.

20 DIRECTOR MARKS: Mr. Chairman, on a
21 motion made by Commissioner Mehta and seconded by
22 Commissioner Bettinger, Commissioner Arencibia?

23 COMMISSIONER ARENCIBIA: Aye.

24 DIRECTOR MARKS: Commissioner
25 Avagliano?

1 COMMISSIONER AVAGLIANO: Aye.

2 DIRECTOR MARKS: Commissioner

3 Bettinger?

4 COMMISSIONER BETTINGER: Aye

5 DIRECTOR MARKS: Commissioner

6 Fitzgibbons?

7 COMMISSIONER FITZGIBBONS: Aye.

8 DIRECTOR MARKS: Commissioner

9 Mehta?

10 COMMISSIONER MEHTA: Aye.

11 DIRECTOR MARKS: Commissioner Ng?

12 COMMISSIONER NG: Aye.

13 DIRECTOR MARKS: Commissioner

14 O'Dea?

15 COMMISSIONER O'DEA: I will

16 abstain. I was not at the last meeting.

17 DIRECTOR MARKS: Commissioner

18 Romano?

19 COMMISSIONER ROMANO: Aye.

20 DIRECTOR MARKS: And Chairman

21 Choffo.

22 CHAIRMAN CHOFFO: I vote aye.

23 DIRECTOR MARKS: Mr. Chairman, the

24 motion passed.

25 CHAIRMAN CHOFFO: Thank you.

1 DIRECTOR MARKS: Mr. Chairman, the
2 next section on the agenda is 5-B, site plans,
3 subdivisions, and other matters scheduled for
4 public hearing.

5 Beginning with 2011-002-SD, Harmon
6 Meadow Plaza Inc., located at Block 227, Lot 5.03
7 in the Town of Secaucus.

8 MR. HUGHES: My name is David
9 Hughes and I am an attorney with Hartz Mountain
10 Industries in Secaucus, New Jersey.

11 I am here with respect to a minor
12 subdivision that we are seeking from this Board
13 on our property.

14 CHAIRMAN CHOFFO: Can you do me one
15 favor? Try to speak into that microphone because
16 we have background noise.

17 MR. HUGHES: With respect to our
18 property located in Harmon Meadow, Secaucus, New
19 Jersey, there have been some questions raised
20 which we discussed with your engineer pertaining
21 to a decel lane on Paterson Plank Road.

22 To date we have posted a letter of
23 credit for \$375,000 for the acquisition of the
24 property as well as the construction associated
25 cost with that lane.

1 It is my understanding that the
2 county has decided to condemn the property. The
3 money is being allocated for that purpose.

4 There has also been a developer's
5 agreement which has been signed by the applicant
6 and is presently in the hands of the county
7 counsel's office.

8 I have with me tonight one of our
9 engineers, Ms. Kristine Kalfas unless the Board
10 has any questions about what I just said.

11 CHAIRMAN CHOFFO: Can we just have
12 her sworn in.

13 (K R I S T I N E K A L F A S, was duly sworn.)

14 MR. HUGHES: Ms. Kalfas, try to
15 keep your voice up if you are discussing an
16 exhibit.

17 How long have been with Hartz
18 Mountain?

19 MS. KALFAS: I have been with Hartz
20 for twelve years. Almost twelve years.

21 MR. HUGHES: What is your position
22 with Hartz?

23 MS. KALFAS: I am Assistant Vice
24 President of Site Development and Engineering.

25 MR. HUGHES: What licenses do you

1 hold?

2 MS. KALFAS: P.E. in the State of
3 New Jersey and I held that license since 1987.

4 MR. HUGHES: Okay. Could you tell
5 the Board precisely what is proposed.

6 And if you want to mark this
7 exhibit first.

8 CHAIRMAN CHOFFO: Please do.
9 (Exhibit so marked A-1).

10 MR. HUGHES: Ms. Kalfas, if I can
11 call your attention to what was marked as A-1.

12 Can you please address the Board
13 and tell them exactly what was proposed on the
14 site.

15 MS. KALFAS: Exhibit A one is the
16 minor subdivision plan prepared from Azzolina and
17 Feury.

18 It shows the subdivision that we
19 are proposing which is taking out a small portion
20 of Block 227, Lot 5.03. The plan that you see
21 outlined in red is existing Lot 5.03. The areas
22 that you see that have been cross mapped are
23 subdivisions that have been approved in the past
24 and are out parcels of 5.03 and the parcel that
25 we are here tonight for is in yellow. It is a

1 1.1607 acre parcel that we would like to carve
2 out of Lot 5.03.

3 MR. HUGHES: And this subdivision
4 has been previously approved by the New Jersey
5 Meadowlands Commission?

6 MS. KALFAS: Yes, the Meadowlands
7 Commission approved the site plan and this has
8 Azzolina's signature on it.

9 MR. HUGHES: Could you show on the
10 plan where the deceleration lane is proposed.

11 MS. KALFAS: The deceleration lane
12 is actually -- let me kind of get you your
13 bearings. Paterson Plank Road is at the bottom
14 of the exhibit, Harmon Meadow is toward the left.
15 The deceleration lane would be on Paterson Plank
16 Road allowing a right-hand turn into the
17 development, Park Plaza, and if I turn this
18 around I have another exhibit if you would like
19 to mark it.

20 (Exhibit so marked A-2.)

21 MS. KALAFUT: Exhibit A-2 is an
22 exhibit which shows the decel lane that we have
23 proposed and this has been designed in accordance
24 with some conversations with the county and what
25 it shows is a decel lane with a 50-foot curb, 150

1 feet of a 10-foot wide lane and a 40-foot radius
2 to get into Plaza driveway is significantly
3 better than the right-hand turn lane that is
4 there now.

5 MR. HUGHES: And the size and
6 design of that lane is in conformity with
7 conversations you had with Mr. Edmond Ramon, is
8 that correct?

9 MS. KALFAS: Yes.

10 MR. HUGHES: That is all I have for
11 Ms. Kalfas, unless the Board has any questions.

12 CHAIRMAN CHOFFO: Demetri?

13 COMMISSIONER ARENCIBIA: Mr.
14 Chairman, I just have a question of Mr. Hughes
15 about the agreement that you said you had with
16 the county. You are working with the county
17 counsel's office on the agreement?

18 MR. HUGHES: The development has
19 been negotiated by Hartz and in the hands of
20 county counsel Demetri miles.

21 COMMISSIONER ARENCIBIA: As far as
22 who is going to do the right-turn lane, is that
23 by Hartz Mountain?

24 MR. HUGHES: Several weeks ago the
25 county wished Hartz to undertake the construction

1 and we have no objection to that. We would be
2 perfectly willing to do it.

3 COMMISSIONER ARENCIBIA: Okay.

4 MR. HUGHES: The only thing I would
5 ask is that some form of letter of introduction
6 be given to our engineers so the utility company
7 understands the work is being done on behalf of
8 the county and all the utility movements would be
9 presumably accepted by them at their cost.

10 COMMISSIONER ARENCIBIA: Okay.
11 Once that agreement is finalized I want to submit
12 these final plans, before actually the
13 construction starts, to be approved by our
14 office.

15 MR. HUGHES: Absolutely. As soon
16 as the utilities are marked out we will prepare
17 the construction drawings and submit them to your
18 office for approval.

19 COMMISSIONER ARENCIBIA: Your
20 approval from the Meadowlands Commission also
21 incorporates the right-turn lane?

22 MR. HUGHES: The approval did not
23 discuss the right-turn lane, it was not part of
24 their requirements, no.

25 COMMISSIONER ARENCIBIA: I am

1 questioning whether you have to go back to them
2 for any amendment.

3 MR. HUGHES: No, this was
4 previously as part of the prior approval. They
5 understood that at the time.

6 COMMISSIONER ARENCIBIA: That is
7 all I have.

8 CHAIRMAN CHOFFO: Any questions?

9 COMMISSIONER O'DEA: Mr. Chairman,
10 if they are going to do work on the county road
11 aren't they going to need to come to the
12 Freeholder Board to get the approval?

13 COMMISSIONER ARENCIBIA: Correct.
14 While the agreement is being worked on by the
15 county counsel's office that will need eventual
16 approval from the Freeholder Board.

17 COMMISSIONER O'DEA: Eventually
18 approved by the Board.

19 COMMISSIONER ARENCIBIA: Right.

20 MR. HUGHES: We are waiting for the
21 taking to take place.

22 COMMISSIONER O'DEA: I don't recall
23 us authorizing them to take it.

24 COMMISSIONER ARENCIBIA: This --
25 actually this requirement was made about more

1 than five years ago. When you initially came in
2 for approval that was part of a condition with
3 respect to the improvement of that traffic signal
4 and they need the right-turn lane. There is a
5 lot of traffic that gets backed up there to turn
6 into the Hartz Mountain development, so this was
7 conditioned a while back and the adjacent
8 property owner has been noncooperative.

9 MR. HUGHES: You could use that
10 phrase, yes.

11 COMMISSIONER ARENCIBIA: But now I
12 guess it is at the point where the county is
13 involved in condemning it because as you
14 remember, Steve, this was from the last approval
15 a condition and they had to also put up a letter
16 of credit for that approval, as well, so it has
17 been another two or three years and there is
18 still little progress so now I think the
19 agreement that you just discussed with the county
20 would be to dedicate this property to the county
21 for the county to condemn it and to authorize
22 Hartz Mountain to construct the right-turn lane.

23 MR. HUGHES: That is correct.

24 COMMISSIONER ARENCIBIA: My
25 understanding is that has to go to the Freeholder

1 Board for approval.

2 COMMISSIONER FITZGIBBONS: Mr.
3 Chairman, I recall this project. We wouldn't
4 give them the okay unless they make met those
5 recommendations.

6 COMMISSIONER ARENCIBIA: Right.

7 COMMISSIONER FITZGIBBONS: And
8 they told us at that time they were in
9 negotiations with the other owner of that small
10 piece of property and nothing came of it.

11 Now --

12 COMMISSIONER ARENCIBIA: Well, they
13 had approval originally with the right-turn lane,
14 however because of the -- they could not acquire
15 the property, therefore that right-turn lane
16 never got constructed. The right-turn lane is
17 needed and as you continue to develop and
18 generate even more traffic it has become a more
19 pressing need to get it constructed.

20 So at this point it is absolutely
21 necessary to build that right-turn lane.

22 MR. HUGHES: Correct. That is why
23 we posted the funds to accomplish just that.

24 COMMISSIONER ARENCIBIA: I have not
25 seen the agreement myself. I guess the county

1 counsel is working those details out with you,
2 but at some point that will have to go to the
3 Freeholder Board for you and I would certainly
4 have to review it, too.

5 MR. HUGHES: Absolutely. We
6 already negotiated, signed it and sent it back to
7 them.

8 CHAIRMAN CHOFFO: And our approval
9 would be null and void if the county doesn't
10 approve it, I mean the County Freeholders. They
11 would still have to approve it.

12 COMMISSIONER ARENCIBIA: One thing
13 is that there will be no cost to the county as a
14 result. This improvement is all paid for by the
15 developer.

16 COMMISSIONER O'DEA: Mr. Chairman,
17 I guess I am just a little confused on the timing
18 of it, why it comes to this Board when you don't
19 know whether or not the county itself grants the
20 utilization of the condemnation and the approval
21 of the agreement to do the work. It almost --
22 maybe I defer to the Board attorney what the
23 order of events should be.

24 MR. CURLEY: It is appropriate for
25 the applicant to be before this Board before

1 approaching the Freeholders provided that this
2 Board makes it a conditional of approval and the
3 Freeholders ultimately act upon it.

4 COMMISSIONER O'DEA: I mean, I
5 guess my question is, not having as a
6 Commissioner the agreement, I am not sure what
7 exactly the agreement is going to say and I guess
8 if the agreement conforms with everything of what
9 is approved, it is okay.

10 But it is kind of odd that you
11 wouldn't know what the agreement is that is going
12 to be approved. What if the agreement gets
13 changed? What if you review it and you make a
14 change to the agreement based on your review or
15 the Board makes a change based on a review?

16 COMMISSIONER ARENCIBIA: Well, I
17 think all we are stating here is that the
18 agreement will be necessary. We don't have the
19 agreement in front of us, but at some point that
20 needs to get approved. We will make it as a
21 condition. It does get approved and it does
22 meet the requirements of my office and the
23 Freeholder's Board and the county counsel, so it
24 is undergoing a process right now as you stated.
25 It is in the county counsel's hands at this

1 point.

2 MR. HUGHES: Correct.

3 CHAIRMAN CHOFFO: Also the
4 applicant, they have a lot of work to do with
5 PSEG with moving utility lines, so they are
6 moving simultaneously to get some type of
7 approval from us.

8 COMMISSIONER O'DEA: The length of
9 the lane is how many feet?

10 MR. HUGHES: One hundred fifty
11 feet.

12 COMMISSIONER O'DEA: Is that the
13 minimum amount of distance the lane could be?

14 MR. HUGHES: No. In fact, it is
15 contrary. It was enlarged by your engineer and
16 that is the exact distance he required.

17 COMMISSIONER O'DEA: And how many
18 property owners are affected by that.

19 MR. HUGHES: One.

20 COMMISSIONER O'DEA: Just you.

21 MR. HUGHES: Eugene Morey owns the
22 property. At this Board's request we attempted
23 to negotiate a formal sale of the property. He
24 was unwilling to deal with us and the county
25 basically agreed through county counsel's office

1 that there was no alternative but to condemn the
2 property.

3 COMMISSIONER O'DEA: I am just
4 surprised because it never -- I will ask
5 Freeholder Romano -- I think he snuck out. But
6 I have not heard of this in a Public Resources
7 Committee which the Roads Division would come
8 under which I have chaired up to this year and
9 then I have never heard of it in all my period on
10 the Board which is kind of odd.

11 COMMISSIONER ARENCIBIA:
12 Freeholder, it is something that the developer
13 has undertaken. It wouldn't be undertaken by the
14 county.

15 COMMISSIONER O'DEA: The fact that
16 there is going to be a condemnation of a portion
17 of a roadway or a portion of property in order to
18 effectuate the construction of a roadway is
19 something that I would have thought in the
20 committee process I would have heard about prior
21 to now and I have never heard about it before and
22 I guess the issue is right now it is 150 feet.
23 I don't know who the gentleman is who owns the
24 property that the county is going to come and
25 seek our approval for condemnation, but let's say

1 at the end of the day they meet or however it is
2 and there is only 140 feet.

3 I assume they will have to come
4 back here? If there is any change in the size or
5 the distance of the lane, it is not what we are
6 approving, then at that point this approval is
7 not in conformance and they will be back before
8 the Board again I guess, right?

9 MR. HUGHES: That distance was
10 decided upon by your engineer. It is not
11 something that we proposed.

12 COMMISSIONER O'DEA: Irregardless
13 whether you proposed it, it is something we are
14 voting on today. If it changes as a result of
15 something outside of this Board and it becomes
16 120 feet instead of 150 feet, I would argue that
17 this approval is no longer valid and you are
18 coming back to the Board again. I guess I am
19 trying to understand --

20 CHAIRMAN CHOFFO: That would be the
21 case in any changes of an application and just
22 like as if the Freeholder Board doesn't approve
23 it, they don't --

24 COMMISSIONER O'DEA: Or if we
25 approve 140 feet because if the gentleman who

1 owns the property comes here and says after 120
2 feet I have a driveway in and out and I don't
3 want to have that lane where the driveway is
4 because it creates a problem for me.

5 MR. HUGHES: I can represent to you
6 based upon the plans we have seen of the proposed
7 site there is no driveway anywhere near this
8 location. In fact --

9 COMMISSIONER ARENCIBIA: Mr.
10 Chairman, I just want to also state that the
11 Morey property also did get approval from this
12 Board for filling their site, their development
13 was I forget the engineer that represented them,
14 but they agreed to, as part of their condition of
15 approval, to provide the right-turn lane. So
16 that was something that was a condition of their
17 approval for Mr. Morey and of course it would be
18 at the fair market value.

19 COMMISSIONER O'DEA: I just had a
20 question on the proposed agreement.

21 MR. HUGHES: Yes.

22 COMMISSIONER O'DEA: Does the
23 proposed agreement require that Hartz pays
24 whatever the ultimate amount of the condemnation
25 is?

1 MR. HUGHES: Yes.

2 COMMISSIONER O'DEA: If it turns
3 out to be a million dollars, whatever the amount
4 is, and I use that as a round number, the
5 agreement requires you to pay there is no risk to
6 the county on a limit upon which --

7 MR. HUGHES: No. The area that is
8 encompassed by this lane is very, very small in
9 actuality.

10 But if it is a million dollars I
11 will definitely be back, I will guarantee that.

12 COMMISSIONER O'DEA: You have no
13 choice at the point we are condemning it.

14 DIRECTOR MARKS: Mr. Chairman, just
15 for the Board's edification, the land that is
16 owned by Mr. Morey next door is undeveloped land.
17 There is nothing on it.

18 Mr. Morey, to my knowledge, doesn't
19 have any development approvals pending for this
20 property. I read something recently in the last
21 six months in the Secaucus reporter or Secaucus
22 home news about a development idea, but to my
23 knowledge it doesn't have any approvals by the
24 Meadowlands Commission or Town of Secaucus or
25 certainly by this Board. It is undeveloped land.

1 It shouldn't -- the turning lane should not upset
2 anything that the adjoining property owner is
3 proposing. And the adjoining property owner's
4 engineer when he was here for an approval a
5 couple of years ago was generally agreeable with
6 it. They actually agreed with the need for the
7 turning lane. They were looking for some more
8 compensations, I would say is the right word,
9 from Hartz Mountain. I don't think they came to
10 an agreement on that, but they were not adverse
11 to the turning lane.

12 CHAIRMAN CHOFFO: Any other
13 questions?

14 COMMISSIONER FITZGIBBONS: Mr.
15 Chairman, I could see that the county is going to
16 condemn the property and I could see right now --
17 and the applicant is going to pay for everything
18 but I am going to tell you through experience,
19 the way it looks because you were here four or
20 five years ago, I don't know how long ago with
21 this property. You will have problems down the
22 road with the other land owner.

23 MR. HUGHES: That is the reason the
24 condemnation was proposed, yes.

25 COMMISSIONER FITZGIBBONS: I know.

1 But the way I think -- to me, my opinion is that
2 he is speculating on that land that he has and
3 there is going to be -- if the county law didn't
4 condemn the land and everything goes through,
5 then I could see the approval going through, but
6 this is your first step but there is going to be
7 a lot of other steps. You got to go before the
8 Board of Freeholders I guess and, you know, it is
9 going to be a little longer road, the whole
10 process.

11 Because you were here before when
12 we did say about that turn, we wanted that turn
13 in there.

14 MR. HUGHES: So do we.

15 COMMISSIONER FITZGIBBONS: You said
16 to us you are talking to the owners and you
17 should be, you should be, there should be some
18 kind of agreement, but that was never rectified.

19 MR. HUGHES: We used our best
20 efforts to speak with Mr. Morey's representatives
21 but the owners, to use Mr. Marks's words, were
22 outrageous.

23 COMMISSIONER O'DEA: I guess, Mr.
24 Chairman, this is more from my own background
25 having not been here five years ago, it would

1 seem to be an inordinate amount of time if you
2 got an approval five years ago and that approval
3 said you were supposed to put this lane in place,
4 you know?

5 My day time job involves doing
6 development. I wouldn't spend five years before
7 I realized I couldn't negotiate the acquisition
8 of a property before I would try to realize that
9 the property needed to be condemned.

10 So I am just curious as to why this
11 has taken such a long period of time.

12 MR. HUGHES: Well, the first time
13 we were asked to speak to Morey was not five
14 years ago, it was approximately two years ago.
15 At that point in time we did sit down with Mr.
16 Casino, we did sit down with Mr. Ramon. We
17 tried to sit down and agree on any terms
18 whatsoever and he stated his client would not do
19 that, that was Mr. Morey.

20 COMMISSIONER O'DEA: Can you
21 explain the five years as opposed to two years.

22 MR. HUGHES: I don't know where the
23 five years comes in.

24 COMMISSIONER FITZGIBBONS: Whether
25 it is five or two years, it is still a long

1 period of time.

2 MR. HUGHES: Right. We have done
3 everything we possibly could. We posted money,
4 it is sitting there. We wanted to do it, we
5 couldn't do it, it is not our land. We can't do
6 it without the county's assistance.

7 COMMISSIONER O'DEA: Have you done
8 the rest of the project?

9 MR. HUGHES: The rest of the
10 project?

11 COMMISSIONER O'DEA: You got an
12 approval two years ago.

13 MR. HUGHES: That was for a
14 theater, yes. Which was the replacement of an
15 existing theater which in effect did not increase
16 any traffic flow out of the site anyway.

17 COMMISSIONER O'DEA: The approval
18 of this theater required this lane.

19 MR. HUGHES: Yes.

20 COMMISSIONER O'DEA: The theater is
21 open, correct?

22 MR. HUGHES: Correct.

23 COMMISSIONER O'DEA: I have gone to
24 the theater. The theater is open and the lane
25 hasn't been installed.

1 Isn't that -- wouldn't you think
2 that the right-turn lane should have been done as
3 part of the project?

4 COMMISSIONER ARENCIBIA: It was a
5 condition of their approval.

6 COMMISSIONER O'DEA: So how is the
7 theater open and granted a CO without meeting
8 that condition of approval? The theater has been
9 open for a while, I know that.

10 MR. HUGHES: The theater that was
11 created was to replace an existing theater and
12 the new theater was actually for a thousand feet
13 less than the existing theater.

14 COMMISSIONER O'DEA: But that is
15 not the issue. The issue is I know where the
16 new theater is and I understand why there is a
17 turn lane there now because I used to go to the
18 other two theaters and I know where the other two
19 theaters were and you wouldn't require that same
20 turn lane for those two theaters because of where
21 people would normally go in to go to those
22 theaters.

23 So I understand why the Board
24 required what they required when they required
25 it. So I just don't understand if it is a

1 requirement of that approval, why you have a
2 theater open with a certificate of occupancy and
3 you haven't met the condition of the approval.

4 CHAIRMAN CHOFFO: Mr. Marks, go
5 ahead.

6 MR. HUGHES: The requirement was
7 not that the lane be operational for the
8 certificate of occupancy, the requirement was
9 that we would negotiate with Mr. Morey at that
10 point in time to try to get that property so the
11 property could be developed. And that is what
12 we did.

13 CHAIRMAN CHOFFO: Go ahead, Mr.
14 Marks.

15 DIRECTOR MARKS: Mr. Chairman, for
16 Commissioner O'Dea's edification, this very idea
17 was discussed, it was approved by this Board in
18 August 2008. It was recommended that the, that
19 the applicant not get his certificate of
20 occupancy until the turning lane was open because
21 Mr. Hughes appealed that and if you read the
22 minutes of that meeting, he didn't -- Mr. Hughes
23 did not think it was fair because Hartz Mountain
24 did not own the property. There has been an
25 adverse relationship between Mr. Morey and Hartz

1 Mountain over the years where they really haven't
2 -- I don't want to categorize it for you, but
3 communicated or cooperated as neighboring land
4 owners, and I think Hartz Mountain was at the
5 realization that they were agreeable to the
6 turning lane, but it wasn't going to happen --
7 since they didn't own the land, it wasn't going
8 to happen on their terms over the county's
9 desired time period.

10 It would happen probably through
11 condemnation which is what the county has been
12 exploring and through a developer's agreement
13 which has been executed by Hartz Mountain, and is
14 being -- it was negotiated between the county and
15 Hartz Mountain, executed by Hartz Mountain and I
16 think the Law Department is reviewing it before
17 they execute it or perhaps they need Freeholder
18 approval before they execute the developer's
19 agreement.

20 So that is where it stands.

21 COMMISSIONER O'DEA: You have to
22 have the Board approval. They can't enter into
23 an agreement without the approval of the
24 legislative body. So this was approved in
25 August of 2008?

1 DIRECTOR MARKS: 2008.

2 COMMISSIONER O'DEA: So it was --

3 DIRECTOR MARKS: Less than three
4 years.

5 COMMISSIONER O'DEA: A little more
6 than two and a half years, and it did not require
7 the lane as a condition of --

8 DIRECTOR MARKS: That was -- my
9 recollection was that it was discussed, that very
10 idea or condition was discussed at that meeting
11 and Mr. Hughes appealed it to the Board because
12 he didn't think it was reasonable for the Board
13 to impose that as a condition.

14 COMMISSIONER O'DEA: What did the
15 Board determine?

16 DIRECTOR MARKS: The Board didn't
17 think it was -- I guess agreed with Mr. Hughes
18 that because of the nature of the turning lane on
19 adjoining property and the relationship between
20 the two property owners, it was unreasonable.

21 COMMISSIONER O'DEA: So what kind
22 of a condition was it, a condition with no period
23 of time?

24 DIRECTOR MARKS: A condition
25 whereby --

1 COMMISSIONER O'DEA: Three years, a
2 year after you have a C of 0? I have never been
3 on a Board where there is not some kind of period
4 of time established, otherwise you could be ten
5 years later and you still don't have the turn
6 lane.

7 DIRECTOR MARKS: Hartz Mountain to
8 their credit put up a letter of credit for
9 375,000 dollars. They have been negotiating back
10 and forth with the county on the developer
11 agreement, the condemnation proceedings, and
12 doing the design engineering for the turning lane
13 so it has not been -- I wouldn't in my estimation
14 say it has been lost time. Has it been optimal
15 time? Certainly not. Has it been lost time?
16 No.

17 I think that both the county and
18 Hartz Mountain have been working toward the end
19 goal of having a turning lane go to construction.

20 COMMISSIONER O'DEA: So the only
21 condition is that the 375,000 dollars sits until
22 the lane gets built?

23 DIRECTOR MARKS: Right.

24 COMMISSIONER O'DEA: Without any
25 limit of time or any ability to compel it to

1 happen?

2 DIRECTOR MARKS: Hartz Mountain is
3 a large property owner, Harmon Meadow is a large
4 tract, there is development there all the time.
5 They realized and this Board realized they would
6 be back multiple times.

7 Patersen Plank Road, there are two
8 main points of ingress and egress for Harmon
9 Meadow, one is from Route 3, the second is from
10 Patersen Plank Road. It is a major point of
11 ingress. They realized they would be back
12 multiple times and it has been multiple
13 conditions of approval since that August 2008
14 approval, so it is something -- it is reaffirmed
15 every time they come back here with the
16 understanding that they have to do it and the
17 legal proceedings aren't as optimally fast as
18 everybody would like, but they are proceeding.

19 COMMISSIONER O'DEA: I will be
20 meeting with county counsel tomorrow and I will
21 try to get to the bottom of what this timing
22 issue is because you are telling me that back in
23 '08 they said there is no way the adjoining owner
24 was going to sell them the property through a
25 friendly sale or friendly taking, so why is two

1 and a half years and we still haven't done a
2 condemnation or an authorization for the
3 condemnation on the property?

4 It should have been six months.
5 Six months after that happened they should have
6 done and requested we do a condemnation. Six
7 months later in the longest world of sitting down
8 and trying to put it to paper it should have been
9 before our Board and the property should have
10 been acquired by now and the road, the turning
11 lane should have been constructed.

12 MR. HUGHES: I agree.

13 COMMISSIONER BETTINGER: How long
14 is the theater open?

15 MR. HUGHES: Approximately two, two
16 and a half years.

17 COMMISSIONER BETTINGER: It has
18 taken that long is basically what --

19 CHAIRMAN CHOFFO: A condemnation is
20 not something overnight.

21 COMMISSIONER O'DEA: I mean, Mr.
22 Chairman, you are totally correct. We haven't
23 even authorized a condemnation. That is what I
24 don't understand.

25 MR. HUGHES: That is the first I

1 have heard of that as well, sir. I wasn't even
2 aware of it.

3 COMMISSIONER O'DEA: Demetri, I
4 don't remember our Board ever authorizing a
5 condemnation of this property. That is what is
6 troublesome to me.

7 COMMISSIONER FITZGIBBONS: We
8 never did.

9 COMMISSIONER O'DEA: I mean, the
10 Freeholder Board. I don't recall the Freeholder
11 Board ever taking an action authorizing the
12 county to condemn the property and that is mind
13 boggling to me based on the time frame that has
14 been laid out here.

15 I can't quite frankly with the
16 information I have lay that blame at your
17 doorstep yet because I just don't know at what
18 point in time you requested that the county
19 undertake that.

20 MR. HUGHES: We wish they undertook
21 it on day one, to be honest with you, but we
22 couldn't.

23 COMMISSIONER ROMANO: Can we have
24 county counsel, Mr. Marks, research this?

25 COMMISSIONER O'DEA: I will find

1 out tomorrow. I will find out and let Mr. Marks
2 know but, Stick, you have been on the Board for
3 over two years.

4 COMMISSIONER ROMANO: I don't
5 remember it.

6 COMMISSIONER O'DEA: I do not
7 recall, and I would have recalled an action to
8 authorize the county to undertake the
9 condemnation and I would have recalled this
10 project because I am familiar with the, with this
11 exact area and the theater and the two theaters
12 that used to be a six-plex and an eight-plex and
13 everything else related to it.

14 COMMISSIONER ROMANO: And Al
15 Cifelli never did.

16 COMMISSIONER FITZGIBBONS: Mr.
17 Chairman, can we also provide the Freeholder with
18 the copy of the agreement that we did, we did
19 approve?

20 CHAIRMAN CHOFFO: In 2008?

21 DIRECTOR MARKS: The resolution.

22 CHAIRMAN CHOFFO: Yes.

23 DIRECTOR MARKS: Sure, I could do
24 that.

25 COMMISSIONER FITZGIBBONS: If you

1 have the minutes of that meeting and maybe he
2 could get that tomorrow.

3 DIRECTOR MARKS: We can e-mail it
4 tomorrow morning.

5 COMMISSIONER FITZGIBBONS: This
6 way we can't leave our Freeholders in the dark.
7 I don't want them to think that we didn't do our
8 due diligence in this project.

9 COMMISSIONER ROMANO: I think we
10 need a motion to table.

11 MR. HUGHES: Well, I mean --

12 DIRECTOR MARKS: I wouldn't
13 recommend tabling the subdivision application.
14 The condemnation and the developer's agreement is
15 squarely within the administration, within the
16 county, so that shouldn't adversely impact. The
17 application is complete, the developer is
18 willing. The county's action or inaction
19 shouldn't jeopardize the developer's application.

20 COMMISSIONER FITZGIBBONS: Mr.
21 Chairman, we could approve the subdivision.

22 DIRECTOR MARKS: Subject to a
23 reaffirmation of the approval.

24 COMMISSIONER FITZGIBBONS: And
25 they have to come back for the site plan, right?

1 DIRECTOR MARKS: Well,
2 reaffirmation of the turning lane.

3 COMMISSIONER FITZGIBBONS: Yeah.

4 COMMISSIONER O'DEA: Mr. Chairman,
5 Mr. Marks, can you explain what is granted with
6 the approval of the subdivision?

7 DIRECTOR MARKS: Hartz Mountain can
8 legally subdivide the property and do with it as
9 they see fit.

10 MR. HUGHES: We are not seeking
11 site plan approval. If and when anything is done
12 on the site, someone will appear specifically
13 before this Board to discuss site plan approval.
14 There is no development on the property.

15 COMMISSIONER O'DEA: You could sell
16 it once it is subdivided.

17 MR. HUGHES: We are not selling.

18 COMMISSIONER O'DEA: I didn't ask
19 you if you were. You could sell the property
20 once it is subdivided.

21 MR. HUGHES: You could, but the
22 purpose is not to sell, to transfer the property,
23 simply to finance the property.

24 COMMISSIONER ROMANO: That is not
25 the question. You could.

1 COMMISSIONER O'DEA: You are saying
2 the reason you need the subdivision IS so that in
3 order to secure your financing for the
4 development of the parcel, it has to be -- the
5 parcel needs to be subdivided from the rest of
6 the site because there is, I don't know,
7 mortgages or indentures against the other parcel
8 so you have to have clear title as it relates to
9 this part, is that the issue?

10 MR. HUGHES: Yes, in essence, yes.

11 COMMISSIONER O'DEA: And the parcel
12 you are asking for to be subdivided is planned
13 for what?

14 MR. HUGHES: At the present time
15 there is a theater, the other theater you
16 mentioned. Currently speaking to people
17 regarding a hotel, but that hasn't been committed
18 or any firm agreement signed.

19 COMMISSIONER O'DEA: So you are
20 subdividing the property -- what amount of the
21 property is where the theater is currently
22 located?

23 MR. HUGHES: Pretty much all of it.

24 COMMISSIONER O'DEA: And this would
25 subdivide it so there is a parcel or an outparcel

1 of that that could potentially be developed for a
2 hotel?

3 MR. HUGHES: Yes.

4 COMMISSIONER O'DEA: You have no
5 idea what size hotel?

6 MR. HUGHES: Not yet, no.

7 CHAIRMAN CHOFFO: Mr. Hughes, can
8 you show the Board members where the theater is
9 on the site plan in relation.

10 MR. HUGHES: The existing theater
11 that is going to be removed, or the theater that
12 was approved several years ago?

13 MS. KALFAS: The theater that was
14 approved is here.

15 COMMISSIONER O'DEA: The
16 application that is there, the yellow one is the
17 existing, correct?

18 MS. KALFAS: Replacing the theater
19 there, that is a vacant building that has been
20 vacant since the day the new theater opened.

21 COMMISSIONER O'DEA: And the lane
22 where exactly is the turning lane.

23 MS. KALFAS: The turning lane would
24 be coming down here.

25 COMMISSIONER O'DEA: Right there,

1 yes.

2 What is shown as a subdivision?

3 MS. KALFAS: Subdivision 7.

4 COMMISSIONER O'DEA: How would it
5 be subdivided?

6 MS. KALFAS: It would come out
7 directly in a similar manner the other ones have.
8 This is part of a zoning lot of record at the
9 Meadowlands Commission.

10 So as this stands now, it is part
11 of its own lot of record and this allows them to
12 approve the subdivision. All of Harmon Meadow
13 is considered one lot.

14 COMMISSIONER O'DEA: So the yellow
15 is the subdivided area?

16 MS. KALFAS: Correct. And it is
17 pretty much right on the footprint of the
18 existing of the six-plex, just a little bit -- it
19 extends a little bit more on this side.

20 COMMISSIONER O'DEA: What is the
21 area of the yellow?

22 MS. KALFAS: 1.16 acres 1.1607.

23 COMMISSIONER O'DEA: 1 point --

24 MS. KALFAS: 1.1607.

25 COMMISSIONER O'DEA: Okay. Pretty

1 small parcel for a hotel, but I am not going to
2 second guess Hartz Mountain's development
3 ability.

4 MR. HUGHES: We put one on a
5 basketball field already.

6 COMMISSIONER O'DEA: The parcel on
7 the right corner, that is a hotel, too?

8 MS. KALFAS: Yes. That was done
9 in the late '80s I think.

10 MR. HUGHES: This is the Main Stay
11 Suites.

12 MS. KALFAS: Another hotel that is
13 there is the Holiday Inn.

14 COMMISSIONER O'DEA: Right, right.
15 Okay.

16 COMMISSIONER MEHTA: On this
17 subdivision property which you are proposing as
18 the correct theater, isn't that where a couple of
19 small stores?

20 MS. KALFAS: Yes. This is the
21 plaza and there are stores that go all around
22 including in front of the theater. Those will
23 stay as they are.

24 COMMISSIONER O'DEA: Dunkin Donuts.

25 COMMISSIONER FITZGIBBONS: Jewelry

1 store and CVS, they are not part.

2 MS. KALFAS: No, they have a
3 separate wall and they are going to be maintained
4 and they will be exactly the same.

5 COMMISSIONER O'DEA: His question
6 is are they within the subdivided lot.

7 MS. KALFAS: No.

8 CHAIRMAN CHOFFO: Go ahead, Steve.

9 DIRECTOR MARKS: I do have a
10 question for Mr. Hughes, Mr. Chairman.

11 Mr. Hughes, would you agree as a
12 condition of approval to submit the site plans
13 for the hotel at that point in time when the, you
14 are going for approvals and permits and
15 approvals?

16 MR. HUGHES: Absolutely.

17 DIRECTOR MARKS: Just for the
18 Board's edification, the county planning statute
19 requires all subdivisions to be filed with the
20 Board but there is a disconnect between
21 subdivisions and site plans.

22 Only those site plans which were
23 along county roads would have to come back to the
24 Board, so if a property is subdivided but it is
25 not physically connected along or abutting the

1 county road, the applicant may not have to come
2 back.

3 So if you rule as a condition of
4 approval to link this subdivision application
5 approval with the future site plan approval, then
6 I --

7 CHAIRMAN CHOFFO: That is a great
8 idea, Steve.

9 COMMISSIONER O'DEA: Okay.

10 CHAIRMAN CHOFFO: Any other
11 questions?

12 Do I hear any motions?

13 COMMISSIONER MEHTA: I think they
14 just waiting for the proper language of the
15 motion and then we can decide.

16 COMMISSIONER FITZGIBBONS: I will
17 make the motion but I want the attorney to
18 interpret a little better than I can.

19 MR. CURLEY: One of the things I
20 would like to do is if we could identify for the
21 record Exhibit 2 a little more clearly, who
22 prepared the drawing and what does it state.

23 MR. HUGHES: Exhibit 2 is a drawing
24 entitled Paterson Plank Road and Plaza Drive
25 driveway. It is a striping and signing plan

1 prepared by Michael -- I am sorry, no. This is
2 a plan -- yes, by Michael Maris Associates.

3 MR. CURLEY: And what is the date
4 of that plan?

5 MS. KALFAS: 12-13-04. Last
6 revised plan is '08. 8-1-08.

7 MR. CURLEY: And I believe the
8 Commissioner wanted a condition that would assure
9 the building of the right-turn lane.

10 COMMISSIONER FITZGIBBONS: Yes.

11 MR. CURLEY: Prior to the
12 subdivision becoming effective.

13 COMMISSIONER FITZGIBBONS: And the
14 applicant come before us with the site plan, too,
15 as a condition of the approval.

16 MR. CURLEY: I would recommend one
17 of the conditions would be that the applicant
18 enters into a developer's agreement with Hudson
19 County dealing with site acquisition and
20 responsibility for construction of the right-turn
21 lane as per drawing Exhibit A-2.

22 Secondly, that the developers
23 agreement and the specifications in A-2 meet the
24 requirements of the county engineer.

25 Thirdly, that the lane actually be

1 constructed and be put into operation before the
2 subdivision plan is filed.

3 MR. HUGHES: You can't put that
4 condition on us. It might be three years before
5 the subdivision plaque can be filed. That is not
6 really quite fair.

7 We need this for financing purposes
8 and we have no control over the acquisition of
9 that property unless the county acts and condemns
10 it. There is no way you can restrict the filing
11 of the subdivision plan until the condemnation
12 takes place.

13 We have no problem with the
14 understanding the site plan would be submitted
15 for your approval and we would have to come back
16 before this Board.

17 I mean, that we have no objection,
18 but to say that the subdivision will not be
19 signed or filed until the actual widening takes
20 place, that could take years which is totally
21 without our control and we have done everything
22 we possibly can.

23 We posted the money, we actually
24 signed the developer's agreement let alone
25 negotiated it and it is totally out of our hands,

1 and to further impose that condition is not
2 appropriate at all.

3 CHAIRMAN CHOFFO: I was under the
4 impression that the condition was the applicant
5 to submit the site plan for whatever is going to
6 be developed on that actual site.

7 MR. CURLEY: That would also be a
8 condition, correct.

9 So we will not have a condition of
10 the roadway being operational prior to filing of
11 a subdivision map. We may want to have a
12 condition that it be operational prior to the
13 issuance of the CO for any development on the
14 subdivided parcel.

15 Would that be acceptable to the
16 applicant?

17 MR. HUGHES: Assuming the County
18 can act and acquire the property, yes. If the
19 county does not act and acquire the property, how
20 can we possibly build it?

21 COMMISSIONER FITZGIBBONS: That is
22 the problem. We want that right-hand turn.

23 MR. HUGHES: So do we.

24 COMMISSIONER FITZGIBBONS: You
25 can't build something there unless -- we are

1 telling you what to do. We are trying to, you
2 know, we are trying to be reasonable here.

3 We are telling you that the site
4 plan will be approved -- the subdivision will be
5 approved, but when you come before us for the
6 site plan before you come to us with that site
7 plan you better have everything in place for that
8 right-hand turn.

9 MR. HUGHES: As we agreed with your
10 engineer, we are preparing the construction
11 drawings.

12 COMMISSIONER FITZGIBBONS:
13 Construction drawings has nothing to do with what
14 we want. This was the argument when you first
15 came before us, if I recall, and we have been
16 very -- it is over two and a half years. I think
17 this Board is very lenient and we -- first of
18 all, I didn't even know what was going on that
19 you were operating without that right hand turn
20 because I don't go to the movies, I go home and I
21 rent a movie, but we are trying to work out an
22 agreement with you guys. I mean, you just can't
23 go there and start building unless you have that
24 right-hand turn.

25 MR. HUGHES: I appreciate what you

1 are saying, sir. How can we start building
2 unless the building is acquired?

3 COMMISSIONER FITZGIBBONS: That is
4 not our problem, it is your problem.

5 COMMISSIONER O'DEA: And what if
6 the owner of the adjoining property finds a way
7 to drag the action through court for an extended
8 period of time? You know we have no control over
9 that, over that matter.

10 COMMISSIONER FITZGIBBONS: The way
11 I see it, the county is trying to help you out
12 and we know you are a great company and you
13 probably bring a lot of revenue in there, but the
14 county is helping you out, we are trying to
15 obtain the property. We are trying to help you.

16 You still got to go before the
17 Freeholder Board. We could give you all the
18 approvals in the world. The Freeholder Board is
19 going to have to make that approval, so that is
20 probably what you are going to have to face
21 anyway. The subdivision we have no problem, but
22 when you do the site plan, that right-hand turn
23 before you start building better be there.

24 I know where you are at. I know
25 where you are at.

1 MR. HUGHES: You understand my
2 argument?

3 COMMISSIONER FITZGIBBONS: That is
4 not our problem. And Hartz Mountain is a great,
5 great company. Maybe when I was younger I
6 wished I could work there, but I am retired now.

7 CHAIRMAN CHOFFO: Maybe I am
8 missing something, Mr. Hughes. Maybe I am
9 missing something.

10 You wouldn't develop that lot we
11 are talking about that is possibly going to be
12 subdivided, you wouldn't even be able to start
13 construction on it until it was condemned and
14 handed over to you.

15 MR. HUGHES: You are talking about
16 the widening lane?

17 CHAIRMAN CHOFFO: No, no, no, the
18 actual subdivided lot we are talking about.

19 COMMISSIONER O'DEA: The potential
20 hotel we are talking about.

21 CHAIRMAN CHOFFO: When you break
22 down you are going to own that land.

23 MR. HUGHES: We already own the
24 land.

25 COMMISSIONER O'DEA: We are talking

1 about the land that would make up the property to
2 which you are going to build the right-turn lane.

3 MR. HUGHES: That is our property
4 today. We are simply subdividing it out.

5 COMMISSIONER O'DEA: No, no, no,
6 the Chairman's question was before you began to
7 construct any development, new development on the
8 old movie theater parcel, assuming there was a
9 subdivision granted, you would have to at a
10 minimum have resolved the issue of ownership as
11 it related to the property necessary to construct
12 a right-turn lane, that is the --

13 CHAIRMAN CHOFFO: Exactly.

14 COMMISSIONER O'DEA: That is yes or
15 no question he asked you.

16 MR. HUGHES: How do we solve the
17 ownership?

18 COMMISSIONER O'DEA: He didn't ask
19 you that question. The question he asked you
20 was pretty simple.

21 Is the resolution of that issue a
22 condition preceding your ability to begin to
23 construct a development on the proposed
24 subdivided parcel. It is a simple yes or no
25 question.

1 MR. HUGHES: Well, that is an issue
2 that is not within my control. That is the only
3 point I am saying, sir.

4 COMMISSIONER O'DEA: You know, it
5 is interesting that someone can ask you a yes or
6 no question and the answer is either yes or no,
7 not that it is not within your control.

8 The question quite simply is, in
9 order for you to be able to start construction
10 which means get an approved site plan and get an
11 approved financing from whatever bank or
12 financial institution or self-financing mechanism
13 you may have access to develop and construct on
14 the proposed subdivided parcel, would you need as
15 a condition precedent to that, to at a minimum
16 have resolved the issue of the condemnation of
17 the property that makes up the right-turn lane.

18 MR. HUGHES: Would I need that from
19 the New Jersey Meadowlands Commission to do that?

20 COMMISSIONER O'DEA: Would you need
21 it from the Meadowlands -- would you need it from
22 anyone that grants you a site plan approval.

23 MR. HUGHES: The answer is no.

24 COMMISSIONER O'DEA: Okay. So
25 then in theory you could construct a hotel or

1 whatever else on that parcel without resolving
2 that issue of that right-turn lane, correct?

3 MR. HUGHES: No, because we are
4 going to come back or whoever develops a hotel on
5 that parcel before you and seek your approval for
6 site plan approval and you would impose whatever
7 conditions at that point in time for the
8 approval.

9 COMMISSIONER O'DEA: But the answer
10 is, you are saying for the record, the only way
11 you could do that without having control would be
12 if this Board also granted you the approval, is
13 that accurate?

14 MR. HUGHES: No. That is not
15 accurate either, because --

16 COMMISSIONER O'DEA: It is a year
17 from now, okay? It is one year from now. Your
18 subdivision got granted today. You now have ABC
19 Hotel developed, okay? Either you are building
20 the hotel for them or they are land leasing the
21 lot from you and you need to come in and you go
22 to the New Jersey Meadowlands Commission and get
23 their approval then you come back to this Board.
24 You get the New Jersey Meadowlands Commission
25 approval without even addressing that issue.

1 You then come back to this Board.
2 It is a year from now. You have yet to resolve
3 that, the issue of that right-turn lane for
4 whatever reason, a reason that is beyond your
5 control. You would come back to this Board and
6 you would ask, I would assume, the same thing you
7 asked when you got the theater approved which is
8 we are trying to do -- we are trying to do it, we
9 are moving forward, we are working, we filed or
10 the county has approved the condemnation, we are
11 now filing in court, we are trying to move as
12 quickly as we can so give us the okay to build
13 the theater, and just like was granted two and a
14 half years ago -- and I haven't seen a resolution
15 so I am relying on Mr. Marks' representation --
16 as soon as we can we will get it built and you
17 still have that 375,000 dollars sitting there to
18 make sure that at some point in time the issue
19 gets resolved.

20 MR. HUGHES: No. That is not --

21 COMMISSIONER O'DEA: You would make
22 that argument to the Board.

23 MR. HUGHES: No. That is a much
24 simpler fix from the last time I was before this
25 Board. The last time I was here there was to be

1 a grant.

2 If you haven't heard anything
3 regarding this application it is no fault of the
4 applicant, it is the county counsel's office who
5 has negotiated an agreement to that very effect.

6 So at this point in time once a
7 taking takes place, my understanding is that we
8 can proceed immediately with the development of
9 the lane and that would be our intent to do it
10 and believe me, if we could have done this three,
11 four, five years ago you and I wouldn't be
12 talking right now. It is as simple as that.

13 COMMISSIONER O'DEA: It is only two
14 and a half years ago because by your own
15 admission the issue is August of '08.

16 MR. HUGHES: There is a decel lane
17 in there right now, but believe me, if anybody
18 would want a greater decel lane it would be us.
19 We are not impeding this process.

20 COMMISSIONER O'DEA: Anyone who
21 attempts to drive down that road from 3:00 in the
22 afternoon until 7:00 any week night would want
23 it.

24 MR. HUGHES: Absolutely.

25 COMMISSIONER O'DEA: It is one of

1 the most negative intersections from a traffic
2 flow perspective probably in the State of New
3 Jersey, not just in the county or the region.

4 MR. HUGHES: That is the reason we
5 have cooperated with this Board from day one.

6 COMMISSIONER ARENCIBIA: Mr.
7 Chairman, two and a half years ago you came to
8 the Board for the movie theater but prior to that
9 you came to the Board for something else, in
10 2004. I heard that date stated as the date of
11 the plan, 2004.

12 So that meant that that right-turn
13 lane was a condition of an approval prior to 2008
14 which was not constructed.

15 MR. HUGHES: I wouldn't go back
16 that far as a condition. It presently came up
17 as a condition --

18 COMMISSIONER ARENCIBIA: If that
19 plan is dated from 2004, that meant that was your
20 plan that you had prepared to provide that
21 right-turn lane at that time.

22 MR. HUGHES: That plan didn't look
23 anything like that until Mr. Ramon actually sat
24 down with us and agreed to that.

25 MS. KALFAS: That date may have

1 come from when we constructed the right-hand turn
2 lane that we have.

3 COMMISSIONER ARENCIBIA: That
4 right-turn lane that you have there now was
5 shortened because you didn't have the property at
6 that time.

7 MR. HUGHES: It wasn't shortened,
8 it was created based on the property that Hartz
9 owned.

10 COMMISSIONER ARENCIBIA: As I
11 recall, that right-turn lane was a condition of a
12 hundred feet long at that time.

13 MR. HUGHES: In fact, Mr. Morey
14 required us to set back the radius of the lane
15 because he thought we were imposing on his
16 property by one foot. We did what we could.

17 MS. KALFAS: I believe that was
18 constructed as part of the Linens-N-Things, that
19 may have been the application.

20 Again, my recollection may not be
21 that good, but I thought that at that time we did
22 what we could.

23 COMMISSIONER ARENCIBIA: You did
24 what you could?

25 MS. KALFAS: And everybody was okay

1 with that.

2 COMMISSIONER ARENCIBIA: At that
3 time you had to build a right-turn lane that was
4 greater than twenty feet.

5 MS. KALFAS: I think that is why
6 that date was there, because this originated from
7 an intersection plan from that time.

8 COMMISSIONER ARENCIBIA: But when
9 you came to the Board in 2008 we already knew you
10 had a problem with that right-turn lane and that
11 was made a condition at that time for you to
12 provide that letter of credit and it is more than
13 two and a half years that we have had this issue
14 with the right-turn lane not being constructed.
15 So it still is in terms of time frame, it is
16 still not answered, really.

17 MR. HUGHES: We are desirous of
18 answering it. Obviously you heard what has been
19 done here today to date.

20 CHAIRMAN CHOFFO: Maybe -- I didn't
21 mean to cut you off, Demetri.

22 You had a question, Commissioner
23 Mehta?

24 COMMISSIONER MEHTA: I was going to
25 propose, like Freeholder O'Dea says, that our

1 condition like our attorney also spell it out
2 that in the future if you want to do any proposed
3 planning under the proposed subdivision which we
4 are planning for approval today, in that case
5 before the development plan comes in front of the
6 Planning Board, does right lane should be
7 constructed if that is a condition you want to
8 approve and you want to agree then we can go
9 further and we can --

10 MR. HUGHES: If you make it a
11 condition upon the approval of the actual
12 development, that is something else. But to say
13 we can't even appear before you until the lane is
14 constructed, is not appropriate.

15 COMMISSIONER MEHTA: Last time our
16 engineer suggest and Freeholder also the last
17 time at the time of the movie theater the same
18 thing, you are going to say it is out of your
19 control then it will be in the future it will be
20 the same story, so rather than putting the
21 condition at that time, we are planning to put
22 the condition right now so you will be aware that
23 what you have to fulfill before you come up with
24 the development plan.

25 MR. HUGHES: The difference between

1 now and then is that county counsel without
2 telling you for some reason which I can't
3 understand, advised us that they were proceeding
4 with the condemnation and that was probably a
5 year ago at this point and you are not even aware
6 of it yet.

7 CHAIRMAN CHOFFO: At our own Site
8 Plan Committee meeting, Mr. Hughes, I believe the
9 development agreement was still in the possession
10 of your client. It wasn't yet forwarded to
11 county counsel.

12 MR. HUGHES: It was signed by us
13 and was in the hands of county counsel for
14 several months.

15 CHAIRMAN CHOFFO: For several
16 months it was in the hands of the county counsel.
17 I wasn't sure of the time frame; three or four or
18 five.

19 MR. HUGHES: Two, two and a half,
20 something like that.

21 CHAIRMAN CHOFFO: Any questions?

22 COMMISSIONER O'DEA: I just need to
23 note for the record that the issue that you raise
24 of the requirement of the subdivision of the
25 property for financing purposes I don't

1 necessarily agree with because any financing on
2 that parcel would of course require much more
3 substantive approvals. So someone is going to
4 approve the construction of a theater, I mean of
5 a hotel, without you having any approvals to
6 construct the hotel here.

7 MR. HUGHES: No. This is a
8 release of an existing mortgage on the entire
9 parcel which cannot be released.

10 COMMISSIONER O'DEA: Oh, oh, oh.

11 MR. HUGHES: Which cannot be
12 released until that is carved out.

13 COMMISSIONER O'DEA: So that is not
14 what you said.

15 MR. HUGHES: And once that is done
16 then new financing with a different lender will
17 be obtained.

18 COMMISSIONER O'DEA: But you are
19 not in a position to seek new financing for this
20 parcel until you go through several other
21 hurdles.

22 MR. HUGHES: Absolutely.

23 COMMISSIONER O'DEA: So I wish you
24 originally stated what you just stated now
25 because now, now I think you have accurately

1 stated the need for the subdivision.

2 MR. HUGHES: Sorry I didn't make
3 that clear. So obviously there is an existing.

4 COMMISSIONER O'DEA: Big
5 difference, but it is a substantive difference of
6 a release of an existing mortgage as opposed to a
7 financing that parcel itself needs to get for its
8 own development.

9 MR. HUGHES: That will be the next
10 step obviously.

11 COMMISSIONER O'DEA: That is a step
12 someone will take in the hopefully nearer rather
13 than farther future.

14 MR. HUGHES: I certainly hope so.

15 CHAIRMAN CHOFFO: It is my
16 understanding at least you still have to go in
17 front of the County Board of Chosen Freeholders.
18 This development agreement has to be finalized
19 through county counsel.

20 Mr. Curley, would that be something
21 that county counsel would do prior to the
22 Freeholder Board voting on it or would it be
23 something that they would still have to vote on
24 before the agreement would be finalized?

25 MR. CURLEY: I would think county

1 counsel would finalize the agreement into final
2 legal form before presenting it to the
3 Freeholders for their approval.

4 MR. HUGHES: Just so it is clear,
5 the agreement is finalized between us and the
6 county counsel. That is why it was signed.

7 COMMISSIONER O'DEA: I could be
8 wrong because I do not remember either of these,
9 but I don't know how you could have signed an
10 agreement that was never presented to the Board
11 for approval.

12 MR. HUGHES: All I can --

13 COMMISSIONER O'DEA: I don't even
14 know how you have any legal authority to sign an
15 agreement that has never been authorized by the
16 entity that has the requirement to authorize the
17 agreement.

18 MR. CURLEY: That is an appropriate
19 step. It is okay for the owner to sign the
20 agreement and present it to the county for them
21 to act upon. In doing so, the applicant for the
22 owner is demonstrating that he is ready to enter
23 into the agreement, that he has in effect entered
24 into the agreement subject to acceptance of the
25 agreement by the county.

1 COMMISSIONER O'DEA: So if we
2 change anything in the agreement --

3 MR. CURLEY: Then it has to be
4 re-signed.

5 COMMISSIONER ROMANO: Is there a
6 copy of the signed agreement? Wouldn't that be
7 in the folder?

8 If you are pulling the history,
9 everything in it -- get everything signed by the
10 Freeholders.

11 DIRECTOR MARKS: Mr. Chairman, the
12 offices of the Division of Planning has all of
13 the applications, the site plans, the subdivision
14 drawings, the storm water calculations, the
15 drainage calculations and so forth for the
16 condemnation proceedings and the developer's
17 agreement was the condition of approval by this
18 Board, but details of which have been worked out
19 by the Law Department. It is a legal matter.
20 We really don't have --

21 COMMISSIONER O'DEA: And I ask the
22 county engineer what is the status. If anyone
23 here would know it, you would.

24 COMMISSIONER ARENCIBIA: I haven't
25 seen the agreement or the draft of it. Is that

1 agreement pertaining only to condemnation or does
2 it also discuss the work that Hartz is supposed
3 to do or construction of the ramp?

4 MR. HUGHES: It concerns the
5 condemnation area as well as an exhibit was
6 attached to it as well as the cost thereof.

7 COMMISSIONER ARENCIBIA: I haven't
8 seen that agreement myself.

9 COMMISSIONER FITZGIBBONS: I would
10 suggest that the Planning Board ask the -- ask
11 our attorney to get in touch with --

12 COMMISSIONER O'DEA: I would ask
13 for a recess so that I can check this out.

14 (Recess taken.)

15 (Time noted: 8:05 p.m.)

16

17 (Whereupon, the proceedings
18 resume.)

19 (Time noted: 8:25 p.m.)

20 CHAIRMAN CHOFFO: Can I have a
21 motion to reconvene.

22 COMMISSIONER O'DEA: I make a
23 motion to reconvene.

24 CHAIRMAN CHOFFO: Do I have a
25 second?

1 COMMISSIONER FITZGIBBONS: I

2 second.

3 DIRECTOR MARKS: Roll call?

4 CHAIRMAN CHOFFO: Yes.

5 DIRECTOR MARKS: Mr. Chairman, on a

6 motion to reconvene the meeting made by

7 Commissioner O'Dea, seconded by -- Commissioner

8 Fitzgibbons was it?

9 COMMISSIONER FITZGIBBONS: Yes.

10 DIRECTOR MARKS: Commissioner

11 Arencibia?

12 COMMISSIONER ARENCIBIA: Yes.

13 DIRECTOR MARKS: Commissioner

14 Avagliano?

15 COMMISSIONER AVAGLIANO: Yes.

16 DIRECTOR MARKS: Commissioner

17 Bettinger?

18 COMMISSIONER BETTINGER: Yes.

19 DIRECTOR MARKS: Commissioner

20 Fitzgibbons?

21 COMMISSIONER FITZGIBBONS: Yes.

22 DIRECTOR MARKS: Commissioner

23 Mehta?

24 COMMISSIONER MEHTA: Yes.

25 DIRECTOR MARKS: Commissioner Ng?

1 COMMISSIONER NG: Yes.

2 DIRECTOR MARKS: Commissioner

3 O'Dea?

4 COMMISSIONER O'DEA: Yes.

5 DIRECTOR MARKS: Commissioner

6 Romano?

7 COMMISSIONER ROMANO: Yes.

8 DIRECTOR MARKS: And Chairman

9 Choffo.

10 CHAIRMAN CHOFFO: Aye.

11 Did you want to say anything,

12 Commissioner O'Dea?

13 COMMISSIONER O'DEA: I would just

14 for the record, I spoke both to the County

15 Administrator Mr. Antun and County Counsel Mr.

16 Battista during the break.

17 Mr. Antun -- we all agree that we,

18 the Board approved an amendment to our agreement

19 with the firm of McManimon and Scotland to

20 undertake work related to a condemnation.

21 What the Administrator doesn't

22 recollect is whether or not we ever approved a

23 developer agreement or not.

24 Both the Administrator and the

25 County Counsel do not believe we ever authorized

1 a condemnation.

2 The County Counsel believes that we
3 did approve a developer agreement, and then I
4 would defer to the applicant's attorney that
5 basically that developer agreement would have
6 created a parameter of conditions that needed to
7 take place before the county would have to
8 request the Board to authorize an actual
9 condemnation.

10 Again, I don't have the agreement
11 but my assumption is that that agreement, though
12 you may have had a period of time upon which to
13 negotiate a friendly acquisition of the property,
14 the agreement may also have required that the
15 county make that attempt before they sought a
16 condemnation. I don't know that.

17 What I will tell you is that I have
18 a meeting with them at 3:30 tomorrow to go over
19 next week's agenda.

20 I would, I will know definitively
21 what was approved and not approved then and if
22 there is a need to take an action or at least to
23 present to the Board an action on one or both of
24 those items, that that could occur at our meeting
25 next week.

1 So that is kind of what occurred
2 during the break.

3 CHAIRMAN CHOFFO: Thank you,
4 Freeholder.

5 COMMISSIONER ROMANO: What does
6 that have to do with what we are going to do
7 tonight?

8 CHAIRMAN CHOFFO: I think that our
9 County Engineer was going to recommend something.

10 COMMISSIONER ARENCIBIA: I would
11 make a recommendation for a conditional approval
12 with some conditions outlined, but also we can
13 follow up on Freeholder O'Dea's meeting before
14 the next Planning Board meeting when the
15 resolution, when the Planning Board's resolution
16 is memorialized in approval for the subdivision.

17 So I guess at that point we can
18 confirm with the Freeholder what the status is of
19 the agreement and if we feel we shouldn't
20 memorialize it then we won't memorialize it, but
21 I think we should come up with the conditions
22 which I believe should involve -- at least before
23 the applicant comes back to the Planning Board
24 for a site plan approval, that the agreement be
25 finalized, the agreements with PSEG, our utility

1 companies, for their relocations are completed,
2 and that the contract is initiated with whatever
3 contractor is going to be utilized for the work.

4 So I think that is pretty fair
5 because if indeed this agreement is valid, I see
6 it is going to condemnation, once condemnation
7 proceeds the county owns the property and work
8 can start right away.

9 COMMISSIONER O'DEA: The county is
10 going to do -- see, I know we never authorized an
11 appraisal.

12 I know we have to authorize an
13 appraisal irregardless of whether you have ever
14 done an appraisal.

15 MR. HUGHES: We have.

16 COMMISSIONER O'DEA: I know we have
17 to authorize our own appraisal. I know we have
18 never done that, that so obviously in order for
19 us to do that we have to authorize the appraisal.
20 I am sure we never authorized the condemnation,
21 either.

22 I take the county counsel at his
23 word that he believes we approved the developer
24 agreement and, quite frankly, has he not -- have
25 we not, I will take on the responsibility as the

1 Chair of the Board, to bring that issue before
2 the Board next week.

3 Now, I will be honest with you, if
4 we haven't I would strongly suggest that you
5 speak to the county counsel tomorrow, because I
6 would suggest you be at the caucus meeting
7 because from my perspective have we not approved
8 that agreement, there will probably be questions
9 as it relates to what your time line is for
10 construction of the road, so if we do an
11 appraisal and we approve a condemnation and we
12 deposit in court whatever that amount is and as
13 you know the condemnation could take years --

14 MR. HUGHES: Yes.

15 COMMISSIONER O'DEA: -- but we take
16 title at that point in time, there should be a
17 time frame in that developer agreement and it may
18 be, I just don't know, that then at that point in
19 time runs a clock on you to go basically do the
20 things that you have stated which, you know,
21 hopefully is quicker than any time you would even
22 come before the Planning Board.

23 MR. HUGHES: Yes. In fact, we are
24 doing that work as we speak. I would just again
25 request that letter of introduction for our

1 engineer pertaining to the utilities so we can
2 request the markout as if it is actually being
3 performed by the county at this point in time.

4 I have no problem with anything you
5 said. If you do that undertaking on a Monday we
6 can do that in seven days or less if we have
7 everything lined up.

8 I have no objection to that
9 whatsoever, believe me.

10 COMMISSIONER O'DEA: And I will be
11 honest with you, if we have approved the
12 developer agreement and that developer agreement
13 doesn't lay out some pretty stringent time frames
14 that you must comply with to begin the
15 construction of the road after which the county
16 files the condemnation and takes title to the
17 property, I will move that we at the earliest
18 possible meeting if I can get that done by next
19 week we will do that, to amend that agreement to
20 require it.

21 MR. HUGHES: I have no problem.
22 As soon as you do your undertaking we can step in
23 and do the work.

24 COMMISSIONER O'DEA: I am
25 comfortable, Mr. Chairman, from the perspective

1 of trying to get a handle on anything that is
2 outside the control of the applicant. Myself and
3 Freeholder Romano with the Administration will
4 now be on top of that issue.

5 I also think that the conditions
6 laid out by Mr. -- by Demetrio also needs to be
7 incorporated in the resolution and lastly, if
8 between now and your next meeting there are any
9 issues, there are issues with the Board as it
10 relates to the agreement or the changing if
11 necessary of the agreement or whatever, we will
12 come back before the Board on memorialization and
13 ask the Board not to act on it.

14 MR. HUGHES: If you could advise,
15 Mr. Marks, when your caucus session is I will be
16 happy to appear.

17 COMMISSIONER O'DEA: The caucus is
18 next Tuesday at 4 p.m. and, quite frankly, I
19 think irregardless of what we have done or not
20 done, it probably would make sense for you to
21 come to the caucus so we can get a better handle
22 on whether we need to amend the agreement and I
23 would like to amend it ASAP and, Demetri, I need
24 you to be available because I need you to be able
25 to weigh in as to what the shortest reasonable

1 time period for them to be able to begin
2 construction and complete construction.

3 COMMISSIONER ARENCIBIA: Yes.

4 Mr. Chairman, too, I also want to
5 -- you indicated you are looking for the county
6 to address a letter to the utility companies for
7 an indication that this is a public works project
8 or something to relieve Hartz from any financial
9 payments to the utility companies, but I want to
10 make clear that I can't guarantee that the
11 utility companies are going to abide by that.
12 We always have difficulty on every project that
13 the county undertakes with all the utility
14 companies because they automatically want to be
15 compensated, so that is a struggle on every
16 project that we undertake, so I just want to make
17 it as a condition that should you have to pay
18 utilities, you are going to have to pay.

19 MR. HUGHES: Absolutely. I am not
20 quarreling with you at all. I am just asking if
21 the proper language is placed in the resolution
22 or in your letter saying that it is in
23 furtherance of your master plan or in an effort
24 to provide safety to that area which as I
25 understand is the two exceptions the utilities

1 listen to, that is it. That is all I am asking
2 for.

3 And the sooner I get that, the
4 sooner I can get the markouts and to the work.
5 Regardless whether you act in two weeks or a
6 month from now, I can begin to do the work now.
7 That is all I am asking is to have the time to do
8 it.

9 CHAIRMAN CHOFFO: Mr. Curley.

10 MR. HUGHES: Like I said, I agree.

11 CHAIRMAN CHOFFO: Mr. Curley, can
12 you reiterate some of those conditions.

13 MR. CURLEY: Yes. They changed to
14 some degree. The first is that the applicant
15 will enter into a developer's agreement with the
16 county dealing with site acquisition and
17 responsibility for construction of the right-turn
18 lane in accordance with drawing Exhibit A-2, that
19 the agreement and the specifications on Exhibit
20 A-2 will meet the approval of the county
21 engineer, and that the applicant agrees that the
22 applicants will file an application for site plan
23 approval with the County Planning Board prior to
24 the commencement of any construction of the
25 subdivided parcel.

1 CHAIRMAN CHOFFO: Do I have a
2 motion?

3 COMMISSIONER ARENCIBIA: Can you
4 just repeat that last sentence with the
5 condition.

6 MR. CURLEY: The condition is that
7 the applicant will file and seek site plan
8 approval from the County Planning Board before
9 commencing any construction on the subdivided
10 parcel.

11 COMMISSIONER ARENCIBIA: Before
12 commencing any construction the applicant has to
13 obtain approval for a site plan.

14 I am thinking it should be prior to
15 obtaining a site plan approval they would have
16 had to have started construction, is that right?

17 MR. CURLEY: No, they can't start
18 construction without a site plan approval.

19 COMMISSIONER O'DEA: Well,
20 Demetri's position, we are back to the debate we
21 had earlier.

22 MR. CURLEY: They can start
23 construction on the right turn.

24 COMMISSIONER O'DEA: Demetri's
25 position is you can't file for the site plan

1 unless you have started the construction.

2 COMMISSIONER ARENCIBIA:

3 Construction of the right-turn lane.

4 COMMISSIONER O'DEA: The attorney's
5 position is since he has -- I hate to make any
6 attorney's argument for them, but since the
7 attorney has no control over when the county
8 files a condemnation and takes the property, I
9 mean in essence I am saying I am not making his
10 argument but the county in essence controls the
11 ability he has to file a site plan, so if the
12 county chooses not to or takes an extended period
13 of time to file the condemnation and take title
14 to that property, he is precluded from filing the
15 application, right?

16 COMMISSIONER ARENCIBIA: Right.

17 If you want to make it a condition pending
18 county's condemnation and issuance of a contract
19 for construction of the right-turn lane as part
20 of his site plan approval should he come back for
21 a -- to the Board --

22 MR. CURLEY: Well, it would appear
23 that nothing could be built without the site plan
24 approval and I would assume that the Board would
25 revisit these conditions at the time of the site

1 plan approval application and if there is no
2 right-turn lane, I am certain that everyone will
3 be aware of that fact at that time and then an
4 appropriate condition can be imposed.

5 COMMISSIONER O'DEA: I guess,
6 Demetri, the question becomes -- and I wish I had
7 the developer agreement, some of the issues that
8 you are discussing should be in the developer
9 agreement, for instance -- and again I don't know
10 it, but the developer agreement should compel the
11 start of construction on that right-turn lane
12 within an expedited short period of time upon
13 which after which the county has filed
14 condemnation and taken, deposited the money and
15 taken title to the property.

16 MR. HUGHES: Yes.

17 COMMISSIONER O'DEA: And the
18 attorney doesn't have any objection to it.

19 Now, I don't know what the
20 penalties are if he fails to do that, but I would
21 expect that we could somehow handle that within
22 the developer agreement.

23 In other words, so you say I have
24 no problem with that, and then I say to myself
25 and we have an agreement with you, but I don't

1 have the agreement so I don't know what the
2 penalty is to you if you then fail to do that
3 within the developer agreement. I know what the
4 failure is within the Planning Board, you
5 wouldn't be able to file, or what Demetri is
6 proposing, you wouldn't be able to file the site
7 plan.

8 MR. HUGHES: The penalty is you
9 could draw down on our letter of credit of
10 375,000 dollars and I couldn't even object to it.

11 COMMISSIONER O'DEA: Okay.

12 COMMISSIONER FITZGIBBONS: We got
13 it.

14 MR. CURLEY: Any other -- what is
15 the third condition?

16 COMMISSIONER ARENCIBIA: I am
17 sorry?

18 COMMISSIONER O'DEA: How do you
19 word the language of the third condition?

20 MR. CURLEY: Why don't we leave it
21 that the applicant will file for site plan
22 approval with the county Planning Board before
23 commencing any construction work on the
24 subdivided parcel. That is referring to the
25 parcel that is being made out of the subdivision.

1 COMMISSIONER O'DEA: Mr. Curley,
2 could we say that the applicant must be in
3 compliance with the developer agreement with the
4 county when they file the site plan approval
5 application? Because if that agreement says if
6 the county takes title to the property they have
7 to begin construction in sixty days and they
8 haven't done it, then at that point we achieve
9 the same goal you want to achieve anyway.

10 Do you have a problem with that?

11 MR. HUGHES: Not at all.

12 COMMISSIONER O'DEA: Let's make
13 that a condition that in order for them to be
14 able to file the -- that they have to file an
15 application and in order for them to file the
16 application they have to be in compliance with
17 the developer's agreement with the county.

18 So if the county drags their feet
19 then they are not precluded from filing the
20 application. Then the Board still have the
21 ability to place whatever condition we do on the
22 approval, or not grant the approval, because that
23 issue may not get resolved.

24 The county loses the case and for
25 whatever reason the owner goes to court and wins

1 the case that says you can't take his property
2 for a road.

3 Is that likely? Of course not, but
4 who knows. There have been a lot of crazy
5 condemnation decisions over time. But I think
6 it addresses the issue that you have.

7 COMMISSIONER ARENCIBIA: Yes.
8 That sounds reasonable.

9 CHAIRMAN CHOFFO: Is there a motion
10 on the floor? Did someone make a motion?

11 COMMISSIONER O'DEA: I would assume
12 Demetri makes it.

13 COMMISSIONER ARENCIBIA: I will
14 make a motion to approve with the conditions
15 stipulated, and if you want to read the
16 conditions --

17 CHAIRMAN CHOFFO: No, we don't have
18 to read them again.

19 COMMISSIONER ARENCIBIA: We went
20 through it enough.

21 COMMISSIONER ROMANO: I got them
22 memorized in my head.

23 COMMISSIONER FITZGIBBONS: I would
24 second. I would expect our attorney and their
25 attorney to get together and tell them what the

1 conditions are.

2 MR. CURLEY: Right.

3 COMMISSIONER FITZGIBBONS: We have
4 been going over a hundred thousand conditions
5 tonight. We finally got it right.

6 MR. HUGHES: I would ask Mr. Curley
7 just to give me a draft of the resolution and I
8 will discuss it with him.

9 DIRECTOR MARKS: Mr. Chairman, on a
10 motion to conditionally approve application
11 2011-002-SD, made by Commissioner Arencibia,
12 seconded by Commissioner Fitzgibbons,
13 Commissioner Arencibia?

14 COMMISSIONER ARENCIBIA: Aye.

15 DIRECTOR MARKS: Commissioner
16 Avagliano?

17 COMMISSIONER AVAGLIANO: Aye.

18 DIRECTOR MARKS: Commissioner
19 Bettinger?

20 COMMISSIONER BETTINGER: Aye.

21 DIRECTOR MARKS: Commissioner
22 Fitzgibbons?

23 COMMISSIONER FITZGIBBONS: Aye.

24 DIRECTOR MARKS: Commissioner
25 Mehta?

1 COMMISSIONER MEHTA: Aye.

2 DIRECTOR MARKS: Commissioner Ng?

3 COMMISSIONER NG: Aye.

4 DIRECTOR MARKS: Commissioner

5 O'Dea?

6 COMMISSIONER O'DEA: Aye.

7 DIRECTOR MARKS: Commissioner

8 Romano?

9 COMMISSIONER ROMANO: Aye.

10 DIRECTOR MARKS: And Chairman

11 Choffo.

12 CHAIRMAN CHOFFO: Aye.

13 DIRECTOR MARKS: Mr. Chairman, the
14 motion passed.

15 MR. HUGHES: Ladies and gentlemen,
16 thank you.

17 DIRECTOR MARKS: Mr. Chairman, the
18 next application scheduled for public hearing is
19 2011-019-SD, Park Tower Apartments, Inc., located
20 at 1034 Kennedy Boulevard which is Block 87, Lot
21 5.02 in the City of Bayonne.

22 COMMISSIONER ROMANO: We don't have
23 to condemn any land here, do we?

24 MR. FEINBERG: Good evening, my
25 name is Bill Feinberg. I am an attorney

1 representing the applicant.

2 I will give you just a few facts
3 about this application. The property is owned
4 by a family corporation of a father and son. It
5 is part -- that is, the property that we are
6 talking about for the minor subdivision is part
7 of a larger lot.

8 A part of this lot is occupied by
9 an apartment house that the corporation owns.
10 The applicant is really moving here on behalf of
11 the son, Bret Singer, the father is Burton
12 Singer. Bret wants to cut a small piece of the
13 vacant area off in order to construct a
14 one-family house in which he will live.

15 The property has no access to
16 Kennedy Boulevard, although it fronts on the
17 Boulevard. It is at the intersection of West
18 43rd Street in Bayonne and Kennedy Boulevard.

19 The only access to the property is
20 on West 43rd Street. We are here for minor
21 subdivision approval which the Bayonne Planning
22 Board has already granted.

23 We are here because the property,
24 one side of the property faces Kennedy Boulevard,
25 a county road. The rest of the property will

1 remain as is. Right now this piece is irregular
2 and is unused and has been vacant for many, many
3 years.

4 I have with me our architect Mr.
5 Kawalek, Stephen Kawalek, and should the Board
6 have any engineering questions we also have
7 George Gloede, our engineer.

8 I will say this. I have been
9 practicing in Bayonne for a long long time and
10 for somebody to want to build a one-family house
11 in the city of Bayonne is almost like expecting
12 Mandrake the Magician to come out.

13 All you see in Bayonne is either a
14 two-family house or multi-family house, and with
15 that I will ask Mr. Kawalek to come up and
16 describe the project and answer any questions
17 that you have, that the Board might have.

18 (S T E P H E N K A W A L E K, was duly
19 sworn.)

20 MR. FEINBERG: What is your
21 profession, Mr. Kawalek?

22 MR. KAWALEK: I am a professional
23 architect and a professional licensed planner in
24 New Jersey, New York, Pennsylvania, Connecticut.

25 MR. HUGHES: Where do you maintain

1 your office?

2 MR. KAWALEK: Bayonne.

3 MR. FEINBERG: You were retained,
4 were you not, to do the architectural work in
5 connection with this project?

6 MR. KAWALEK: I was.

7 MR. FEINBERG: Can you tell the
8 Board where the property is located and what the
9 project involves.

10 MR. KAWALEK: As Mr. Feinberg said,
11 it is an irregular lot at the corner of 43rd
12 Street and Kennedy Boulevard in Bayonne. The
13 lot currently contains a five-story
14 multiple-family dwelling.

15 CHAIRMAN CHOFFO: If you are going
16 to refer to those could we mark them as exhibits
17 or if they were distributed to Mr. Marks' office,
18 I guess that is okay.

19 MR. FEINBERG: I would offer -- if
20 the Board wants the exhibit marked --

21 CHAIRMAN CHOFFO: Preferably.

22 (So marked as A-1.)

23 MR. KAWALEK: It is an irregular
24 lot, approximately 24,000 square feet in area.
25 It contains a five-story, 48-unit apartment house

1 which my client owns and which was actually
2 designed and built by my client's grandfather who
3 at one time was a prolific architect in New
4 Jersey.

5 And part of the pedigree of this
6 project is that connection, so that we wanted to
7 create a structure that would fit in with Barnett
8 Singer's legacy and he has a history of having
9 created both multi-family dwellings and unique
10 one-family residences and there were a couple of
11 examples of his work in Bayonne that we used as
12 precedents and they included some of the work in
13 terms of design.

14 In terms of the siting of the
15 house, the portion of the lot that we are
16 subdividing which is indicated here is
17 approximately 4,500 square feet. The
18 subdivision was previously approved by the City
19 of Bayonne which also granted us a variance for
20 relief of the rear yard setback requirement.

21 The way the local zoning ordinance
22 reads, if a corner lot fronts on an avenue, the
23 avenue frontage is considered the front of the
24 lot, so even though the configuration of the lot
25 as it exceeds the dimensional and bulk

1 requirements of a typical in-fill lot on the
2 street which would have the frontage at the
3 narrower side, here everything is skewed by 90
4 degrees so essentially it functions as an
5 oversized typical lot.

6 If this lot were two lots up the
7 street this would be the front of the house. We
8 would have two side yards and a rear yard. So
9 in that case we would have a three-foot -- we
10 would be allowed to have a three-foot side
11 setback on the site, twenty feet in the front and
12 twenty feet in the rear.

13 Here we are following a prevailing
14 setback at the front. Our average setback was
15 132 and we have a slightly variable setback due
16 to the geometry of the lot.

17 We also meet our prevailing setback
18 at the 43rd Street frontage. What is technically
19 a side yard to the north end of the site is
20 actually going to function as what would normally
21 be considered a rear yard.

22 That is outdoor recreational space
23 and what is really the back yard is functioning
24 as a sideyard.

25 What we had originally proposed in

1 Bayonne as a five-foot setback at the rear
2 subdivision line, their Planning Board asked us
3 to throw an extra foot in there by shifting the
4 whole house forward and we actually got a twenty
5 foot rear yard there.

6 The existing building is five feet
7 off of that subdivision line, so all together we
8 have got eleven feet between the two structures
9 which essentially exceeds the conditions that
10 would typically exist were there a residential
11 structure immediately adjacent.

12 The house is about 3,000 square
13 feet. It is three bedrooms, three and a half
14 baths, two car garage. It satisfies Bayonne's
15 off-street parking requirements.

16 We are providing four new street
17 trees. Our curb cut is off of 43rd Street so we
18 don't have any vehicular traffic from the
19 Boulevard, however our utilities will exit to
20 existing utility lines within the Boulevard
21 right-of-way. So our existing water and sewer
22 lines are actually under the sidewalk along
23 Kennedy Boulevard.

24 That is the long and short of it.

25 MR. FEINBERG: If the Board has any

1 questions?

2 CHAIRMAN CHOFFO: Any questions?

3 COMMISSIONER ARENCIBIA: Yes. Mr.
4 Chairman, I have some questions.

5 I have the drainage report.

6 Do you have your engineer here?

7 MR. KAWALEK: I do.

8 MR. FEINBERG: Mr. Curley, would
9 you swear in our engineer, please.

10 (G E O R G E G L O E D E, was duly sworn.)

11 CHAIRMAN CHOFFO: Go ahead.

12 COMMISSIONER ARENCIBIA: With
13 respect to the drainage, I just have two
14 questions.

15 First of all, the county does not
16 own the storm sewer in the street, we own the
17 inlets and the laterals to the sewer, but Bayonne
18 Sewer Authority owns the sewer but on the
19 engineering calculations it looks like you are
20 increasing the impervious area.

21 MR. GLOEDE: Slightly on the site,
22 yes.

23 COMMISSIONER ARENCIBIA: As a
24 result you are building some type of holding
25 chamber.

1 MR. GLOEDE: Yes, we provided -- we
2 are supplying like an underground detention
3 system that is located under the driveway off of
4 West 43rd Street.

5 Because of the elevation
6 differential there, as far as what the MUA said,
7 they want us to tie into the relief sewer that is
8 in the avenue. We had to put in a pump system in
9 order to get that tank emptied out. That was
10 the requirement of the MUA.

11 COMMISSIONER ARENCIBIA: That is
12 something that is going to be maintained by the
13 owner?

14 MR. GLOEDE: Yes.

15 COMMISSIONER ARENCIBIA: It is
16 going to be a high maintenance feature for the
17 owner.

18 MR. GLOEDE: We had to provide an
19 inspection report to Bayonne which they also will
20 be reviewing.

21 COMMISSIONER ARENCIBIA: And this
22 drainage system is really just collecting water
23 from the site from the roof?

24 MR. GLOEDE: Correct. Just roof
25 drainage.

1 COMMISSIONER ARENCIBIA: Reading
2 the report, it says you recommended a three-inch
3 pipe.

4 MR. GLOEDE: Correct.

5 COMMISSIONER ARENCIBIA: But on the
6 plans I see a two-inch connection.

7 MR. GLOEDE: The two-inch is the
8 force main. The three inch is actually the
9 outlet from the detention system into the pump
10 tank.

11 COMMISSIONER ARENCIBIA: The
12 three-inch is from the detention system -- from
13 the pump tank to the detention system?

14 MR. GLOEDE: From the detention to
15 the pump tank is a three-inch orifice and a
16 two-inch force main basically going from the pump
17 out to the relief line.

18 COMMISSIONER ARENCIBIA: Okay.
19 You are going to have a filtering system in
20 there? Because you know the storm water gets
21 pretty dirty.

22 MR. GLOEDE: The majority of the
23 water is rain water. Based on the DEP, that
24 water is primarily the cleanest of the rain
25 water. They usually recommend that is the water

1 that gets infiltrated back into the ground.

2 In this case we are putting it into
3 this detention. We do have a small area of the
4 driveway that will be collected into a trench
5 drain which has a grade on top of it, so it is a
6 very small area that would be going into that but
7 it still would require maintenance.

8 COMMISSIONER ARENCIBIA: Do you
9 have cleanout manholes or like normal plumbing?

10 MR. GLOEDE: Yes. There is like a
11 manhole access port at either end of the
12 detention system so it can go on either side of
13 it, clean out whatever has to be done, plus the
14 pump tank, because of the close proximity to the
15 detention, they can also get out the outlet
16 structure through that.

17 COMMISSIONER ARENCIBIA: What about
18 through the force main?

19 MR. GLOEDE: That is a little bit
20 more difficult to do, but you don't put force
21 mains into that. It kind of defeats the purpose
22 of the pressure line.

23 COMMISSIONER ARENCIBIA: And the
24 other thing on the detail I saw, for a vertical
25 curve it should be a standard 9 inch by 18 inch

1 vertical curb.

2 MR. GLOEDE: Is that on my plan or
3 the architect's plan?

4 COMMISSIONER ARENCIBIA: It is
5 sheet A-002.

6 MR. GLOEDE: Right.

7 COMMISSIONER ARENCIBIA: Typical
8 curb, sidewalk detail, and I know just by the
9 photographs the Planning Department has taken,
10 there appears to be some sidewalks that have to
11 get replaced or parts of it, so if that would be
12 a condition, to replace those portions that are
13 compromised.

14 MR. KAWALEK: I believe that the
15 sidewalk on the Boulevard frontage was actually
16 replaced fairly recently. I am not sure what
17 particular section.

18 COMMISSIONER ARENCIBIA: I am just
19 looking at the photos by the Department. I
20 don't know if they could answer, but they took
21 photos recently, apparently, so if they could
22 tell us when they took them, but we can provide
23 you the photos. There are some areas that need
24 to get repaired.

25 MS. MASSEY: Mario Tridente, our

1 building inspector, went out approximately two
2 weeks ago, maybe the last week, and there are two
3 sections of cracked sidewalk along Kennedy
4 Boulevard that need to be replaced. If you want
5 to take a look at the pictures.

6 CHAIRMAN CHOFFO: Megan, can you
7 please provide them with a copy of the pictures?

8 MS. MASSEY: Sure. Also going
9 along with that line of thinking, they also need
10 to put in ADA handicapped ramps and truncated
11 domes.

12 MR. KAWALEK: That is fine.

13 COMMISSIONER ARENCIBIA: So if we
14 could make these conditions.

15 You also need to contact the county
16 engineer's office for a road opening permit for
17 utility cuts and for the curb, the handicapped
18 ramp.

19 I believe that is it, as long as
20 you revise the curb detail.

21 MS. MASSEY: I have more comments.

22 A letter was sent from the
23 applicant from the Planning Department on April
24 14th and just going through it, Comment No. 13,
25 Appendix G of our, the land development

1 regulations require that applicants include two
2 measures, two green technique measures.

3 I just wanted the applicant to
4 discuss what measures he would be implementing.

5 MR. KAWALEK: The suggestions that
6 were made in the letter are acceptable. We have
7 no problem introducing native plantings and
8 drainage.

9 CHAIRMAN CHOFFO: Can you speak
10 into the microphone and also you too, Megan,
11 because we can't hear you up here.

12 MR. KAWALEK: Just to repeat what I
13 just said, the two measures that are recommended
14 in the letter to which Ms. Massey refers
15 including native landscaping and on-lot treatment
16 for storm water treatment such as storm water or
17 grass swells, and we have no problem with either
18 of those recommendations.

19 MS. MASSEY: Mr. Chairman, I would
20 suggest the applicant revise the site plans for
21 our review. I am not sure.

22 Do you know that you have enough
23 room on site for a rain garden or grass swells?

24 MR. KAWALEK: I would have to study
25 it, obviously.

1 MR. GLOEDE: If you look at the
2 site utility plan, up at the north end of the
3 site I actually do show kind of a grass swell
4 within that yard area to provide that, so that is
5 shown on the plan currently.

6 MS. MASSEY: Mr. Chairman, just to
7 refresh my memory, is there native landscaping
8 shown on the site plan, a certain type of
9 landscaping?

10 MR. KAWALEK: I don't think any of
11 the species we currently show are considered
12 native species, but we can certainly modify that.

13 MS. MASSEY: Okay. That is it.

14 CHAIRMAN CHOFFO: Mr. Marks, did
15 you have a question?

16 DIRECTOR MARKS: No, Mr. Chairman,
17 I was just curious if Ms. Massey had any
18 comments.

19 CHAIRMAN CHOFFO: Any other
20 questions? Go ahead.

21 COMMISSIONER MEHTA: Mr. Chairman,
22 just according to Megan's letter, No. 11 required
23 the shade trees to be planted, so could you tell
24 us what you are going to plant there.

25 MR. KAWALEK: Our site plan already

1 indicates the presence of four street trees and
2 we indicated a note on the plan that the owner
3 will provide a two-year guarantee.

4 COMMISSIONER MEHTA: It says on the
5 county road.

6 MR. KAWALEK: I am sorry?

7 MS. MASSEY: They provided for
8 recommending four shade trees.

9 CHAIRMAN CHOFFO: Any other
10 questions?

11 MS. MASSEY: One last thing. Our
12 county inspector, Mario Tridente, I just wanted
13 to make sure you had an NFA letter for the two
14 monitoring wells on site.

15 MR. KAWALEK: That is a question
16 for the owner.

17 MS. MASSEY: Is the owner here?

18 MR. FEINBERG: He is. Would you
19 like to ask him a question?

20 MS. MASSEY: Mr. Chairman.

21 CHAIRMAN CHOFFO: Do you mind
22 stepping up and introducing yourself.

23 MR. FEINBERG: This is Bret Singer.
24 Would you swear the witness, please.

25 (B R E T S I N G E R, was duly sworn.)

1 CHAIRMAN CHOFFO: Go ahead, Steve.

2 DIRECTOR MARKS: Mr. Chairman, the
3 monitoring wells that are located that are
4 currently on the site there are two monitoring
5 wells?

6 MR. SINGER: When you say the
7 cracked sidewalk, the only thing I am saying is
8 the whole block is not my property, it is only
9 half the block.

10 DIRECTOR MARKS: The monitoring
11 wells, the two monitoring wells are squarely
12 within your property. Was your property, was
13 that property the --

14 CHAIRMAN CHOFFO: Someone give them
15 a picture so -- we are looking at different
16 pictures than they are, so I would rather they
17 see the sidewalk and monitoring wells.

18 MR. CURLEY: We should have
19 photographs marked.

20 (Marked A-3 and A-4.)

21 MR. SINGER: This is the Sunoco
22 Station, that is not me, and those are not.

23 MR. FEINBERG: They are not on your
24 property?

25 MR. SINGER: You have -- maybe it

1 is better if he explains.

2 MR. KAWALEK: These are pictures of
3 the neighboring property. There is a direct --
4 to Mr. Singer's property continues north along
5 Kennedy Boulevard, so what this picture shows is
6 the lot on Kennedy Boulevard and 44th Street
7 which occupies the north part of this lot. That
8 site does have monitoring wells.

9 CHAIRMAN CHOFFO: So there is no
10 monitoring wells on your client's --

11 MR. KAWALEK: None I have seen and
12 none indicated on our survey.

13 I believe also that the photos of
14 the cracked sidewalks are in front of that
15 neighboring property.

16 I see a chain link fence in the
17 background here and that vacant lot is currently
18 fenced with the chain link fence.

19 CHAIRMAN CHOFFO: Where it says New
20 Market Associates --

21 MR. SINGER: That is not me. That
22 is the broker, and that lot is for sale right
23 now. I am actually all grass that is neat.

24 COMMISSIONER O'DEA: Mr. Chairman.

25 CHAIRMAN CHOFFO: Freeholder.

1 COMMISSIONER O'DEA: The concern I
2 have related to the monitoring wells is did the
3 architect ever get a copy of whatever remedial
4 action work plan was filed by the owner of the
5 adjoining property to determine whether or not,
6 to determine two things; one, if there was any
7 ground water contamination and, if that ground
8 water contamination existed, did it flow and
9 impact on this property.

10 MR. FEINBERG: I happen to
11 represent the owner of the adjoining property as
12 well as Mr. Singer.

13 We have a complete environmental
14 profile report that has been filed with the
15 Hudson County parks.

16 There is a -- there are two
17 monitoring wells on the adjoining property. The
18 amount of contamination is barely above the
19 triggering level of the DEP and there has been
20 some migration, but the migration has been to the
21 west and my client's environmental engineer is
22 working with the County Parks engineer on that,
23 but as far as I know there has been absolutely no
24 migration into the property that Mr. Singer owns.

25 The monitoring wells are on the

1 property of the adjoining owner.

2 COMMISSIONER O'DEA: So when the
3 adjoining property owner did his remediation
4 investigation, did he or was he required at any
5 time to do any soil sampling of the property
6 owned by the applicant?

7 MR. FEINBERG: I believe he did.

8 COMMISSIONER O'DEA: And you are
9 stating for the record that the results of that
10 remedial investigation show that there was no
11 contamination on the applicant's property?

12 MR. FEINBERG: I believe so. That
13 was not a primary problem. The primary problem
14 was the quantum of contamination on the adjoining
15 property, and that was thoroughly explored.
16 There is a slight flume under the Boulevard and
17 there is a slight amount of it in the Hudson
18 County Park and, as I said, the property owner
19 and the property's environmental engineering firm
20 are working with the County Park.

21 COMMISSIONER O'DEA: Mr. Chairman,
22 I don't want to hold up the approval of this, but
23 before we memorialize this, Mr. Marks, could you
24 get a copy of that report and also review what
25 impact it had, if any, on this property.

1 DIRECTOR MARKS: If the applicant
2 is willing to submit it, yes.

3 COMMISSIONER O'DEA: He said the
4 County Parks already had it. Is that correct?

5 We already have a copy in the
6 possession of the Parks Division or that
7 department of the county.

8 MR. FEINBERG: Absolutely correct.

9 COMMISSIONER O'DEA: So I mean, you
10 simply need to get a copy of that.

11 MR. CURLEY: Let me make the
12 observation we can get the report, but it really
13 has nothing to do with our jurisdiction on the
14 County Planning Board in deciding whether or not
15 to approve this application.

16 The issue of contamination is
17 solely within the jurisdiction of the DEP to
18 these types of circumstances.

19 COMMISSIONER O'DEA: You are
20 correct, Mr. Curley, but I am going to tell you,
21 if a review of the report reveals that there was
22 any leakage or identification of contamination to
23 a level above residential standards on this
24 property I, as an elected official, have to send
25 a notification immediately to the New Jersey

1 Department of Environmental Protection as well as
2 to the City of Bayonne because they both are
3 going to have an affirmative responsibility as it
4 relates to the approval of any construction of a
5 one-family property on the lot.

6 MR. FEINBERG: Currently the County
7 Park has had no problem with this.

8 As I indicated, and I have been
9 informed by the environmental engineer that the
10 amount of contamination is slightly above the
11 triggering level, that is in the report, and if
12 the gentleman wants to see the report he is
13 welcome to go and get it.

14 MS. MASSEY: Mr. Chairman --

15 MR. FEINBERG: The DEP is aware of
16 it, they have looked at it and we have a report
17 from them.

18 CHAIRMAN CHOFFO: Thank you, Mr.
19 Feinberg.

20 MS. MASSEY: Mr. Chairman, can the
21 applicant just show on the A-1 sheet on the site
22 plan the location of the Sunoco Station.

23 MR. FEINBERG: Excuse me?

24 MS. MASSEY: Can you show the
25 location of the Sunoco Station.

1 MR. FEINBERG: It is not there.

2 COMMISSIONER O'DEA: The former
3 station.

4 MR. KAWALEK: Lot 4.

5 MR. FEINBERG: The Planning Board
6 of Bayonne is fully aware of these two monitoring
7 wells. We appeared before the Planning Board,
8 they had an environmental assessment and they
9 approved the development of that property for an
10 apartment house. Done, reviewed and looked at
11 thoroughly.

12 If you would like to go to Bayonne
13 and get their reports, you are welcome to do
14 that.

15 COMMISSIONER O'DEA: With all due
16 respect to you, sir, the approval of an apartment
17 house and how that apartment house lays out and
18 what type of uses are on the ground floor level
19 of that apartment house vis-a-vis the
20 construction of a one-family home may have a
21 vastly different view as it relates to the
22 Department of Environmental Protection.

23 I am not going to render any
24 decision because I don't have the report, but I
25 will tell you, I have seen apartment buildings

1 built over properties that exceeded residential
2 standards with certain conditions imposed. I
3 have also known that one-family houses were not
4 approved because you weren't able to put in place
5 the same protections that you were when you laid
6 out an apartment house.

7 I don't know -- I can't render any
8 thought and the attorney's telling me it doesn't
9 impact my decision there, but I don't only sit
10 here as a Planning Board Commissioner, I sit here
11 as an elected official. And as an elected
12 official I have an affirmative responsibility
13 based on what was stated here, to try to find
14 out, look at that report and based on what it
15 says, I may have an affirmative responsibility to
16 notify the appropriate agencies. That is all I
17 am saying.

18 MR. FEINBERG: Perhaps I can cut
19 this issue short. I appeared here before this
20 Board on behalf of the adjoining property owner
21 for a site plan approval for the construction of
22 that apartment house.

23 The Planning Board conducted a
24 significant hearing and the application was
25 granted.

1 They knew about the problem that we
2 are discussing now, and apparently at that point
3 it did not constitute a hurdle as far as the
4 county Planning Board was concerned.

5 CHAIRMAN CHOFFO: You know when
6 that was, Mr. Feinberg?

7 MR. FEINBERG: Excuse me?

8 CHAIRMAN CHOFFO: Do you know when
9 that was?

10 MR. FEINBERG: Probably two years
11 ago, maybe three. I can get the information for
12 the Board if the Board wants it.

13 CHAIRMAN CHOFFO: If you could
14 provide it to Mr. Marks' office so we know the
15 application.

16 So many applications come before us
17 it is hard to recall all of them.

18 MR. FEINBERG: The construction of
19 the apartment house has not begun because of the
20 recession and funding difficulties at the moment,
21 but it is still under active consideration.

22 COMMISSIONER O'DEA: Mr. Chairman,
23 does that apartment building have ground floor
24 residential units or does that apartment building
25 have parking and then units above it?

1 MR. FEINBERG: It has -- now you
2 are pressing my memory. I believe it has a deck
3 and units above it.

4 COMMISSIONER O'DEA: You just made
5 my point, thank you. The approval of a
6 residential apartment building over a deck level
7 of parking is vastly different than approval of a
8 one-family property where people live on the
9 entry level.

10 It is regularly allowed that if you
11 have got parking and you blacktop it and that is
12 where your monitoring wells are and you deck it
13 and the building is above it, the risk to anyone
14 above the building is mitigated.

15 That is not what is being proposed
16 here from the drawing that I see.

17 MR. FEINBERG: I might say this.
18 I have had a significant number of applications
19 since that one and I might very well be mistaken
20 as to where the parking is located. It may
21 indeed be a ground level parking as far as I can
22 recall.

23 The entrance was directly from the
24 Boulevard onto the ground level. There may have
25 been units there, I am not sure.

1 COMMISSIONER O'DEA: Put it this
2 way. I would be pretty interested to see --
3 obviously you have monitoring wells, so I don't
4 think you are going to be able to put a
5 residential unit over a monitoring well because I
6 don't know how you access the monitoring well in
7 the residential unit.

8 MR. FEINBERG: There was no problem
9 with that portion of the property where the
10 building is going to go. The monitoring well is
11 basically at the sidewalk and in the Boulevard
12 but not in the property proper. There are no
13 units planned for over a monitoring well.

14 COMMISSIONER O'DEA: Was there any
15 USTs removed from the property?

16 MR. FEINBERG: Was there any what?

17 COMMISSIONER O'DEA: USTs.

18 MR. FEINBERG: There has been a
19 cleanup of the property, if that is what you
20 mean.

21 COMMISSIONER O'DEA: Do you know
22 what a UST is?

23 MR. FEINBERG: Yes, I do.

24 COMMISSIONER O'DEA: Were there any
25 removed from the property and how many.

1 MR. FEINBERG: I don't remember.

2 COMMISSIONER O'DEA: You don't know
3 the size?

4 MR. FEINBERG: I don't remember.

5 COMMISSIONER O'DEA: Mr. Marks, get
6 me a copy of the report and I will act
7 accordingly.

8 MR. FEINBERG: The report of the
9 apartment house or the report of this?

10 COMMISSIONER O'DEA: The report on
11 file based on your representation with the County
12 Division of Parks, correct?

13 MR. FEINBERG: Absolutely.

14 COMMISSIONER O'DEA: That is all I
15 ask. And if not, it is obviously on file with
16 DEP, right?

17 MR. FEINBERG: Excuse me?

18 COMMISSIONER O'DEA: If for some
19 reason the County Parks Division does not have
20 it, it obviously is on file with the New Jersey
21 Department of Environment Protection.

22 MR. FEINBERG: It is positively on
23 file with the County Park.

24 COMMISSIONER O'DEA: Then that is
25 easy. I will get it tomorrow.

1 CHAIRMAN CHOFFO: Are there any
2 other questions? Do I have a motion?

3 COMMISSIONER BETTINGER: I will
4 make a motion to approve.

5 COMMISSIONER MEHTA: I will second.

6 CHAIRMAN CHOFFO: Commissioner
7 Mehta seconded it.

8 DIRECTOR MARKS: Mr. Chairman, on a
9 motion to approve application 2011-019-SD made by
10 Commissioner Bettinger, seconded by Commissioner
11 Mehta, Commissioner Arencibia?

12 COMMISSIONER ARENCIBIA: Aye with
13 the conditions on record.

14 DIRECTOR MARKS: Commissioner
15 Avagliano?

16 COMMISSIONER AVAGLIANO: Aye.

17 DIRECTOR MARKS: Commissioner
18 Bettinger?

19 COMMISSIONER BETTINGER: Aye.

20 DIRECTOR MARKS: Commissioner
21 Fitzgibbons?

22 COMMISSIONER FITZGIBBONS: Aye.

23 DIRECTOR MARKS: Commissioner
24 Mehta?

25 COMMISSIONER MEHTA: Aye.

1 DIRECTOR MARKS: Commissioner

2 O'Dea?

3 COMMISSIONER O'DEA: Yes.

4 DIRECTOR MARKS: Commissioner

5 Romano?

6 COMMISSIONER ROMANO: Aye with the
7 conditions stipulated.

8 DIRECTOR MARKS: And Chair Choffo.

9 CHAIRMAN CHOFFO: I vote aye.

10 DIRECTOR MARKS: Mr. Chairman, the
11 motion passed.

12 MR. FEINBERG: Thank you very much.
13 I appreciate your attention and the help you have
14 given us.

15 That is the building we would like
16 you to consider.

17 CHAIRMAN CHOFFO: It is a nice
18 looking building. Good luck.

19 DIRECTOR MARKS: Mr. Chairman, the
20 next application is 2011-021-SP, Kevin
21 Tartaglione, applicant, located at 1316-1330
22 Willow Avenue which is Block 116, Lot 1.2 in the
23 City of Hoboken.

24 MR. GLACIER: Good evening. We
25 represent the applicant, Advance at Hoboken, LLC.

1 This is the second time we are
2 appearing before the Board. This project
3 received site plan approval from this Board in
4 October of 2010. We are back tonight for an
5 amended site plan approval because of certain
6 changes that were made.

7 This is 140-unit apartment building
8 with 21,725 square feet of retail space and four
9 stories of underground parking with up to 376
10 spaces.

11 This is also a contaminated parcel.
12 You may recall from the earlier application that
13 this is the site of a former coal gasification
14 plant in Hoboken. It is near the 14th Street
15 viaduct. It is between Clinton and Willow
16 Streets on the south side of the viaducts.

17 In conjunction with the
18 development, the applicant will also be doing a
19 20 million dollar environmental remediation of
20 the property. We have already had our remedial
21 action work plan approved by DEP.

22 We are here tonight for an amended
23 site plan approval because after we received the
24 approval we had discussions with some of the
25 county board professionals and also Hoboken

1 officials about the project. There was a
2 condition in the approval about truck deliveries
3 and refuse pickup on Willow Ave. which is one of
4 the county roads.

5 We, as a result of those
6 discussions, we have amended the plans to take
7 care of that. That is being moved to Clinton
8 Street and all the access to the parking garage
9 both ingress and egress will be from Willow Ave.
10 now.

11 So we are here with the
12 professionals tonight to present those changes to
13 the Board and seek an amended site plan approval.

14 Last night we received preliminary
15 or amended preliminary and final site plan
16 approval from the Hoboken Zoning Board of
17 Adjustment.

18 My first witness will be Mr. Fred
19 Worstel who has appeared before this Board on the
20 prior application.

21 CHAIRMAN CHOFFO: Could he just be
22 sworn in, please.

23 (F R E D W O R S T E L, was duly
24 sworn.)

25 CHAIRMAN CHOFFO: Before you begin,

1 can we mark these exhibits or if they were just
2 submitted can you just refer to them.

3 MR. WORSTEL: They are the plans
4 that were submitted to Mr. Marks's office.

5 CHAIRMAN CHOFFO: Thank you.

6 MR. WORSTEL: Very briefly the
7 changes.

8 CHAIRMAN CHOFFO: Can -- we are
9 having a problem up here. There is background
10 noise. Can you move the easel closer to the
11 microphone or speak louder.

12 MR. WORSTEL: I will try speaking
13 louder and see how it goes.

14 The changes on the project affect
15 really only the servicing and the access to the
16 site which is on the south half of the property.

17 As previously indicated, there was
18 a project which was presented to you previously
19 that had vehicular access to the underground
20 parking garage coming in through Clinton Avenue
21 and departing through Willow.

22 We had truck traffic servicing the
23 retail as well as the residential coming in off
24 Clinton passing and exiting onto Willow Avenue.

25 Based on conversations both with

1 your planning professionals and the city
2 professionals, what we have modified the plan to
3 do is have the vehicular traffic both for the
4 retail and residential entering and exiting off
5 of Willow Street and all of the servicing off of
6 Clinton Avenue, okay? That is the principal
7 change with the project.

8 The result of this change we have
9 actually reduced the size of the driveway opening
10 on Willow from about 40 feet to 24 feet. The
11 driveway cut on Clinton Avenue remains the same.
12 We have been over all of the traffic movements,
13 traffic and truck movements both on Clinton
14 Avenue and Willow Avenue with our traffic
15 consultant. We reviewed both of those with both
16 your professionals and Hoboken and those reports
17 have been filed.

18 The only other principal changes to
19 the building there have been a couple of slight
20 adjustments to the building.

21 One of the concerns with the Board
22 originally was our pedestrian access along the
23 14th Street corridor area. We have actually
24 increased the space both on our northeast corner
25 and our northwest corner for pedestrian movements

1 and we had a restriction at this handicapped
2 ramp. Originally we were about 3 foot 10 clear
3 and we have opened that up to 10 foot clear.

4 The only other adjustments in the
5 plan, the building has actually shifted
6 approximately a foot. We moved a foot closer on
7 Willow Street and we have moved a foot down from
8 Willow. Again it opens up pedestrian access, it
9 had no effect on the spacing on the sidewalk nor
10 on the elevated area of the pedestrian plaza.

11 And the last change they present is
12 that under the building that actually overhangs
13 there is a colony below and that building line
14 moved one inch.

15 So that is the sum total of the
16 changes that we are asking you to review tonight
17 and we have traffic testimony if you need it.

18 COMMISSIONER ROMANO: Mr. Chairman.

19 CHAIRMAN CHOFFO: Go ahead.

20 COMMISSIONER ROMANO: Counsel, my
21 compliments on taking the most contaminated piece
22 of land in Hoboken and finally after the
23 proverbial football being passed around, work is
24 finally going to be done. Two questions I have.
25 I think the shift moving one inch was due to the

1 viaduct, too.

2 MR. WORSTEL: No. We realized we
3 had some alignment problems with the parking
4 levels below, so it was just lining up. It has
5 nothing to do with the actual viaducts.

6 COMMISSIONER ROMANO: You commented
7 trucks are now going to be delivering on Clinton.
8 My understanding is they are going to shut
9 Clinton down to vehicular.

10 MR. WORSTEL: No. Through
11 vehicular traffic and in our previous testimony
12 our plan reflected the design improvements which
13 the county is proposing at the street end on
14 Clinton. This is the area that is the county
15 project, that is all the county's project. We
16 are coordinated with it. We always had truck
17 traffic entering on Clinton. The only change
18 here is we have it exiting also.

19 COMMISSIONER O'DEA: Mr. Chairman.

20 CHAIRMAN CHOFFO: Go ahead.

21 COMMISSIONER O'DEA: Does this site
22 encroach on Willow?

23 MR. WORSTEL: No, it does not.
24 There are handicapped ramps that were constructed
25 and approved as the previous application which

1 are in the Willow Street right-of-way.

2 These ramps, this is the plan
3 exactly as originally approved by the Board as
4 far as Willow. The building itself does not
5 encroach on Willow at all.

6 COMMISSIONER O'DEA: Will those
7 ramps require you to get a franchise ordinance
8 from the county?

9 MR. WORSTEL: Yes, and that is the
10 condition of approval with our current approval.

11 COMMISSIONER O'DEA: How many units
12 was the project again?

13 MR. GLACIER: 140 units, the same
14 as before.

15 MR. WORSTEL: Identical to the one
16 we previously presented.

17 COMMISSIONER O'DEA: How are you
18 funding your environmental remediation
19 responsible parties?

20 MR. WORSTEL: A combination of the
21 redeveloper and the responsible parties.

22 COMMISSIONER O'DEA: Who is the
23 responsible parties?

24 MR. WORSTEL: Dublin and PSEG both
25 have administrative consent orders.

1 COMMISSIONER O'DEA: Based on your
2 number, the per unit per mediation cost is almost
3 150,000 a unit.

4 MR. WORSTEL: It is a huge herring,
5 yes.

6 COMMISSIONER O'DEA: Huge number.

7 MR. WORSTEL: It is a very
8 innovative way of cleaning up the site because we
9 are digging it all the way down to the bedrock
10 and replacing instead of filling the site back up
11 with dirt, we are refilling it with the parking.
12 Right.

13 COMMISSIONER ROMANO: Good job.

14 MR. WORSTEL: Questions for me?

15 CHAIRMAN CHOFFO: Any other
16 questions?

17 COMMISSIONER BETTINGER: Demetri,
18 when are they going to start the construction on
19 the viaduct?

20 COMMISSIONER ROMANO: Chairman
21 O'Dea?

22 COMMISSIONER O'DEA: Soon, right?

23 COMMISSIONER ARENCIBIA: The bid
24 was awarded last week to a contractor and we have
25 to wait for the State to authorize the project to

1 proceed so it may take another month or so.

2 Actually we have -- did we have a
3 consultant that reviewed the plan, right? Maybe
4 you have some comments or issues to go through
5 with the applicant?

6 MS. FLOR: Basically the applicant
7 responded through our comment letter and pretty
8 much addressed almost all of our comments. The
9 only two comments I would want to hear testimony
10 on, you are aware there was a lot of conditions
11 on the prior application. I just wanted you to
12 confirm in testimony, are you requesting relief
13 from any of those conditions?

14 MR. WORSTEL: No.

15 MS. FLOR: So all conditions of the
16 prior application stand. I don't know if you
17 need to reaffirm that I would defer to counsel on
18 that.

19 And I know that before there was a
20 tie back issue. Just confirm in testimony that
21 there will still not be any tie backs in the 14th
22 street right-of-way.

23 MR. WORSTEL: That is correct. We
24 actually came up with a construction approach for
25 the project where we will not need any tie backs

1 on any of the four sides of the project.

2 MS. FLOR: So basically the
3 concerns of your prior application have all been
4 addressed? None of that is changing.

5 We did review the traffic. We
6 have no objection to the traffic patterns that
7 are proposed. We are not restricting any
8 movements from that driveway. That is pretty
9 much where it stands.

10 COMMISSIONER ARENCIBIA: Just to
11 reiterate, on the 14th Street viaduct project it
12 is a high priority project for the county and
13 obviously that takes precedence. The applicant
14 would be involved with our project if they want
15 to coordinate construction activities so we don't
16 disrupt each other.

17 MR. WORSTEL: Right. I would
18 think there will be very close coordination
19 between both parties in making two very important
20 projects go forward.

21 COMMISSIONER FITZGIBBONS: I just
22 want to make a comment being a resident of
23 Hoboken.

24 You guys, your development there is
25 probably the first of many developments that are

1 going to be remediated of contaminated soil and
2 the viaduct, because it is all contaminated.
3 Yours was really, but what has been down there
4 for years and maybe up could set an example for a
5 new development down there and I hope you go
6 green a little bit. You know? Is there any
7 green factors in this development?

8 MR. GLACIER: This will be a LEED
9 certified building.

10 COMMISSIONER FITZGIBBONS: There
11 is going to be a lot of development in a few
12 years. They will probably dig down there.
13 Probably two stories down to get rid of the
14 contamination.

15 MR. WORSTEL: We are going down
16 four, four stories.

17 COMMISSIONER FITZGIBBONS: You got
18 the Hinckle site, they want to put a park there
19 and that was completely, completely contaminated.

20 CHAIRMAN CHOFFO: Ms. Massey.

21 MS. MASSEY: Just to advise the
22 Board, Advance at Hoboken was recently awarded
23 our Smart Growth award, so there will be many
24 green techniques involved with this application.

25 CHAIRMAN CHOFFO: Thank you.

1 COMMISSIONER FITZGIBBONS: Thank
2 you.

3 COMMISSIONER BETTINGER: I will
4 make a motion.

5 COMMISSIONER ROMANO: Second.

6 MR. CURLEY: The condition will be
7 that the conditions of the prior approval
8 resolution will be incorporated into this
9 resolution and will continue in effect.

10 COMMISSIONER BETTINGER: I will
11 make a motion with the conditions that our
12 counsel has just read.

13 COMMISSIONER ROMANO: I second the
14 motion.

15 DIRECTOR MARKS: Mr. Chairman, on a
16 motion to conditionally approve application
17 2011-021-SP made by Commissioner Bettinger,
18 seconded by Commissioner Romano, Commissioner
19 Arencibia?

20 COMMISSIONER ARENCIBIA: Aye.

21 DIRECTOR MARKS: Commissioner
22 Avagliano?

23 COMMISSIONER AVAGLIANO: Aye.

24 DIRECTOR MARKS: Commissioner
25 Bettinger?

1 COMMISSIONER BETTINGER: Aye.

2 DIRECTOR MARKS: Commissioner

3 Fitzgibbons?

4 COMMISSIONER FITZGIBBONS: Aye.

5 DIRECTOR MARKS: Commissioner

6 Mehta?

7 COMMISSIONER MEHTA: Aye.

8 DIRECTOR MARKS: Commissioner Ng?

9 COMMISSIONER NG: Aye.

10 DIRECTOR MARKS: Commissioner

11 O'Dea?

12 COMMISSIONER O'DEA: Aye.

13 DIRECTOR MARKS: Commissioner

14 Romano?

15 COMMISSIONER ROMANO: Aye.

16 DIRECTOR MARKS: Chairman Choffo?

17 CHAIRMAN CHOFFO: Aye.

18 DIRECTOR MARKS: Mr. Chairman, the

19 motion passed.

20 Mr. Chairman, the next matter is

21 5-C, applications administratively approved.

22 Beginning with application

23 2011-013-SP, New Cingular Wireless PCS, LLC,

24 located the at 9060 Palisade Avenue which is

25 Block 429 lot 14 in the Township of North Bergen.

1 And the next is application
2 2011-031-SP, New Cingular Wireless PCS, LLC,
3 located at 6600 Boulevard East which is Block 38,
4 Lot 11 in the Town of West New York.

5 CHAIRMAN CHOFFO: Do I have a
6 motion?

7 COMMISSIONER BETTINGER: I will
8 make a motion.

9 COMMISSIONER FITZGIBBONS: I
10 second.

11 DIRECTOR MARKS: Mr. Chairman, on a
12 motion made by Commissioner Bettinger and
13 seconded by Commissioner Fitzgibbons,
14 Commissioner Arencibia?

15 COMMISSIONER ARENCIBIA: Aye.

16 DIRECTOR MARKS: Commissioner
17 Avagliano?

18 COMMISSIONER AVAGLIANO: Aye.

19 DIRECTOR MARKS: Commissioner
20 Bettinger?

21 COMMISSIONER BETTINGER: Aye.

22 DIRECTOR MARKS: Commissioner
23 Fitzgibbons?

24 COMMISSIONER FITZGIBBONS: Aye.

25 DIRECTOR MARKS: Commissioner

1 Mehta?

2 COMMISSIONER MEHTA: Aye.

3 DIRECTOR MARKS: Commissioner Ng?

4 COMMISSIONER NG: Aye.

5 DIRECTOR MARKS: Commissioner

6 O'Dea?

7 COMMISSIONER O'DEA: Abstain.

8 DIRECTOR MARKS: Commissioner

9 Romano?

10 COMMISSIONER ROMANO: Aye.

11 DIRECTOR MARKS: And Chairman

12 Choffo.

13 CHAIRMAN CHOFFO: I vote aye.

14 DIRECTOR MARKS: The next

15 application is motions to be declared exempt.

16 2011-004-SP Equinoc, Inc., located
17 at 800 Secaucus Road which is Block 23, Lot 4.002
18 in the Town of Secaucus.

19 Application 2011-017-SP is New
20 Cingular Wireless PCS, LLC, located at 4601-4609
21 Park Avenue which is Block 275, Lot 1 in the City
22 of Union City.

23 Next application is 2011-018-SP,
24 New Cingular Wireless PCS, LLC, located at 500
25 Baldwin Avenue which is Block 709.5, Lot 110 in

1 the City of Jersey City.

2 Next application is 2011-020-SP,
3 Metro PCS New York, LLC, located at 29 East 29Th
4 Street which is Block 164, Lots 5 and 6 in the
5 City of Bayonne.

6 Next is application 2011-022-SP,
7 New Cingular Wireless PCS, LLC, located at 300
8 Communipaw Avenue which is Block 2049, Lot A.1 in
9 the City of Jersey City.

10 Next is application 2011-025-SP,
11 New Cingular Wireless PCS, LLC, located at 100
12 Beacon Avenue, Block 570 lot 85 in the City of
13 Jersey City.

14 Next is application 2011-026-SP,
15 New Cingular Wireless PCS, LLC, located at 345
16 10th Street which is Block 349, Lot 29, in the
17 City of Jersey City.

18 Next is application 2011-027-SP,
19 New Cingular Wireless PCS, LLC, located at 940
20 Summit Avenue which is Block 828, Lot 599 in the
21 City of Jersey City.

22 Next is application 2011-029-SP,
23 New Cingular Wireless PCS, LLC, located at
24 144-148 Virginia Avenue which is Block 1792, Lot
25 1200 in the City of Jersey City.

1 Next is application 2011-030 SP,
2 New Cingular Wireless PCS, LLC, located at 90
3 Hudson Street which is Block 6, Lot 15 in the
4 City of Jersey City.

5 Next is application 2011-032-SP
6 Stonehenge Apartments, LLC, located at 8200-8214
7 Kennedy Boulevard East which is Block 435, Lot
8 7.02 in the Township of North Bergen.

9 Next is application 2011-033-SP,
10 New Cingular Wireless PCS, LLC, located at 115
11 Christopher Columbus Drive which is Block 239,
12 Lot 44, in the City of Jersey City.

13 Next is application 2011-034-SP,
14 Peter Silfirski, applicant, located at 90 Garden
15 Street which is Block 176, Lot 4.1 in the City of
16 Hoboken.

17 And the last application is
18 2011-035-SP, New York SMSA Limited Partnership,
19 doing business as Verizon wireless, located at 55
20 Skillman Avenue which is Block 634, Lot 213 in
21 the City of Jersey City.

22 CHAIRMAN CHOFFO: Good job, Steve.
23 Do I have a motion?

24 COMMISSIONER ROMANO: Motion.

25 COMMISSIONER BETTINGER: I will

1 second it.

2 DIRECTOR MARKS: Mr. Chairman, on a
3 motion made by Commissioner Romano and seconded
4 by Commissioner Bettinger, Commissioner
5 Arencibia?

6 COMMISSIONER ARENCIBIA: Aye.

7 DIRECTOR MARKS: Commissioner
8 Avagliano?

9 COMMISSIONER AVAGLIANO: Aye.

10 DIRECTOR MARKS: Commissioner
11 Bettinger?

12 COMMISSIONER BETTINGER: Aye.

13 DIRECTOR MARKS: Commissioner
14 Fitzgibbons?

15 COMMISSIONER FITZGIBBONS: Aye.

16 DIRECTOR MARKS: Commissioner
17 Mehta?

18 Not present

19 Commissioner Ng?

20 COMMISSIONER NG: Aye.

21 DIRECTOR MARKS: Commissioner

22 O'Dea?

23 COMMISSIONER O'DEA: Aye.

24 DIRECTOR MARKS: Commissioner

25 Romano?

1 COMMISSIONER ROMANO: Aye.

2 DIRECTOR MARKS: Chairman Choffo.

3 CHAIRMAN CHOFFO: I vote aye.

4 DIRECTOR MARKS: Mr. Chairman, the
5 motion passed.

6 CHAIRMAN CHOFFO: What else?

7 DIRECTOR MARKS: Nothing under old
8 business, Mr. Chairman. Under new business, I
9 want to draw your attention to your packets this
10 evening. There are the financial disclosure
11 statements which are required of the Board and I
12 would ask that each member of the Board, the
13 county clerk's office or county ethics board is
14 looking for four copies with original signatures
15 to be returned to the county clerk's office.

16 There is a letter by Mr. Sloan who
17 is an attorney for Hudson County Ethics board.

18 COMMISSIONER FITZGIBBONS: When
19 you say original signatures, you mean the one
20 that is attached here like this?

21 DIRECTOR MARKS: Right.

22 COMMISSIONER FITZGIBBONS: This
23 went along with the application.

24 COMMISSIONER O'DEA: Make four
25 copies and sign each of the copies.

1 COMMISSIONER ROMANO: I will fill
2 it out and make four copies.

3 DIRECTOR MARKS: Four copies.

4 CHAIRMAN CHOFFO: If any of the
5 Commissioners are already on another Board and
6 disclose that on the form, do they have to do an
7 additional four copies for every Board?

8 COMMISSIONER ROMANO: No, once.

9 COMMISSIONER O'DEA: No.

10 COMMISSIONER ROMANO: You have to
11 do it twice?

12 COMMISSIONER O'DEA: Yes.

13 MS. CIAMMARUONI: I asked that and
14 usually in the past I remember that on the same
15 form they had if you have a second, you are on
16 the Board, any other Board.

17 COMMISSIONER O'DEA: I believe the
18 statute requires that you have to file for each
19 and every entity that you are required to file
20 for. You can't file one place and just because
21 you list the other places on it you are okay.

22 CHAIRMAN CHOFFO: I think
23 Commissioner O'Dea is correct, you have to do
24 them individually.

25 COMMISSIONER O'DEA: Such that if

1 someone wants to come in and say I want the
2 financial disclosure FORMS for all the members of
3 the Planning Board, they are available in the
4 file for members of the Planning Board and not
5 that somebody has got to figure out who the
6 member of the Planning Board is also a member of
7 the Housing Authority in another town or a
8 Freeholder or something else. That is why the
9 requirements are like that.

10 DIRECTOR MARKS: I would just
11 recommend if anybody has any questions to call
12 Mr. Sloan. His telephone number is on the
13 letter rather than -- I certainly don't want to
14 dispense any legal advice how many copies, how
15 many times you fill out the forms.

16 And finally, Mr. Chairman, I spoke
17 with Commissioner Holloway. He regrets he
18 couldn't be here this evening. As everybody
19 knows, his fiancée passed away a week or two ago.

20 The Board sent flowers on behalf of
21 the Board, so he very much appreciated that. He
22 extends his thank you to everybody here this
23 evening and again his regrets he couldn't be here
24 tonight.

25 COMMISSIONER FITZGIBBONS: I make

1 a motion to adjourn.

2 (Round of Ayes.)

3 CLERK SANTOS: Opposed?

4 (No response.)

5 (Time noted: 9:45 p.m.)

6 DIRECTOR MARKS: Meeting adjourned.

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C E R T I F I C A T I O N

I, CAREYANN SHAFTAN, License Number 30X100192900,
an official Court Reporter in and for the State of
New Jersey, do hereby certify the foregoing to be
a true and accurate transcript to the best of
my knowledge and ability.

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