

HUDSON COUNTY  
PLANNING BOARD

RE:

REGULAR MEETING : TRANSCRIPT OF  
: PROCEEDINGS  
:  
:

- - - - -

Hudson County Freeholders Chambers  
Third Floor  
567 Pavonia Avenue  
Jersey City, New Jersey  
Wednesday, August 17, 2011  
6:30 p.m.

BEFORE:

- RENEE BETTINGER, Chairman
- JOSEPH GLEMOCKI, PE, PP Asst. Co. Engineer
- MARY AVAGLIANO, Commissioner
- HON. DOREEN DiDOMENICO, Freeholder
- JUDE FITZGIBBONS, Chair Pro Tempore
- RUSHABH MEHTA, Commissioner
- KENNEDY NG, Commissioner
- HON. ANTHONY ROMANO, Freeholder

ALSO PRESENT:

- JACQUELINE L. MIDDLETON, ESQ., Board Attorney
- MICHAEL ASCOLESE, Program Manager
- MARIO TRIDENTE, Building Inspector
- DANIELA CIAMMARUCONI, Planning Aide
- FRANCESCA GIARRATANA
- EDWIN REIMON, P.E., C.M.E.
- BRIAN CONROY, P.E.

Job No. NJ308686

1 CHAIRWOMAN BETTINGER: I'd like to  
2 call the meeting of the Hudson Planning Board to  
3 Order. Has this meeting been properly advertised?

4 MS. MIDDLETON: Yes, Madam Chairman.  
5 This meeting has been properly noticed in accordance  
6 with the Open Public Meetings Act. Copies of the  
7 agenda for the meeting was submitted to the Jersey  
8 Journal and the Star Ledger, and the agenda has been  
9 posted on the Freeholder Bulletin Board.

10 CHAIRWOMAN BETTINGER: Thank you.  
11 Daniela, can I have the roll call, please.

12 MS. CIAMMARUCONI: Commissioner  
13 Arencibia, not present. Commissioner Avagliano.

14 COMMISSIONER AVAGLIANO: Here.

15 MS. CIAMMARUCONI: Commissioner  
16 DiDomenico.

17 FREEHOLDER DiDOMENICO: Here.

18 MS. CIAMMARUCONI: Commissioner  
19 Fitzgibbons.

20 COMMISSIONER FITZGIBBONS: Here.

21 MS. CIAMMARUCONI: Commissioner  
22 Glembocki.

23 COMMISSIONER GLEMBOCKI: Here.

24 MS. CIAMMARUCONI: Commissioner  
25 Holloway, not present. Commissioner Mehta, not

1 present. Commissioner Ng.

2 COMMISSIONER NG: Here.

3 MS. CIAMMARUCONI: Commissioner  
4 O'Dea, not present. Commissioner Romano is not  
5 present. Chairman Choffo is not present. Madam  
6 Chair Bettinger.

7 CHAIRWOMAN BETTINGER: Here.

8 MS. CIAMMARUCONI: We have a quorum.

9 CHAIRWOMAN BETTINGER: Will everyone  
10 please rise to salute the flag.

11 (Flag Salute.)

12 CHAIRWOMAN BETTINGER: Did the  
13 Commissioners present received the Minutes? Do I  
14 have a motion?

15 COMMISSIONER FITZGIBBONS: I have a  
16 motion to accept the Minutes as read.

17 COMMISSIONER ARENCIBIA: Second.

18 MS. CIAMMARUCONI: On a motion made  
19 by Commissioner Fitzgibbons and second by  
20 Commissioner Avagliano, Commissioner Avagliano.

21 COMMISSIONER AVAGLIANO: Aye.

22 MS. CIAMMARUCONI: Commissioner  
23 DiDomenico.

24 FREEHOLDER DiDOMENICO: Aye.

25 MS. CIAMMARUCONI: Commissioner

1 Fitzgibbons.

2 COMMISSIONER FITZGIBBONS: Aye.

3 MS. CIAMMARUCONI: Commissioner

4 Glembocki.

5 COMMISSIONER GLEMBOCKI: Aye.

6 MS. CIAMMARUCONI: Commissioner Ng.

7 COMMISSIONER NG: Aye.

8 MS. CIAMMARUCONI: Chairwoman

9 Bettinger.

10 CHAIRWOMAN BETTINGER: Aye.

11 MS. CIAMMARUCONI: The motion passes.

12 CHAIRWOMAN BETTINGER: The next  
13 matter, memorializations of resolutions of the last  
14 meeting, July 20th, 2011.

15 MS. CIAMMARUCONI: Madam Chair,  
16 before we start, I just have to read into the record  
17 a letter you have in your packet from the City of  
18 Hoboken requesting Application 2011-063-SP for 1600  
19 Park, artificial turf. They're requesting that the  
20 application be withdrawn.

21 They're requesting that the application be  
22 withdrawn, okay. So this is the letter sent by the  
23 Community Development Director, Brandy Forbes, the  
24 City of Hoboken's application regarding 1600 Park,  
25 artificial turf is on the Hudson County Planning

1 Board agenda for August 17th, 2011. The City is  
2 going to be revising this plan due to the  
3 opportunity that the New Jersey Department of  
4 Environmental Protection is providing the City to  
5 lower the elevation of the field, while meeting  
6 environmental remediation requirements. Therefore,  
7 we would like to withdraw this application from the  
8 Hudson Planning Board at this time, and refile the  
9 application at a future date once we have completed  
10 the redesign. Please accept this official request  
11 to withdraw application for 2011-063-SP, signed  
12 Brandy Forbes.

13 The first item on the agenda is  
14 memorialization of resolutions approved at the last  
15 meeting. Application 2011-036-SP/SD, Applicant,  
16 Michael A. Allan; location 150 Harrison Avenue,  
17 Blocks 284, Lots 2.01, 3.01, 4.01, in the Township  
18 of Kearny.

19 Application 2011-050-SP, Applicant Cinelli  
20 Iron & Metal Company, located at 286 and 302-310  
21 Secaucus Road, Block 62, Lots 11, 12 and 13,  
22 Secaucus.

23 Application 2011-056-SP, Nastasi  
24 Architects, located at 816 Garden Street, Block 183,  
25 Lots 27 and 28 in Hoboken.

1                   Application 2011-028-SP, Applicant 100  
2                   Paterson Realty, LLC, located at 100-108 Paterson  
3                   Avenue, Block 11, Lot 9 in Hoboken.

4                   CHAIRWOMAN BETTINGER: Do I have a  
5                   motion?

6                   COMMISSIONER FITZGIBBONS: I have a  
7                   motion to approve.

8                   MS. CIAMMARUCONI: On a motion made  
9                   by Commissioner Fitzgibbons and seconded  
10                  Commissioner DiDomenico, Commissioner Avagliano.

11                  COMMISSIONER AVAGLIANO: Aye.

12                  MS. CIAMMARUCONI: Commissioner  
13                  DiDomenico.

14                  FREEHOLDER DiDOMENICO: Aye.

15                  MS. CIAMMARUCONI: Commissioner  
16                  Fitzgibbons.

17                  COMMISSIONER FITZGIBBONS: Aye.

18                  MS. CIAMMARUCONI: Commissioner  
19                  Glembocki.

20                  COMMISSIONER GLEMBOCKI: Aye.

21                  MS. CIAMMARUCONI: Commissioner Ng.

22                  COMMISSIONER NG: Aye.

23                  MS. CIAMMARUCONI: Chairwoman  
24                  Bettinger.

25                  CHAIRWOMAN BETTINGER: Aye.

1 MS. CIAMMARUCONI: The motion passes.

2 The first item on the agenda scheduled for  
3 Public Hearing is Application 2011-052-SP,  
4 Applicant, David Drumeler, located at the  
5 intersection of Jefferson and County Avenues, Block  
6 30, Lot 8. Secaucus.

7 MR. HOPPER: Good evening. My name  
8 is Douglas Hopper, I'm representing Remington &  
9 Vernick Engineer, also the Town of Secaucus. The  
10 application involves Shetik Field, which is located  
11 along County Avenue -- actually, at the intersection  
12 of County Avenue and Jefferson Avenue in the Town of  
13 Secaucus, Block 30, Lot 8.

14 What I would like to do is kind of  
15 describe the scope of the project to you first, and  
16 then we'll go over the letter that we received from  
17 you guys dated August 9th, 2011.

18 CHAIRWOMAN BETTINGER: Before you  
19 proceed, we would like to swear you in.

20 (The witness is sworn.)

21 CHAIRWOMAN BETTINGER: What are your  
22 credentials?

23 MR. HOPPER: Professional Engineer in  
24 the states of New Jersey and Tennessee, bachelor's  
25 degree from Lambuth University in civil engineering

1 and a bachelors degree in civil and environmental  
2 engineer from the University of Tennessee.

3 As I said this is Shetik Field in the town  
4 of Secaucus. County Avenue is to the bottom of the  
5 plan. Jefferson Avenue is to the right.

6 CHAIRWOMAN BETTINGER: You could  
7 please mark the exhibit?

8 MR. HOPPER: What would you like?

9 MS. MIDDLETON: Exhibit A-1.

10 MR. HOPPER: At the existing site  
11 there is an existing soccer field on the site now  
12 that's natural grass in the same area as the  
13 proposed field. There's two courts at the northwest  
14 end of the site. There's two existing basketball  
15 courts. To go over the project, we're going to  
16 reconstruct the two court areas, construct one  
17 tennis court and basketball court in the same  
18 general location of the existing courts.

19 And then we have a small parking area at  
20 the north end of the site. Currently, this is all  
21 paved, this entire area along the top. There is an  
22 existing fence here that limits access to this  
23 future paved area here. The PSE&G plant is located  
24 to the north. The employees of PSE&G utilize this  
25 paved area for parking during the day now and also

1 along the south side of Jefferson Avenue.

2 The new proposed field will be striped for  
3 high school soccer. It will be used by the Secaucus  
4 High School Soccer Team. It's regulation size for  
5 high school soccer. It will also be striped for  
6 junior soccer, and also for Little League Baseball.

7 The improvement to the site, there will be  
8 a scoreboard installed. There will be sports  
9 lighting installed. There is existing sports  
10 lighting now, but it's outdated, so that would be an  
11 upgrade. There's an existing concession stand on  
12 the site. This will remain as is. As far as the  
13 County is involved, traffic would be the same as  
14 existing traffic here, same uses as existing.

15 As far as stormwater, there will be an  
16 underground system with underdrains for a synthetic  
17 turf field, which go in this direction. They'll tie  
18 into the main perimeter pipe that runs along the  
19 south edge of the field. There will be underground  
20 storage provided within pipe and a stone trench, and  
21 then will tie into the existing County system on  
22 County Avenue. We submitted this water management  
23 report.

24 CHAIRWOMAN BETTINGER: I would like  
25 to note for the record that Freeholder Commissioner

1 Romano has arrived.

2 MR. HOPPER: Any questions about  
3 this?

4 CHAIRWOMAN BETTINGER: It's been  
5 approved by the Township of Secaucus?

6 MR. HOPPER: Yes, we also have County  
7 Soil Conservation District.

8 COMMISSIONER FITZGIBBONS: All I can  
9 say, I wish we could had that in Hoboken. Our  
10 soccer field is underwater.

11 MR. HOPPER: Yeah, we're working on  
12 it.

13 MR. TRIDENTE: Madam Chair, if I  
14 could just ask the engineer for the items addressed  
15 in Ms. Massey's letter. Go over those items,  
16 please.

17 MR. HOPPER: Sure. Referring to the  
18 letter of August 9th. Comment No. 1, proposed  
19 development is along County Avenue. Hudson County  
20 Planning Board had jurisdiction over this matter.

21 Item 2, the application appears to be  
22 consistent with the Hudson County Master Plan.

23 Item 3, the site is not located with a  
24 flood hazard area.

25 Item 4. The applicant shall comply with

1 ADA and PROW guidelines, as well as the NJ DOT  
2 standards. The applicant shall repair broken  
3 sidewalk along County Avenue. That's outside the  
4 plan. It is recommended that the applicant install  
5 sidewalk along Jefferson Avenue. Now, the Town is  
6 not opposed to the remediating the sidewalk along  
7 County Avenue. We actually did consider sidewalk  
8 along Jefferson. The issue we have is PSE&G  
9 utilizes this strip for parking during the day, and  
10 it's not sufficient for parallel parking and  
11 sidewalk area. Otherwise, we'd be able to pave all  
12 along the entire strip on Jefferson.

13 MR. TRIDENTE: So you're saying it's  
14 impossible to put sidewalk there for pedestrians to  
15 go from County Avenue to the parking lot to the  
16 basketball courts, because there is a bus stop  
17 across the street.

18 MR. HOPPER: Right.

19 MR. TRIDENTE: I mean, across the  
20 field is there going to be a fence?

21 MR. HOPPER: There will be a  
22 four-foot fence around the field, parking here.  
23 There's ADA access to the field here. There is also  
24 overflow parking here down the lot.

25 MR. ASCOLESE: How far is the field

1 from County Avenue?

2 MR. HOPPER: Approximately 30 feet.

3 CHAIRWOMAN BETTINGER: Do I have any  
4 comments from our engineer?

5 MR. ASCOLESE: Yeah, the engineering  
6 department reviewed the drainage report, and he saw  
7 the proposed underground retentions system. It's  
8 going to reduce and drain the ten-year storms, 15  
9 and 25, at 50 percent, 25 and 20 percent, and it  
10 conforms so we have no problem.

11 CHAIRWOMAN BETTINGER: Please also  
12 note that Commissioner Mehta has arrived. Do any of  
13 the other Commissioners have any questions or  
14 comments?

15 MR. TRIDENTE: Madam Chair, let me  
16 first finish. If you would please continue with  
17 Ms. Massey's comments?

18 MR. HOPPER: Okay, sure. Item 5  
19 deals with the shade tree requirements for Hudson  
20 County. As far as the project, we are removing  
21 twelve trees within the existing field area. The  
22 reason we had to do that is, first, flattening out  
23 the field, regrading this area so the trees won't be  
24 affected by the drain. They're located in this area  
25 here. The Town has no problems with replacing the

1 shade trees per the requirements, one tree per  
2 six inches of diameter. It's not shown on the plan.  
3 One question I did have, the arborvitae along back  
4 side does that really count, or do they need to  
5 be -- that's something we can confirm later on.

6 MR. TRIDENTE: Are you okay with an  
7 inventory of the trees that will be removed?

8 MR. HOPPER: Okay.

9 MR. TRIDENTE: And the caliper.

10 MR. HOPPER: Okay. It is shown on  
11 the plans. There's thirteen. There are eleven  
12 12-inch trees, one 18-inch trees and one arborvitae.  
13 That would required 25 shade trees. Our plan is to  
14 further landscape this area also the area on County  
15 Avenue, and possibly put some back in the similar  
16 location previously.

17 Any other questions on 5?

18 COMMISSIONER NG: How many parking  
19 spaces do you have?

20 MR. HOPPER: We're showing nine.

21 COMMISSIONER FITZGIBBONS: Any  
22 handicapped parking?

23 MR. HOPPER: Yes, handicapped is in  
24 the northeast corner. The sidewalk shown down to  
25 the field is accessible so.

1                   COMMISSIONER FITZGIBBONS: Being it's  
2 going to be used for a high school competition, is  
3 there a drop-off for a bus there?

4                   MR. HOPPER: This area will be  
5 utilized for the bus also. Also, it will be the  
6 PSE&G lot will be used as well, the brown area. Any  
7 other questions?

8                   MR. ASCOLESE: How far from the  
9 boundary of the field to the fence? You said it is  
10 the ten yards from the fence to the street, how far  
11 from the field to the fence?

12                  MR. HOPPER: Right here?

13                  MR. ASCOLESE: No, along County  
14 Avenue? My only concern is there would be a ball  
15 flying over a four-foot fence.

16                  MR. HOPPER: It's approximately  
17 30 feet from the fence, and then there's an  
18 additional 30-foot safety zone to the side line. At  
19 the ends, we will install netting on top of the  
20 goal. Anymore questions on 5?

21                  Item 6, the applicant is provide two green  
22 technologies in their landscaping and the protection  
23 of natural features. There is an area that drops  
24 off considerably in the southwest end of the site.  
25 We are installing a retaining wall here to protect

1 that steep slope area, tree and underbush.

2 Item 7, applicant is installing two  
3 bicycle racks on the site. They'll be located in  
4 the northwest court areas. There will be a sidewalk  
5 with access.

6 Item 8, the applicant shall pay all  
7 necessary State and Municipal permits and approvals.  
8 As I mentioned before, we have County Soil  
9 Conservation District approval, Town Planning Board  
10 approval, and also there's a memorandum of  
11 understanding between the Town and the Meadowlands  
12 Commission, so we are complying with that.

13 Item 9, the applicant shall retain County  
14 road permits from the office of the County Engineer.  
15 That will be done before construction begins.

16 Item 10, the applicant shall comply with  
17 all conditions and requirements of the County  
18 Planning Board approval and make all recommended  
19 permits prior to issuance of the CO. We will comply  
20 with that. The applicant shall furnish an as-built  
21 set of site plans. That would be performed.

22 Item 12 deals with tests. Any questions?

23 CHAIRWOMAN BETTINGER: Any questions  
24 or comments?

25 MR. HOPPER: There is a large parking

1 area here for PSE&G. That will be used for a  
2 playground area.

3 MR. REIMON: Are you saying that that  
4 property east is owned by PSE&G?

5 MR. HOPPER: Yes.

6 MR. REIMON: There is an agreement  
7 between Secaucus and PSE&G to use that property to  
8 park the bus?

9 MR. HOPPER: There is an existing  
10 agreement. PSE&G employees do utilize for parking.  
11 They have overflow parking here in this area. So  
12 there's a good relationship with the town.

13 MR. REIMON: There is also a sidewalk  
14 on that side of Jefferson?

15 MR. HOPPER: This side?

16 MR. REIMON: On the opposite side.

17 MR. HOPPER: I don't believe so.

18 MR. TRIDENTE: Let me correct you,  
19 sir. There is.

20 CHAIRWOMAN BETTINGER: Any other  
21 comments?

22 MR. REIMON: There is no curb on the  
23 west side of Jefferson?

24 MR. TRIDENTE: The south side.

25 MR. HOPPER: No, there are actually

1 boulders that line this entire stretch now.

2 CHAIRWOMAN BETTINGER: Excuse me, Mr.  
3 Reimon. Can you please speak into the microphone?  
4 It's hard for the Commissioners to hear what you're  
5 saying.

6 MR. REIMON: The question is do you  
7 have -- is there any inlets on the south side of  
8 Jefferson?

9 MR. HOPPER: Currently, there's a  
10 swale that runs down Jefferson in the grass area.

11 MR. REIMON: Where is the water going  
12 to the drain off the field?

13 MR. HOPPER: In the proposed  
14 condition, you will still have an embankment, and a  
15 very gentle slope here behind the fence, and the  
16 water will drain down to this inlet, which is part  
17 of the contingency system.

18 MR. REIMON: Regarding the inlets I  
19 think the area is apart from the system.

20 MR. HOPPER: The proposed drainage  
21 system will handle the parking lot, will handle  
22 here, parallel to the property line, and then over  
23 to the outlet control structure, which will be  
24 adjacent to the concession stand, tied to the  
25 existing County inlet. As I stated before, the flow

1 will be controlled from the site at this point. Any  
2 questions?

3 CHAIRWOMAN BETTINGER: Anything else?  
4 Do I have a motion?

5 FREEHOLDER ROMANO: Motion.

6 COMMISSIONER FITZGIBBONS: I second.

7 MS. CIAMMARUCONI: On a motion to  
8 approve Application 2011-052-SP, Commissioner  
9 Avagliano.

10 COMMISSIONER AVAGLIANO: Aye.

11 MS. CIAMMARUCONI: Commissioner  
12 DiDomenico.

13 FREEHOLDER DiDOMENICO: Aye.

14 MS. CIAMMARUCONI: Commissioner  
15 Fitzgibbons.

16 COMMISSIONER FITZGIBBONS: Aye.

17 MS. CIAMMARUCONI: Commissioner  
18 Glembocki.

19 COMMISSIONER GLEMBOCKI: Yes.

20 MS. CIAMMARUCONI: Commissioner  
21 Mehta.

22 COMMISSIONER MEHTA: Aye.

23 MS. CIAMMARUCONI: Commissioner Ng.

24 COMMISSIONER NG: I vote aye.

25 MS. CIAMMARUCONI: Commissioner

1 Romano.

2 FREEHOLDER ROMANO: Aye.

3 MS. CIAMMARUCONI: Chairwoman

4 Bettinger.

5 CHAIRWOMAN BETTINGER: I vote aye.

6 MS. CIAMMARUCONI: The motion passes.

7 CHAIRWOMAN BETTINGER: Looks like a  
8 wonderful project.

9 COMMISSIONER FITZGIBBONS: We can't  
10 use the field. You don't have to like it.

11 MR. HOPPER: We're actually working  
12 on 1600 Park as well.

13 COMMISSIONER FITZGIBBONS: There's  
14 still no baseball field either.

15 CHAIRWOMAN BETTINGER: Thank you.

16 MS. CIAMMARUCONI: The next  
17 application on the agenda is Application  
18 2011-054-SP; Applicant, Terra Brasilis, located at  
19 504 Frank E. Rodgers Boulevard, Block 23, Lot 6 in  
20 Harrison.

21 CHAIRWOMAN BETTINGER: Is the  
22 applicant here?

23 COMMISSIONER FITZGIBBONS: Excuse me,  
24 through the chair, has the applicant been notified?

25 MS. CIAMMARUCONI: He has been

1 notified, yes.

2 CHAIRWOMAN BETTINGER: Counselor, do  
3 we have to take a vote to table this? No one  
4 contacted the department?

5 MS. CIAMMARUCONI: No.

6 COMMISSIONER FITZGIBBONS: I make a  
7 motion to table, and the reason why I want to table  
8 is because we have a long agenda tonight, and the  
9 applicant ain't here. I want it make a motion to  
10 table.

11 COMMISSIONER ARENCIBIA: I'll second  
12 it.

13 MS. CIAMMARUCONI: On the motion made  
14 by Commissioner Fitzgibbons, seconded by  
15 Commissioner Avagliano, Commissioner Avagliano.

16 COMMISSIONER AVAGLIANO: Aye.

17 MS. CIAMMARUCONI: Commissioner  
18 DiDomenico.

19 FREEHOLDER DiDOMENICO: Aye.

20 MS. CIAMMARUCONI: Commissioner  
21 Fitzgibbons.

22 COMMISSIONER FITZGIBBONS: Aye.

23 MS. CIAMMARUCONI: Commissioner  
24 Glembocki.

25 COMMISSIONER GLEMBOCKI: Yes.

1 MS. CIAMMARUCONI: Commissioner  
2 Mehta.

3 COMMISSIONER MEHTA: Aye.

4 MS. CIAMMARUCONI: Commissioner Ng.

5 COMMISSIONER NG: Aye.

6 MS. CIAMMARUCONI: Commissioner  
7 Romano, not present. Chairwoman Bettinger.

8 CHAIRWOMAN BETTINGER: Aye.

9 MS. CIAMMARUCONI: The motion passes.  
10 The next application on the agenda is Application  
11 2011-059-SP, Applicant Deepak Amin, located at 4522  
12 Kennedy Boulevard, Block 263, Lot 23, in Union City.

13 MR, STANFORD: Good evening. George  
14 Stanford, appearing for the applicant. Perhaps, we  
15 have both Dr. Amin and Mr. Perides sworn because  
16 they probably will testify. Could I have the  
17 exhibit marked?

18 MS. MIDDLETON: A-1.

19 MR, STANFORD: Basically, this is an  
20 application for an expansion of a doctor's office on  
21 Kennedy Boulevard in Union City. Basically, the  
22 project is almost completed. We were informed that  
23 we didn't need County approval, which we verified by  
24 your staff. So we're basically coming here almost  
25 with a complete project and apologize, but this is

1 information that was given to us. It was  
2 ascertained that we haven't violated anything. We  
3 got the approvals from the City, and the City said  
4 we didn't need any approval, but we're here.

5 CHAIRWOMAN BETTINGER: The City of  
6 Union City said you did not need approval?

7 MR, STANFORD: From you, that was  
8 verified by, I believe, your staff. But we're here  
9 willing to be subject to whatever recommendations  
10 you have.

11 MR. TRIDENTE: Madam Chair, just to  
12 bring you up to speed, we sent out a notice of  
13 violation, which is copied in your folders and also  
14 forwarded also to the Union City Construction  
15 Department. Unfortunately, through miscommunication  
16 in their office, notices were not followed up, and  
17 it was one of those incidents where  
18 miscommunication, of no fault of the applicant. The  
19 construction official did call me back and said,  
20 look, we made a mistake, we shouldn't have issued  
21 the permits.

22 As far as following up with the notice of  
23 violation, again, there was a miscommunication in  
24 their office. No one followed up. We shut the job  
25 down, and as soon as they were notified with the

1 letter, a certified letter, they came right in.  
2 They filed their application, paid their fees, and  
3 have been very cooperative in that sense. I  
4 recommend that we waive the fines that they're up to  
5 date.

6 CHAIRWOMAN BETTINGER: Do we have to  
7 take a vote on that?

8 MS. MIDDLETON: Take a vote on?

9 CHAIRWOMAN BETTINGER: On waiving the  
10 fines.

11 MS. MIDDLETON: I don't know. I  
12 don't know if we have jurisdiction to waive the  
13 fines.

14 COMMISSIONER FITZGIBBONS: Mario, did  
15 you serve the compliance officer on that?

16 MR. TRIDENTE: I served the notice of  
17 violation and issue a -- requested a stop work  
18 order. So if the bucket falls on me, that's who I  
19 am.

20 COMMISSIONER FITZGIBBONS: We could  
21 put it to vote, right?

22 MR. TRIDENTE: It's my recommendation  
23 that we waive the fines. They acted immediately, as  
24 soon as the next day. I verified that. They  
25 received it July 12th. They were in the very next

1 day. They called me that day.

2 CHAIRWOMAN BETTINGER: Do I have a  
3 motion?

4 COMMISSIONER FITZGIBBONS: I have a  
5 motion to waive the fines.

6 CHAIRWOMAN BETTINGER: Do I have a  
7 second?

8 COMMISSIONER MEHTA: Second.

9 MS. CIAMMARUCONI: On a motion  
10 Commissioner Fitzgibbons, seconded by Commissioner  
11 Mehta, to waive the fines on Application  
12 2011-059-SP, Commissioner Avagliano.

13 COMMISSIONER AVAGLIANO: I vote aye.

14 MS. CIAMMARUCONI: Commissioner  
15 DiDomenico.

16 FREEHOLDER DiDOMENICO: Aye.

17 MS. CIAMMARUCONI: Commissioner  
18 Fitzgibbons.

19 COMMISSIONER FITZGIBBONS: Aye.

20 MS. CIAMMARUCONI: Commissioner  
21 Glembocki.

22 COMMISSIONER GLEMBOCKI: Yes.

23 MS. CIAMMARUCONI: Commissioner  
24 Mehta.

25 COMMISSIONER MEHTA: Aye.

1 MS. CIAMMARUCONI: Commissioner Ng.

2 COMMISSIONER NG: Aye.

3 MS. CIAMMARUCONI: Commissioner  
4 Romano.

5 FREEHOLDER ROMANO: Aye.

6 MS. CIAMMARUCONI: Chairwoman  
7 Bettinger.

8 CHAIRWOMAN BETTINGER: Aye.

9 MS. CIAMMARUCONI: The motion pasts.

10 MR, STANFORD: Thank you. Perhaps we  
11 can have Mr. Perides go through the application.

12 MS. MIDDLETON: Let me swear you in  
13 first.

14 (The witness is sworn.)

15 MS. MIDDLETON: State your name and  
16 spell your name for the record, please.

17 CHAIRWOMAN BETTINGER: Could you  
18 please speak into the microphone?

19 DR. AMIN: Last name, A-M-I-N; first  
20 name, D as in David, E-E-P-A-K.

21 MR. PERIDES: Tsampicos Perides, last  
22 name P as in Peter, E-R-I-D, as in David, E-S; first  
23 name, T-S-A-M-P-I-C-O-S, Tommy for everybody.

24 CHAIRWOMAN BETTINGER: I'm having a  
25 hard time. Is anyone having a hard time hearing

1 them? There's overhead noise I'm hearing. It's  
2 very difficult to hear.

3 MR, STANFORD: Tommy, why don't you  
4 give the Board the of your education?

5 MR. PERIDES: Tsampicos Perides,  
6 registered architect in New Jersey for three years  
7 now, bachelor of design from the University of  
8 Pennsylvania, bachelor of architecture from the  
9 University of Pennsylvania also.

10 MR, STANFORD: Are you licensed?

11 MR. PERIDES: Licensed in the state  
12 of New Jersey and Pennsylvania.

13 MR, STANFORD: Now, tell us about the  
14 project.

15 MR. PERIDES: I think everybody can  
16 hear me okay if I don't use the microphone.

17 CHAIRWOMAN BETTINGER: Yes.

18 MR. PERIDES: It's a simple overview  
19 of the project. It's an expansion to a doctor's  
20 office. They have a very large front staircase  
21 that's going to be removed for a new handicapped  
22 ramp, new enclosed porch staircase and a nicer lobby  
23 design and a future elevator for the doctor's office  
24 and the apartment. It's a new -- the building is an  
25 existing two-story building. The expansion is a

1 one-story expansion. I'm sorry. These are the  
2 construction documents. I apologize.

3 The existing building, some minor interior  
4 renovations, this is about 20 percent of it new,  
5 which is an enclosed porch, a new, more accessible,  
6 ADA-accessible handicapped ramp, elevator, nice,  
7 little more contemporary design for the front  
8 elevation. In the future, I believe they plan on  
9 modifying the whole building as they go forward;  
10 something to make the place -- to spruce up the  
11 place, give a better curb appeal and easier use for  
12 everybody, workers and the patients who use the  
13 facility.

14 CHAIRWOMAN BETTINGER: What type of a  
15 doctor's office is it?

16 DR. AMIN: Internal medicine.

17 MR, STANFORD: How long have you been  
18 there?

19 DR. AMIN: I've been there eleven  
20 years. It's been a doctor's office about eleven.

21 MR, STANFORD: And you don't  
22 anticipate any increased traffic as a result of this  
23 increase?

24 MR. PERIDES: No, no, in terms of  
25 outdoor traffic and things like that, no, just more

1 for simple use and updating the building.

2 MR, STANFORD: Are you aware of the  
3 recommendations of Ms. Massey concerning this  
4 particular project?

5 MR. PERIDES: Yes.

6 MR, STANFORD: And if you want to go  
7 through, the first proposal is that the County Board  
8 does have jurisdiction; is that right?

9 MR. PERIDES: Yes, it is.

10 MR, STANFORD: Also, the application  
11 is consistent with the master plan?

12 MR. PERIDES: Yes, it is.

13 MR, STANFORD: Also, consistent with  
14 the FEMA Emergency Management Agency together with  
15 the flood insurance and flood hazard areas?

16 MR. PERIDES: Yes, we're not in a  
17 flood zone.

18 MR, STANFORD: ADA, we're going to  
19 comply, now we can comply with the ADA with the  
20 regulations?

21 MR. PERIDES: With the improvements  
22 we do comply with all the ADA codes.

23 MR, STANFORD: Now, concerning the  
24 shade tree, there are one or two shade trees on the  
25 property itself?

1 MR. PERIDES: We have one proposed  
2 shade tree on the property.

3 DR. AMIN: There's one existing tree.  
4 The second tree technically falls on my property but  
5 the inside the corner. I comply with that.

6 MR, STANFORD: And concerning the  
7 infrastructure, there will be two green techniques  
8 that will put in the project?

9 MR. PERIDES: Yes, we've put at least  
10 two green techniques as recommended.

11 MR, STANFORD: And also, there's a  
12 certain recommendation concerning the town water  
13 spout directing the run-off to vegetated area?

14 MR. PERIDES: Yes, there is  
15 landscaping on the site, within the sides of  
16 actually the building. So that's a very easy  
17 recommendation, easy improvement to make as part of  
18 those green technologies, directing the stormwater  
19 into the planting case.

20 MR, STANFORD: We will also get all  
21 of the necessary permits that we need?

22 MR. PERIDES: Absolutely.

23 MR, STANFORD: Basically, the curb  
24 cuts, there are already two existing curb cuts, so  
25 we don't need an additional curb cut. We are not

1 asking for additional curb cuts; is that right?

2 MR. PERIDES: Correct, the existing  
3 curb cuts will remain as existing.

4 MR, STANFORD: And we'll furnish  
5 as-built, firm plans when it's completed; and also  
6 digging. Well, the project is almost done.  
7 Whatever digging we're going to do, we've done  
8 already. If there's any recommendations, we'll be  
9 happy to conform to it.

10 CHAIRWOMAN BETTINGER: Mr. Tridente,  
11 do you have a comment?

12 MR. TRIDENTE: Yes, Madam Chair. I  
13 just want to go over one thing. How many existing  
14 trees are on the frontage of the property now?

15 DR. AMIN: There are two, one on the  
16 property here, and one on the property over here,  
17 close to the border.

18 MR. TRIDENTE: And how many feet of  
19 frontage do you have?

20 MR. PERIDES: Ninety-five.

21 MR. TRIDENTE: Madam Chair, I  
22 recommend that they get one more additional tree  
23 planted. The regulations are 30 feet, every 30  
24 feet, a shade tree. So you need to add one more  
25 shade tree.

1 CHAIRWOMAN BETTINGER: You're in the  
2 agreement?

3 MR, STANFORD: Yes. We have nothing  
4 further. We'll just answer any questions.

5 CHAIRWOMAN BETTINGER: Is there a  
6 parking lot attached to the building?

7 DR. AMIN: This is the parking lot  
8 here.

9 CHAIRWOMAN BETTINGER: It's hard to  
10 hear.

11 DR. AMIN: It's very long, this  
12 parking lot. Usually, we enter from here and go  
13 around and park here.

14 CHAIRWOMAN BETTINGER: How many cars  
15 does it accommodate? Are they designated spots or  
16 just?

17 DR. AMIN: Yes, it's marked with  
18 yellow line right now.

19 MR. PERIDES: They didn't count it,  
20 but I believe it's about eighteen spots.

21 DR. AMIN: It's not eighteen, about  
22 ten to twelve spots is here.

23 MR, STANFORD: There is basically a  
24 driveway on the other side that will be used for  
25 employees, and the patients will be able to use the

1 ten spots. There should be parking for at least six  
2 cars in this driveway that goes around the back of  
3 the property.

4 CHAIRWOMAN BETTINGER: Are any of the  
5 spots designated for handicapped parking?

6 DR. AMIN: Once everything gets down,  
7 there will be an area. Right now, that's not  
8 designated.

9 MR, STANFORD: We're going to  
10 designate them. We're going to conform. The  
11 architect knows exactly what he has to do.

12 MR. PERIDES: We will stripe the  
13 necessary spots when we stripe the parking lot.  
14 That will also be closest to the handicapped ramp.  
15 It will be striped as necessary for ADA compliance.

16 CHAIRWOMAN BETTINGER: Mr. Reimon.

17 MR. REIMON: Yes, you need ADA  
18 compliant parking space. You just need to draw the  
19 plans with the designation, please.

20 MR. PERIDES: When we do the  
21 as-builts, I'll make sure it's on there, absolutely.

22 MR. TRIDENTE: Madam Chair, I would  
23 like to go back to one shade tree, being that the  
24 County has recently updated curbs and sidewalks in  
25 that block, that you do a tree-grade, compliant tree

1 grade. You will include an ADA-compliant tree grade  
2 like the other two that are on there now, just to  
3 make that clear.

4 CHAIRWOMAN BETTINGER: Commissioner  
5 Mehta.

6 COMMISSIONER MEHTA: Yes, you have a  
7 two-story building, what is on the second floor?

8 DR. AMIN: Actually, it's three  
9 story. First floor is my office with two or three  
10 employees and one apartment. On the second floor  
11 above my office, kitchen, dining room and full  
12 apartment, and above that two bedrooms and half a  
13 bath.

14 COMMISSIONER MEHTA: You're going to  
15 in the future, are you going to relocate a parking  
16 spot for the tenant?

17 DR. AMIN: If we can without, we  
18 won't. If we have now, we have to. I don't think  
19 that is very necessary.

20 MR. REIMON: What has been the past  
21 assessment for the property, is it a two-family,  
22 three-families, basement, two apartment on top, how  
23 is it designated now?

24 DR. AMIN: It's a one apartment. One  
25 apartment is upstairs, bedrooms and kitchen, living

1 room, dining; one business, one apartment, yes.

2 MR. REIMON: When you went to the  
3 Planning Board in the municipality, did they give  
4 you the land use?

5 MR, STANFORD: Yes.

6 MR. REIMON: The parking spaces  
7 available, approvals of the parking spaces?

8 MR, STANFORD: Yes, we got approval  
9 from the board.

10 MR. REIMON: So how many parking  
11 spaces are now approved by the Planning Board?

12 MR, STANFORD: I believe there's  
13 something like fifteen, but I think we can get more  
14 now that we have done these improvements.

15 MR. REIMON: The space that you have  
16 in the far back, that building is going to be big  
17 enough to provide more parking spaces in the very  
18 end?

19 DR. AMIN: On the corner of the  
20 property?

21 MR. REIMON: I'm talking about the  
22 building is on the westerly end of the property.

23 DR. AMIN: It's going to come out.

24 MR. REIMON: So you're going to come  
25 out to provide more parking space.

1                   COMMISSIONER MEHTA: I think that  
2 would be recommended, an understanding that in the  
3 future we could stipulate that the apartment is  
4 one-family with the business, in that fashion.

5                   MR, STANFORD: That's acceptable if  
6 you want to put it in the resolution.

7                   CHAIRWOMAN BETTINGER: This is just a  
8 one-family?

9                   DR. AMIN: One-family apartment; one  
10 floor is the office, and the upstairs is an  
11 apartment.

12                   CHAIRWOMAN BETTINGER: Is there  
13 enough distance for the cars to back out and back  
14 in?

15                   DR. AMIN: Yes.

16                   COMMISSIONER MEHTA: What is on the  
17 north side and what is on the existing building  
18 side, people will come, how much is for the space  
19 available for the parking?

20                   MR. PERIDES: I'm sorry. I didn't  
21 understand the question. Can you repeat it?

22                   COMMISSIONER MEHTA: What is the  
23 normal size, and what is the existing building size,  
24 so it will be the minimum space will be the parking  
25 space? Do we know how many parking spaces are

1 available and there now is the fine, otherwise in  
2 the future, apply to the County Planning Board.

3 MR. PERIDES: Sure, I mean we got it  
4 approved from the County. I don't have the parking  
5 diagram with me. I can't give you the exact number.  
6 He did get it approved. We can definitely provide  
7 it to you to show you all the proper clearances for  
8 turns, back-outs, stall sizes, handicapped stall  
9 size. I don't have it with me so I don't wanted to  
10 speak to it if I can't prove it in front of me.

11 COMMISSIONER MEHTA: Can you please  
12 provide for the record?

13 MR, STANFORD: We will provide it  
14 when our architect's as-built plans are put in. We  
15 can certainly provide that.

16 CHAIRWOMAN BETTINGER: Commissioner  
17 Glembocki, any comments from the engineering  
18 department?

19 COMMISSIONER GLEMBOCKI: We have no  
20 further comments.

21 COMMISSIONER FITZGIBBONS: I make a  
22 motion to approve.

23 FREEHOLDER ROMANO: Second.

24 MS. CIAMMARUCONI: On the motion to  
25 approve Application 2011-059, Commissioner

1 Avagliano.  
2 COMMISSIONER AVAGLIANO: Aye.  
3 MS. CIAMMARUCONI: Commissioner  
4 DiDomenico.  
5 FREEHOLDER DiDOMENICO: Aye.  
6 MS. CIAMMARUCONI: Commissioner  
7 Fitzgibbons.  
8 COMMISSIONER FITZGIBBONS: Aye.  
9 MS. CIAMMARUCONI: Commissioner  
10 Glembocki.  
11 COMMISSIONER GLEMBOCKI: Yes.  
12 MS. CIAMMARUCONI: Commissioner  
13 Mehta.  
14 COMMISSIONER MEHTA: Aye.  
15 MS. CIAMMARUCONI: Commissioner Ng.  
16 COMMISSIONER NG: Abstained.  
17 MS. CIAMMARUCONI: Commissioner  
18 Romano.  
19 FREEHOLDER ROMANO: Aye.  
20 MS. CIAMMARUCONI: Chairwoman  
21 Bettinger.  
22 CHAIRWOMAN BETTINGER: I vote aye.  
23 MS. CIAMMARUCONI: The motion passes.  
24 MR, STANFORD: Thank you.  
25 MS. CIAMMARUCONI: Next application

1 on the agenda is Application 2011-064-SP, Applicant,  
2 Guy Garrubbo; location, 309 Newark Street, Block  
3 241, Lots 7 and 8 in Hoboken.

4 MR. BERTIN: Hello. I do have easy  
5 applications. I'm here on behalf of the applicant.  
6 He couldn't make it, and the attorney couldn't make  
7 it, so you're stuck with me. I am Calisto Bertin.  
8 I'm the engineer for this project.

9 (The witness is sworn.)

10 MS. MIDDLETON: Can you state your  
11 name and spell your last name.

12 MR. BERTIN: C-a-l-i-s-t-o,  
13 B-e-r-t-i-n. This is an application to construct a  
14 parking garage on an existing paved lot. It's --  
15 the address is 309 Newark Street. It's at the end  
16 of Willow Street. The first plan I have here, I'm  
17 going to mark it A-1, is an exhibit that was  
18 prepared for tonight. It's called landscape  
19 rendering. It shows the site. This is at one inch  
20 equals ten. It's a very small site.

21 Newark Street runs across the top of the  
22 page, which is the north side of the site, and you  
23 can see Willow Avenue off to the right. Observer  
24 Highway is further to the south. We're in Hoboken.  
25 The site is less than 10,000 square feet. It's

1 9,900 square feet, and it's currently a paved  
2 parking lot. It holds about 30 or 40 cars. The  
3 application is to construct a seven-story parking  
4 garage that can hold 486 cars. The parking garage  
5 will be all valet-manned. Motorists will come in,  
6 customers will come in, park on the first floor, and  
7 then there's elevators to take the car to the other  
8 floors. So they're not driving around the parking  
9 lot. They come in and park.

10 This has already received approval from  
11 Hoboken, and a traffic report was prepared for  
12 Hoboken, and is submitted as part of this  
13 application. There were some minor modifications.  
14 Hoboken has reviewed the traffic. Obviously, we are  
15 going to increase traffic because we're going from  
16 40 cars to 480 cars. One hundred parking spaces are  
17 already reserved for the housing complex called  
18 Jefferson Trust, which is within a block of here.  
19 The balance of the parking will be open to the  
20 public, either monthly or hourly rates.

21 We submitted this application just a few  
22 weeks ago, and the Board, the staff and your  
23 engineer, has been very good to review some comments  
24 and provide us comments. One of the things is that  
25 it's a paved parking lot, and we're building a

1 building, and we're covering the entire lot. So  
2 they asked us to look at some low impact development  
3 infrastructure, and the only thing that we could  
4 come up with because we're using the entire lot, is  
5 to put a green roof, and our application, the  
6 applicant has agreed to install a green roof on  
7 about 45 percent of the building. So this plan you  
8 can see that I marked A-1 shows the building in  
9 brown, and what's green will be the green roof. It  
10 will be the typical green roof where we put  
11 flowering grasses that will help clean the water.

12 Also, by converting a paved garage to an  
13 enclosed garage, we don't have run-off and any  
14 particles and the dirt that comes from the cars.  
15 It's all contained in the building. Now, the  
16 drainage for this site goes to the combined sewer,  
17 which is under the jurisdiction of the North Hudson  
18 Sewer Authority. We are working with them. We just  
19 submitted plans. We plan to have -- we anticipate  
20 having their approval next week. We will be putting  
21 in some additional stormwater detention in the  
22 parking lot on the lowest level in addition to the  
23 green roof because the green roof does retain water.  
24 They're not giving us credit for that, so we are  
25 putting in some more retention.

1           Other applications, we have our Soil  
2 Conservation approval. We need a New Jersey DEP  
3 approval because we are in a flood plain, and we  
4 have -- excuse me, and as I said, we anticipate  
5 approval from the North Hudson Utility Authority.  
6 Do you have any questions?

7           I'll show you one more plan. I'll mark  
8 this -- I marked this as A-1, and I'm going to show  
9 you A-2 is the architectural elevations. On the  
10 bottom of A-2 to the left is the front elevation of  
11 the building. Hoboken requires that the building be  
12 completely enclosed, and we have a glass front,  
13 which is what we have on the front. On the right  
14 and left side of the building are other buildings.  
15 So it butts up against the buildings.

16           One last thing, we did receive a latest  
17 letter from TYLIN, revised October 17th, and in that  
18 letter, it shows that we have complied with all the  
19 requests that they have made. One last thing, I  
20 should follow my notes. Last thing, we are required  
21 to have three shade trees. There are two street  
22 trees that exist in front of the site. There's  
23 really no room to put another one, so the applicant  
24 will make a contribution for another tree.

25           COMMISSIONER FITZGIBBONS: I've got a

1 question. What planning board approved that?

2 MR. BERTIN: I'm sorry, Board of  
3 Adjustment. Hoboken Board of Adjustment approved  
4 this last month.

5 CHAIRWOMAN BETTINGER: The cars will  
6 enter on what street?

7 MR. BERTIN: This site, on the front  
8 side of Newark Street. Right in the middle of the  
9 building is where the driveway is.

10 CHAIRWOMAN BETTINGER: Where will  
11 they exist?

12 MR. BERTIN: Same place, so there's  
13 two lanes in the middle of the building. The site  
14 plans that we submitted show this, but there's room  
15 for the cars to stack and pull off to the side until  
16 they get the first rush, rush of incoming traffic in  
17 the morning. There are two elevators to take the  
18 cars, and they are brought by the attendants to the  
19 various floors.

20 COMMISSIONER FITZGIBBONS: You say  
21 that's a seven-story building?

22 MR. BERTIN: Yes.

23 COMMISSIONER FITZGIBBONS: You're  
24 counting one plus seven?

25 MR. BERTIN: No, it's seven stories,

1 including the first floor. The ground floor is one.

2 COMMISSIONER FITZGIBBONS: Sometimes  
3 they don't count the first floor.

4 MR. BERTIN: I'm counting the first  
5 floor. Let me show you the Drawing A-1, which is  
6 part of this set, and I will leave this. You can  
7 see one, two, three, four, five, six, seven, and our  
8 green roof, which is not counted as a floor.

9 MR. REIMON: Madam Chair, I just want  
10 to tell you, there is no traffic inside the parking  
11 because there is valet parking. All you have to do  
12 is drive in, you put in your car, two lanes, and the  
13 car is taken by attendants and they move it.

14 CHAIRWOMAN BETTINGER: How many cars  
15 does it accommodate to drive in?

16 MR. REIMON: That's a good one.

17 MR. BERTIN: I'm sorry. Twenty cars,  
18 I'm counting quickly, twenty cars can be stacked in  
19 the reception area before they're backed out onto  
20 the street.

21 COMMISSIONER FITZGIBBONS: I have a  
22 question through you, Madam Chair, is that going to  
23 be an enclosed, enclosed garage?

24 MR. BERTIN: Yes.

25 COMMISSIONER FITZGIBBONS: And that

1 will meet the fire safety regulations in the state  
2 of New Jersey.

3 MR. BERTIN: We have to, yes, yes.  
4 Yes, it's fully sprinklered.

5 CHAIRWOMAN BETTINGER: Mr. Reimon,  
6 are you satisfied with twenty queuing onto Newark  
7 Street?

8 MR. REIMON: I just want him to state  
9 that. I believe that the vehicles are actually  
10 temporarily parked on the ground floor in addition  
11 to the vehicles that are coming in waiting to be  
12 moved to a different floor.

13 MR. BERTIN: Yes, I was not involved  
14 with the project when it went through Hoboken, but I  
15 talked to the traffic engineer. What Hoboken had  
16 requested to increased the number of cars that could  
17 be stored here on the ground floor is that, in  
18 addition to the aisles, that the parking spaces on  
19 either side of the aisles be open for storing cars,  
20 either come and go, mostly coming in and going out.  
21 That was part of the approval process for Hoboken.

22 MR. REIMON: Okay. The way it works  
23 in New York City, we have cars coming in at one  
24 time.

25 CHAIRWOMAN BETTINGER: Especially

1 during rush hour in the morning.

2 MR. REIMON: You use the ground floor  
3 just to temporary store the vehicles and move them  
4 up, and you use those parking spaces as part of the  
5 spaces.

6 CHAIRWOMAN BETTINGER: Any other  
7 comments?

8 MR. TRIDENTE: Madam Chair, I would  
9 just like to ask Mr. Bertin if he could discuss the  
10 contribution made to the shade tree, what was the  
11 agreed amount?

12 MR. BERTIN: I believe we submitted  
13 an estimate for \$300.

14 MR. TRIDENTE: I defer this to the  
15 County Engineer, is that an adequate amount of money  
16 to install one shade tree?

17 MR. BERTIN: But if it's not, that's  
18 what we offered. Our applicant put the green roof  
19 on, he'll pay for another tree.

20 MR. TRIDENTE: I think that should be  
21 fine. To conform to all the ADA compliant tree  
22 grades, 600 bucks for just the tree grade.

23 MR. BERTIN: We were asked about the  
24 tree, not the tree grade. That's a good point.

25 FREEHOLDER ROMANO: Make it

1 conditional upon Mr. Tridente's recommendation.

2 MR. TRIDENTE: Also, the conditions  
3 of the sidewalk, there's pavers there?

4 MR. BERTIN: The entire sidewalk and  
5 curb in front of the site will be replaced.

6 FREEHOLDER ROMANO: Good, they need  
7 it.

8 MR. BERTIN: It's going to be regular  
9 concrete unless someone tells us to do something  
10 different.

11 MR. TRIDENTE: Madam Chair, just  
12 explain that the shade trees also have ADA compliant  
13 tree grades?

14 MR. BERTIN: I believe they have them  
15 already.

16 MR. TRIDENTE: I don't believe they  
17 do. No, they don't. That will be another condition  
18 that we put new tree grades.

19 CHAIRWOMAN BETTINGER: We have a  
20 motion on the floor. Just so we're clear, what are  
21 the conditions?

22 MR. TRIDENTE: The ADA-compliant tree  
23 grades around the trees, the two trees that are  
24 there. They're going to contribute, and that amount  
25 needs to be determined, contribute the cost of one

1 tree grade and one installation of one tree, which  
2 will include the tree grade, the dirt, the tree.

3 CHAIRWOMAN BETTINGER: So I have a  
4 motion on the floor. I need a second.

5 COMMISSIONER FITZGIBBONS: I second  
6 it.

7 MS. CIAMMARUCONI: On the motion to  
8 approve Application 2011-064-SP, Commissioner  
9 Avagliano.

10 COMMISSIONER AVAGLIANO: Aye.

11 MS. CIAMMARUCONI: Commissioner  
12 DiDomenico.

13 FREEHOLDER DiDOMENICO: Aye.

14 MS. CIAMMARUCONI: Commissioner  
15 Fitzgibbons.

16 COMMISSIONER FITZGIBBONS: Aye.

17 MS. CIAMMARUCONI: Commissioner  
18 Glembocki.

19 COMMISSIONER GLEMBOCKI: Yes.

20 MS. CIAMMARUCONI: Commissioner  
21 Mehta.

22 COMMISSIONER MEHTA: Aye.

23 MS. CIAMMARUCONI: Commissioner Ng.

24 COMMISSIONER NG: Aye.

25 MS. CIAMMARUCONI: Commissioner

1 Romano.

2 FREEHOLDER ROMANO: Aye.

3 MS. CIAMMARUCONI: Chairwoman  
4 Bettinger.

5 CHAIRWOMAN BETTINGER: I vote aye.

6 MS. CIAMMARUCONI: The motion passes.

7 MR. BERTIN: On behalf of my  
8 applicant, he wanted to ensure to thank everyone for  
9 working so quickly on this application.

10 CHAIRWOMAN BETTINGER: When did they  
11 plan on starting?

12 MR. BERTIN: I think the reason it's  
13 going to move so fast is because next week is the  
14 financing gets done, and I think they're going to  
15 start later this year. This building will take  
16 several months to build. It will probably be spring  
17 of next year.

18 COMMISSIONER FITZGIBBONS: Can you  
19 let us know when the ground-breaking is?

20 MR. BERTIN: Sure, I'll do that.  
21 Thanks.

22 CHAIRWOMAN BETTINGER: Next  
23 application.

24 MS. CIAMMARUCONI: The next and final  
25 application on the agenda is Application

1 2010-082-SP, Applicant Appleview, LLC, located at  
2 7009 and 7101 River Road, Block 316, Lots 1 through  
3 3, and 5.01 north Bergen.

4 MR. ALAMPI: Thank you, Madam Chair  
5 and Board Members. Again, my name is Carmine  
6 Alampi, A-L-A-M-P-I. I am the attorney for  
7 Appleview, LCC. Mr. John Lamb is also here. Where  
8 we left off at the last Regular Meeting, the  
9 July 20th, 2011 meeting, we had completed the direct  
10 testimony of our site engineer. We had marked  
11 exhibits into the case record, A-1 through 6,  
12 collectively; A-6 being that photograph, the dated  
13 photograph that showed the previous buildings on the  
14 site. Mr. Lamb started his cross examination. I  
15 did want to bring up one point.

16 One of the Board Members, one of the  
17 Commissioners asked specifically if there was rock  
18 excavation being contemplated in this area, and  
19 Mr. Bertin said that there is not any anticipated,  
20 but that he would review his notes and check with  
21 his geotechnical support people. I would like him  
22 to comment on that because he did take the time to  
23 reexamine that. We would like to get it on the  
24 record, and I will not interrupt Mr. Lamb, and he  
25 can continue his cross.

1 I will just remind you, Mr. Bertin, you  
2 were placed under oath at the last meeting, and you  
3 remain under oath and simply -- I neglected counsel  
4 for the Township of North Bergen -- Guttenberg.  
5 Mr. Bertin, very simply you were asked point blank  
6 about rock excavation, you answered there would be  
7 none to your knowledge, but you want to double check  
8 your notes, review with your staff. Could you just  
9 briefly report on that issue?

10 MR. BERTIN: Yes, during the course  
11 of the geotechnical investigation of this property,  
12 many test pits were dug along the rear line of the  
13 building. It appears that whatever they dug, rock  
14 was below the footing elevation. So the only rock  
15 removal will be loose rock because this building  
16 will be -- the footings will be set on the rocks, so  
17 any loose rocks will be removed, but it's no massive  
18 excavation of any type of rock on this site.

19 MR. ALAMPI: One last note to the  
20 Board, you probably have in your package, we had  
21 received a completeness letter dated July 11th,  
22 2011, and I asked Mr. Bertin to put into writing a  
23 two-point response to that letter, which was  
24 circulated on August the 9th, and I just wanted to  
25 make sure that's in the case record. It's a Bertin

1 Engineering letter, August 9, 2011. I do have a  
2 copy.

3 FREEHOLDER ROMANO: We have it.

4 MR. ALAMPI: I'm just showing it to  
5 Mr. Lamb. There were two points on the comment  
6 letter, it was Item 4 and Item 6. We believe we've  
7 answered. I wanted Mr. Bertin to answer in writing,  
8 not just through his testimony.

9 With that I will turn over the podium to  
10 Mr. Lamb to continue his cross examination. I do  
11 have my second witness, which is our planning  
12 consultant, Susan Gruel, who is here this evening,  
13 and I plan for her to be our final witness, and then  
14 we will rest our presentation.

15 MR. LAMB: Good evening, Mr. Bertin.  
16 Just for the record I'll like to indicate that I  
17 requested during the last hearing a copy of the most  
18 recently revised site plan. Apparently, I didn't  
19 have that submission, and that was supplied to me as  
20 per my request.

21 CROSS EXAMINATION BY MR. LAMB:

22 Q Mr. Bertin, when you previously  
23 testified -- yes?

24 MR. REIMON: Before you start, what  
25 is the date of the site plan that you received?

1 MR. LAMB: I received the grading  
2 drainage utility and soil erosion control plan,  
3 which was last revised March 18th, 2011 which was  
4 marked Drawing No. C-2.3.

5 Q Mr. Bertin, at the last meeting,  
6 Planning Board meeting, that you had gotten some old  
7 photographs, and one of the photographs came from a  
8 Phase 1 environmental report. I don't believe you  
9 had that report with you at the time. Were you able  
10 to locate that report?

11 A Actually, all of the photographs came from --  
12 all of the reports from that Phase 1 environmental,  
13 no, I don't have a copy of it. Someone else in our  
14 office does, but I did not review it.

15 Q Okay. I request that we get a copy  
16 of the entire report. Although I understand  
17 portions of it were provided, I would like to see if  
18 there's anything else we believe is relevant in the  
19 rest of the report.

20 One of the Board Members asked you to  
21 estimate the height of the proposed, I guess, open  
22 and closed tanks on the property to the north,  
23 operated by the North Bergen Municipal Utilities  
24 Authority. That was an issue that. I believe the  
25 response was that you're going to look into that.

1 Did you have a chance to do that?

2 A I did not write that down. I apologize. I  
3 did not put it down on my list so I did not.

4 Q One of the other open items, Mr.  
5 Bertin, you may recall your testimony concerning the  
6 approximately 10,808 square feet of area that's  
7 proposed to be disturbed in 20 percent or greater  
8 steep slope constraints on the subject property. I  
9 asked you specifically if this was impervious  
10 coverage. Did you use that approximately 11,000  
11 square feet, I know it's a little less, but it's  
12 approximately 11,000 square feet, did you use that  
13 in your calculations for improved impervious lot  
14 coverage in the North Bergen Planning Board?

15 A No.

16 Q You did not use that?

17 A No.

18 Q So is it fair to say that for  
19 purposes of this application, you're treating this  
20 as an impervious coverage, but for purposes of the  
21 site plan application before the North Bergen  
22 Planning Board, you did not use that area?

23 A It would just have counted in as the existing  
24 impervious coverage. It would have been larger than  
25 what we said it was. Some of that would have been

1 replaced. Yeah, it would say that we had more  
2 impervious coverage, total impervious coverage than  
3 what's on the plan.

4 Q If you added approximately 11,000  
5 square feet in, that would increase the amount of  
6 impervious coverage area on the plan, and it would  
7 also increase the percentage of impervious coverage  
8 in the calculation?

9 A Let me be more specific. You asked me  
10 another question, which I did not have the exact  
11 answer. Of that disturbed area, which is 10,909  
12 square feet, 8,254 is impervious; 5,600 square feet  
13 of that will be removed and replaced by the  
14 building. So what's left if we did not touch the  
15 remaining 2,800 square feet, it would be added to  
16 the impervious coverage for the site plan.

17 Q So you really, a portion of it was,  
18 because it was already part of the building, was  
19 already in it, so it would be the full 11,000 square  
20 feet. It would be the portion that wasn't  
21 previously counted?

22 A Correct, and we did not even know that some  
23 of it existed, but some of the other impervious  
24 coverage, which I mentioned the riprap stone cover,  
25 some of that right behind the building will be

1 removed so.

2 Q Now, there was also a question on  
3 this extra space that you've now narrowed it down to  
4 approximately 2,800 square feet, did you use that  
5 extra area in your stormwater management or drainage  
6 calculations?

7 A No, we did not.

8 Q I think I believe it's your report  
9 that indicates that there will be a submission to  
10 the County Stormwater Management Plan and  
11 calculations, has that been submitted?

12 A Yes, drainage calculations have been  
13 submitted to the County.

14 Q Have you gotten any response on that?

15 A Yes, based on our last work session, I was  
16 told that there are no further comments from the  
17 County on our drainage.

18 Q Now, I also asked you at the last  
19 hearing whether you had applied for a reverse  
20 subdivision or redivision, and your response was,  
21 yes, that's something you needed to do. You did not  
22 have your file. You did not know whether that had  
23 been done. Have you been able to review your file  
24 and see if that application was filed?

25 A It was filed at the town level. I did not

1 check the box for the County application for the  
2 subdivision.

3 Q It's your testimony, therefore, that  
4 as part of this application, you would also submit a  
5 reverse subdivision or redivision application so  
6 that you would not have to be involved with setbacks  
7 for each different lot because it's your intention  
8 to combine all the lots?

9 A I don't know that I would do that anyway.  
10 I'm going to have to turn to Mr. Alampi how he wants  
11 to handle the application. Internal lots lines, I  
12 will never take setbacks from them anyway.

13 Q But you previously indicated that's  
14 something you thought you would have to do, but you  
15 haven't done it yet?

16 A Correct.

17 Q Now, there is also a reference in  
18 your report, in your steep slope waiver  
19 justification report dated June 11, 2011, there is a  
20 reference to the Johnson Soils report dated  
21 September 16th, 2010. I can represent to you that  
22 we looked through the County files, and we did not  
23 see a copy of that report. Was that something that  
24 was submitted? Are you sure that was submitted to  
25 the County? I'm not saying you didn't submit it,

1 I'm just saying we looked though the files of the  
2 County, and it was not there?

3 A Actually I'm going to have someone else  
4 research so we can move on.

5 Q Absolutely.

6 A To answer the question, in the County's  
7 letter of July 11th, Item No. 9, there is a geo-tech  
8 report dated September 16th, 2010. I don't know if  
9 that's what you're asking about.

10 Q Yes, that's the one that you referred  
11 to in your report.

12 A Yes.

13 Q So I request that copy of that. Now,  
14 one thing, there was a lot of discussion, I'm going  
15 to confine right now my comments concerning that  
16 approximately 11,000-square-foot disturbance area.  
17 I recall that 11,000-square-foot disturbance area,  
18 when I do that referring to rounded numbers,  
19 10,900-plus, that is 23.8 percent of the total steep  
20 slope area on the subject property; is that correct?

21 A No. My calculation and my notes here says  
22 that 10,000 square feet would be about -- the area  
23 of the site, that steep slope is 46,000 square feet,  
24 so this is just about eleven.

25 Q Rounded, it's approximately 23

1 percent.

2 A A quarter.

3 Q So the proposal here essentially in  
4 the context of the steep slope prohibition in the  
5 Hudson County regulation is to ask for approximately  
6 25 percent of this steep slopes to be disturbed, if  
7 I could sum up that part of the application?

8 A Yes.

9 Q Now, that area of -- we understand  
10 your testimony, we are not going to repeat it. You  
11 have provided information about previous historical  
12 disturbance, is it fair to say that the current  
13 portion of the building is located on the area where  
14 you testified that riprap was provided, that is the  
15 majority of that 11,000 square feet?

16 A Yes, 5,600 square feet of disturbed sleep  
17 slope would be underneath the building.

18 Q But I'm talking --

19 A That's currently impervious.

20 Q Right now existing?

21 A Yes.

22 Q Right now as the property exists, I  
23 think you estimated about 80, a little more than  
24 8,000 square feet of disturbance was on the riprap  
25 area; out of 11,000 square feet, 8,000 was on riprap

1 area?

2 A Well, the 8,200 square feet included the  
3 riprap and the paved driveway, yes.

4 Q That also includes the driveway.  
5 When you said "paved driveway," is it full asphalt?  
6 If I went out there now, would I see, we don't go on  
7 the property and trespass, but if I went on it now,  
8 that driveway is asphalt?

9 A Oh, yeah. There's leaves and some dirt on  
10 top of it, but you brush it away, there's asphalt.  
11 In the report we show a picture showing the asphalt.  
12 We didn't clean the whole thing off, but we checked  
13 it.

14 Q When you first started your tests, I  
15 guess you took some soil pit tests and you brought  
16 the well up there, you basically cleaned off that  
17 area. If I recall your testimony, you didn't really  
18 originally see it, but then you kind of brushed it  
19 away?

20 A That's correct, we happened upon it.

21 Q You cleared a couple trees to get to  
22 that area?

23 A Yes, we happened upon it.

24 Q Other than that paved portion, is it  
25 fair to say that the rest of the slope, what had

1 riprap or a path or retaining wall, those are the  
2 areas you say are disturbed, the components of the  
3 disturbance, the paved way that was up there,  
4 riprap, which was a majority of it, a path and  
5 retaining walls?

6 A Correct. The retaining walls are a little  
7 bit beyond, but yes, there is one retaining wall,  
8 yes.

9 Q Is it fair to say although you put  
10 four types of conditions as disturbance, since the  
11 tennis courts have been on the property  
12 approximately two decades ago, there was no building  
13 in that area, there was no structure?

14 A No building, correct.

15 Q Now, is it also fair to say that in  
16 that riprap, I think your testimony was that there  
17 was some gravel that constituted the riprap that was  
18 grass or natural vegetation or rough vegetation, it  
19 had grown up through there, you wouldn't see riprap,  
20 you'd see vegetation that went through the riprap?

21 A Yes, if you look at it from any distance, you  
22 wouldn't know that there was riprap. In the fall or  
23 winter, you wouldn't see it. It was also because we  
24 walked on there we found it.

25 Q There's grass growing through the

1 areas, there's brush?

2 A Yes.

3 Q There's other types of vegetation?

4 A Yes. I don't know what to say. There maybe  
5 a tree or two, but I'm not sure.

6 Q Now, if the County had the choice for  
7 purposes of -- remember, they reminded us at the  
8 last hearing that their issues that they're  
9 interested in are limited, they're not like a  
10 municipal planning board, if we say one of the major  
11 issues is the stormwater management, drainage, the  
12 effect of water that goes down this property, is it  
13 fair from the County's standpoint, they would rather  
14 have less building coverage and more height because  
15 the less building coverage would decrease the  
16 impervious coverage and building coverage?

17 COMMISSIONER FITZGIBBONS: Madam  
18 Chair, if you're indicating what the County wants,  
19 no, you know, we'll make that decision ourselves,  
20 okay?

21 MR. LAMB: I'm not saying that.

22 COMMISSIONER FITZGIBBONS: You're  
23 saying is it fair to say what the County wants. No,  
24 we'll make that decision. We're listening to  
25 testimony now.

1           Q           But if there was no excess building  
2 coverage under the municipal ordinances, there would  
3 be more area and less for drainage and stormwater  
4 management, would there not, because the building  
5 would be not be as large on the subject property?

6                   MR. ALAMPI: I need to raise an  
7 objection. I don't even understand the question.  
8 I'll ask counsel to rephrase. I'm not following it.  
9 He's asking him for the municipality to have the  
10 ordinance.

11                   MR. LAMB: Let me go on. I want to  
12 finish this.

13           Q           Mr. Bertin, you in your report, your  
14 steep slope waiver justification report, you have  
15 referenced the definition for impervious coverage of  
16 the DEP resolutions?

17           A           Correct.

18           Q           Is it your opinion that that's the  
19 applicable definition for impervious coverage?

20           A           Lacking any other definition, yes, because  
21 that was the appropriate definition.

22           Q           And you designed this project under  
23 the Hudson County regulations, the land development  
24 regulations, did you not?

25           A           Correct.

1 Q That's one of the reasons why you  
2 applied eventually for the steep slope waiver?

3 A Correct.

4 Q Is it fair to say Hudson County has  
5 its own definition of impervious coverage?

6 A It might. Maybe I'm not aware of.

7 Q In the definitional session of the  
8 Hudson County Land Use Development Regulations,  
9 there is a definition for impervious coverage. Did  
10 you cite that at all in your report or mention that  
11 at all so far in your presentation or testimony?

12 A No, I have to go back to see what it says as  
13 to why we did or did not.

14 Q With your permission I'm going to  
15 read it briefly and ask you if you're familiar with  
16 this. Impervious coverage, on page 20, Section 2 of  
17 the Land Development Regulations of Hudson County,  
18 it says impervious coverage, any structure, surface  
19 or improvement that reduces and/or prevents  
20 absorption of stormwater into land. Porous paving,  
21 paver blocks, gravel, crushed stone, crushed shell,  
22 elevated structure including boardwalks and other  
23 structures surfaces or improvements are considered  
24 impervious coverage. Grass, lawns or any other  
25 vegetation are not considered impervious coverage.

1 A That is consistent.

2 Q Do you know whether that's not the  
3 exact definition that the DEP has?

4 A It's very similar.

5 Q Are you aware that the DEP does not  
6 have the last qualification, grass, lawns or any  
7 other vegetation are not considered impervious  
8 coverage?

9 A I guess it's implied because if it's not  
10 mentioned as being impervious, that must mean it's  
11 pervious.

12 Q We indicated Galaxy is on the  
13 southerly portion of the property, is it fair to say  
14 that most of the disturbance of the steep slopes is  
15 on the southerly end of the proposed project?

16 A There is more steep slope disturbance on the  
17 southern end than on the northern.

18 Q Now, you showed and you referred to  
19 on C-2.5, you marked this A-4 on July 20th, you have  
20 shown that that area, that disturbed area that we've  
21 been focusing on, cross-hashed, that's not part of  
22 the building, and I think you also used the words  
23 limits of disturbance as well?

24 A Because I know the Board Members can't see.  
25 I'm going to highlight that.

1           Q           I have the same blue highlighter,  
2 Mr. Bertin. Maybe you went to Villa Nova?

3           A           Blue and white, this is more like a Carolina  
4 blue. The area I just highlighted on Exhibit A-4 is  
5 the limit of disturbance for the slopes on the site,  
6 the steep slopes.

7           Q           Was there ever any consideration that  
8 the proposed building would be scaled back to avoid  
9 that amount of disturbance in that area that you  
10 circled in blue on A-4?

11          A           We had two other plans that we discussed that  
12 actually had more disturbance than this.

13          Q           But those are plans that you  
14 voluntarily withdrew?

15          A           Right.

16          Q           You're now on this application.  
17 Certainly, after you withdrew those two, were there  
18 any considerations to moving the building's line  
19 closer to River Road so you wouldn't have that  
20 amount of disturbance?

21          A           No, through that area that I've highlighted  
22 is an internal lot line that we're going to seek to  
23 remove. But we brought the building back to that  
24 lot line so that's the part of the disturbance that  
25 would be covered by building. The rest is going to

1 be disturbed because of grading, not because we're  
2 building on it. The area here, this 5,629 square  
3 feet is a sloped area that was built. In my mind I  
4 did not think that is an egregious disturbance.

5 Q With respect to that area, is it fair  
6 to say that that area where the building currently  
7 has riprap where the proposed building intersects  
8 the disturbed, that area has riprap?

9 A Yes.

10 Q That's the riprap, that driveway  
11 asphalt path is not there?

12 A It's back here. We don't have to touch it.

13 Q The retaining walls aren't in there?

14 A One retaining wall is, but there are two  
15 other retaining walls that we're not going to touch.

16 Q One retaining wall you're touching?

17 A Yes.

18 Q So other than that retaining wall,  
19 the rest of the area where the building footprint  
20 intersects the steep slope area is really the riprap  
21 area?

22 A Yes, that's all riprap area.

23 Q Is it fair to say that the riprap  
24 area is no more than, you know, two to six inches,  
25 is that really kind of a surface riprap?

1 A It's more like six inches. It's a couple  
2 layers thick. Then there's actually filter fabric  
3 underneath.

4 Q When you're building this building in  
5 the proposal, is it fair to say that you are  
6 excavating to a greater extent than just taking off  
7 the riprap?

8 A That's why we included this extra. Yes, we  
9 will excavate a little bit beyond that internal lot  
10 line.

11 Q Now, I asked you before your plans  
12 that were submitted only had a cross section for  
13 excavation. I believe it was more the center of the  
14 property, and there was no cross section for  
15 southerly portion. Can you approximate the maximum  
16 amount of excavation you're doing below that riprap  
17 surface approximately?

18 A Horizontally, we're going to go back ten feet  
19 beyond that line.

20 Q I'm going vertically.

21 CHAIRWOMAN BETTINGER: Mr. Lamb, can  
22 you sum this up? We would like to hear if there are  
23 any people from the public. Can you condense  
24 basically what you want to say and what you're  
25 objecting to for the Board so that we can move

1 forward?

2 MR. LAMB: Well, I mean I'm happy to  
3 tell you what I'm driving at.

4 CHAIRWOMAN BETTINGER: Okay. I can  
5 tell the Commissioner -- you're losing us.

6 MR. LAMB: I understand that because  
7 it's not an easy concept. Essentially, the  
8 disturbance of riprap is a surface disturbance. The  
9 point is that it appears that the applicant is not  
10 just disturbing the surface, the exterior horizontal  
11 surface, but they're also vertically disturbing the  
12 area.

13 So where a slope, according to  
14 Mr. Bertin's testimony, where a slope had some  
15 riprap to helped stability on the slope and helped  
16 drainage, they're now taking away not only the  
17 surface, it's not just they're taking away the  
18 surface and putting the building on the surface,  
19 they're digging in and excavating it, and I'm trying  
20 to ascertain exactly how deep because there is no  
21 cross section on that area closest to the Galaxy,  
22 which shows that. So if he can approximate it.

23 MR. BERTIN: At the rear line, it's  
24 20 feet deep. At the front it's about zero.

25 CHAIRWOMAN BETTINGER: Commissioner

1 Mehta has a question.

2 COMMISSIONER MEHTA: My only point is  
3 that they're going inside other things, and I think  
4 this not asking questions, any question regarding  
5 construction method or something regarding the plan.  
6 A lot of times we discussed the town's different  
7 jurisdiction and the County Planning Board  
8 jurisdiction. We are not following the town  
9 requirement. Why we are doing that? That's my  
10 question to the independent engineer and the County  
11 Engineer, to the construction official, otherwise  
12 we're going to hear the same thing again and again.

13 MR. LAMB: What I'm trying to focus  
14 on, their point of their application is a steep  
15 slope disturbance waiver, and I'm trying to on focus  
16 how are you digging this out.

17 COMMISSIONER MEHTA: I understand  
18 your right. My only point is our County Planning  
19 Board jurisdiction is the traffic system and whether  
20 the County does not have any restriction. We cannot  
21 go beyond that. You already had the Town Planning  
22 Board already approved that. Now you're doing the  
23 same thing, am I right?

24 MR. LAMB: This is different. The  
25 North Bergen Planning Board had a 30-percent steep

1 slope. The Hudson County has 20-percent. They are  
2 now focusing their application for a steep slope  
3 disturbance waiver.

4 COMMISSIONER MEHTA: I will defer it  
5 to them because they reviewed the records.

6 MR. REIMON: This is not the first  
7 time that we had this situation with the steep  
8 slopes. Also, you have expressed your --

9 CHAIRWOMAN BETTINGER: Could you  
10 please speak into the microphone.

11 MR. REIMON: Both the counsel and Mr.  
12 Bertin, both of them are right. There are  
13 regulations in the State. There are regulations in  
14 the Planning Board and regulations that we have,  
15 that the slope is 20 percent, 30 percent. The main  
16 thing here is that they definitely need a waiver  
17 because we have our regulations steep slope of 20,  
18 25 percent, whatever it is. It's up to the Planning  
19 Board to decide if they want to grant the application  
20 and give them a resolution to approve the  
21 application.

22 One point I want to everybody here is that  
23 we have a document that I believe that has been  
24 distributed to everybody. You may have the document  
25 too. It is actually dated June 11th, 2011, which is

1 the steep slope waiver jurisdiction.

2 MR. LAMB: Exhibit A-1.

3 MR. REIMON: We also have in addition  
4 to that regulation, that document dated  
5 September 16, 2010, from Joseph Soil Company. Do  
6 you have that?

7 MR. LAMB: No, that's what I had  
8 asked before. When we went to look at the County  
9 file, we did not have that.

10 MR. REIMON: I strongly recommend you  
11 to look at that because of the front page of that  
12 you have the table that shows the number of borings  
13 that were taken on the site. Cross-referenced to  
14 that, you have the map to show where the borings  
15 were taken.

16 MR. LAMB: That's what I'm asking.

17 MR. REIMON: Because you don't have  
18 the document. Now, I believe that document is in  
19 everybody's hand from the Commissioner, and you gave  
20 it also by mail to the Planning Board. Let me  
21 explain. We can see in this document that I want to  
22 point this out in a red pencil.

23 There are borings taken here, here, here  
24 and here, right. Those borings are taking up to  
25 more than 20 feet, ten pits. There are three

1 borings and about seven test pits that were taken on  
2 the site. The discovery of these borings and test  
3 pits is that in the rock, virgin rock, it's more  
4 than 15 feet of drain. What is above that is what  
5 typically everybody called a historic field, which  
6 is what you just mentioned, riprap. It could be  
7 when they built it, they moved up and the slope is  
8 filled, right. That's what you have there right  
9 now.

10 MR. LAMB: I think you answered that.  
11 That's going to impact --

12 MR. REIMON: I haven't finish yet.  
13 Now, when you have the decision profile along three  
14 sections of this slope that's clearly defined based  
15 on those test pits and borings, the actual elevation  
16 of the rock. If you look at those sections, you  
17 could see that the double riprap is way below the  
18 foundation of the actual floor elevation of the  
19 building. That doesn't mean that the building must  
20 be built on the footing. I recommended to  
21 Mr. Bertin that he should consider the mini piles as  
22 a foundation for this building because of the loose  
23 material that he has in this area, okay?

24 MR. BERTIN: Yes, and that's included  
25 in our --

1 MR. REIMON: That also answers your  
2 question why Transco is not saying anything. Well,  
3 the answer is that if you do mini piles, there's no  
4 vibration.

5 MR. LAMB: Well, that is why we want  
6 Transco to come in and say that.

7 MR. REIMON: Why does Transco have to  
8 say that?

9 MR. LAMB: That's one of the issues  
10 here. Transco who is familiar with safety and --

11 MR. REIMON: No, no, you see mini  
12 piles, where you needed the geotechnical engineer  
13 that designs mini piles. When the design is done,  
14 you your do report, it's going to say I recommend  
15 the mini piles. We've got money, the drilling and  
16 shaft when it goes down, we can keep the vibration  
17 on the operation to a minimum.

18 MR. BERTIN: If I may interject,  
19 there was a component for vibration analysis and for  
20 monitoring. I've got to take that back.

21 MR. LAMB: Maybe I can get that from  
22 you. So I'm not going to ask any questions to the  
23 extent that the information is there. Basically,  
24 Mr. Bertin answered that approximately 20 feet of  
25 excavation is going to go down. Although it's going

1 down to the rock, the under-granite rock. The point  
2 is still from my standpoint, they're not disturbing  
3 the surface of the area, they're excavating. That's  
4 the issue and purpose of your waiver. Are they  
5 taking the first two inches of the surfaces off, or  
6 are they taking a lot of surface off? That's what  
7 the Board has to look at in reviewing whether it's  
8 appropriate.

9 MR. REIMON: Are they asking me? The  
10 answer is they're disturbing more than 15 feet high.  
11 That's what they take. They're taking more than  
12 15 feet from the existing of the slope. They have  
13 to excavate that to put the building in, all right?  
14 That is not virgin soil or rock. That is material  
15 that has been with time brought in, deposit, moved  
16 there, I don't know. I wasn't there when they put  
17 it in that area on the site.

18 If you look at the photos, you can also  
19 see for through time, the 1940s and '50s, there has  
20 been a lot of activities in that area.  
21 Consequently, they put in fill, the riprap in. They  
22 did the road. But there is nothing else there. You  
23 decide do they get the waiver or not. We don't have  
24 to go around this anymore. That's the way it is.

25 MR. LAMB: But I guess the question

1 is even when it's not solid rock, that's still part  
2 of the slope that they're taking down.

3 MR. REIMON: That is true.

4 MR. LAMB: I'm going to move off it.  
5 We're ready to move.

6 CHAIRWOMAN BETTINGER: Thank you.

7 Q Now, Mr. Bertin, did you ever review  
8 the study of PMK, the Palisades Cliffs Steep Slope  
9 study?

10 A Yes, quite a while ago.

11 Q And you're aware that the County  
12 Engineers reviewed, there is property, I think there  
13 is over 20 over the Palisades Cliffs, including this  
14 particular property, they made specific  
15 recommendations with respect to this property?

16 A Yes.

17 Q And is it fair to say that -- and is  
18 it fair to say that with respect to the subject  
19 property, the County Engineer recommended, even  
20 before they knew there was a development proposal, a  
21 gabion wall placed along the portions of the steep  
22 slope?

23 A Yes.

24 Q Does the current plan submitted to  
25 Hudson Country propose gabion walls as recommended

1 by the County Engineers in that slope stability  
2 study?

3 A No, we did agree to the existing storm walls  
4 and have them either recertified or reinforced if  
5 that was necessary, and of course, if there was any  
6 slope stability issues, that they would be  
7 addressed.

8 Q You're aware that the Summit House  
9 and Ferry Road that are up on the top of the cliffs,  
10 you're aware that the Summit House, the parking  
11 garage goes over the cliffs?

12 A Yes, Summit House is right on the top of  
13 Ferry Road right behind the site, and yes, it's  
14 built over the top of the cliffs.

15 Q And Ferry Road is also close to the  
16 edge, if not over the edge?

17 A Yes, Ferry Road overhangs. Part of the  
18 roadway, there's actually a bridge as a  
19 pass-through. There are walls underneath the road  
20 to hold it up.

21 Q Did you do any testing to determine  
22 how safe that was currently existing?

23 A No, we did not. That will be part of the  
24 geotechnical review during construction. North  
25 Bergen Planning Board asked that as well.

1           Q           With respect to the one retaining  
2 wall that you pointed to on the southerly portion in  
3 the middle of the property within that blue area,  
4 the proposal is to eliminate that retaining wall, is  
5 there another proposal to put the retaining wall in  
6 another location?

7           A           No, part of the wall will be removed because  
8 the building will occupy part of it. I show the  
9 outline of the building here. The area just south  
10 of the building will be sloped. It will be a much  
11 more gentle slope than what's shown there.

12           Q           The Palisades Slope Stability Study  
13 also indicates the desire to have a buffer so that  
14 if rocks or debris come down the slope, there is a  
15 buffer before they would get to the flatter area.  
16 Is there any proposal here to have that type of  
17 buffer?

18           A           Here, there is a square area behind the  
19 building. It could be augmented with a fence at the  
20 edge of the disturbance area to act as a catchment  
21 for rocks.

22           Q           Right now, there's no proposal for  
23 any catchment of rocks?

24           A           No, because that doesn't appear that it's  
25 needed, but that's going with the final construction

1 documents.

2 Q Do you disagree with the County  
3 Engineer that the gabion wall is necessary?

4 A Today, I don't think so. There's nothing on  
5 the site that would be damaged. With a building  
6 there, it might be necessary. I forgot where he  
7 said to put it. I would ask the engineer.

8 CHAIRWOMAN BETTINGER: Can we move  
9 forward, please?

10 MR. LAMB: Yes, I'm skipping things.

11 Q Now, Mr. Bertin, I also asked you if  
12 you knew when the DEP regulations that provided the  
13 definition of impervious coverage, which you cited  
14 in your report, when that was adopted?

15 A No, I don't recall. I know the comment about  
16 the steep slope was entered in that section of the  
17 regulations, I'm going to say the last few years.

18 Q I'm going to show you what I would  
19 like to marking as G-4, which is the County -- which  
20 is the County -- which is the DEP regulations in  
21 which the impervious surface was first provided.  
22 That has the relevant document. I do have a copy  
23 for the entire Board, but I don't think you need it,  
24 just the date.

25 COMMISSIONER FITZGIBBONS: I have a

1 question, does the DEP get involved with this?

2 MR. BERTIN: No, not as far as the  
3 slopes are concerned. DEP has no concern.

4 COMMISSIONER FITZGIBBONS: Okay.

5 MR. LAMB: One of our objections is  
6 that they're using the definition for DEP. We're  
7 saying that they should use the County definition  
8 and the County regulations.

9 MR. REIMON: May I say something  
10 about that? The DEP regulations actually have a  
11 clause in their statement in which says  
12 municipalities have to implement an ordinance for  
13 the steep slope. Are you referring to that?

14 MR. LAMB: No, I'm actually referring  
15 because he used the definition, the DEP definition  
16 of impervious coverage, I'm referring to that  
17 because North Bergen implemented their ordinance  
18 section.

19 MR. REIMON: North Bergen implemented  
20 that ordinance. We don't have to handle. We are  
21 actually like the watchdog for the municipalities to  
22 implement all these regulations under the Work  
23 Quality Act, as you know. That's what we're doing.  
24 If the municipality has it, it's not the County.

25 MR. LAMB: I'm not saying that they

1 do. All I'm saying is that they're using the DEP  
2 regulations, and one of the issues was Hudson County  
3 in 2008, I believe, put in their prohibition of  
4 steep slopes, which is why we are here. Also, in  
5 July of 2008, the DEP in their regulations put in  
6 the impervious coverage definition. So all of this  
7 was happening in 2008, is the bottom line.

8 MR. BERTIN: If I could just jump to  
9 the quick, we looked at the County's regulation as  
10 coming from the DEP regulations. That's why we  
11 referred to the DEP definitions. That's why we have  
12 the reference to the DEP section, Chapter 15 of New  
13 Jersey Administrative Code.

14 Q Almost done, Mr. Bertin. Mr. Bertin  
15 you've agreed that, I know you gave some testimony  
16 that you referenced two suspected sewer easements,  
17 but really the Transco gas line is on the subject  
18 property; that's there, that's not a suspected  
19 easement; is that correct?

20 A No, it's no suspected. We mentioned that  
21 easement.

22 MR. LAMB: I have nothing further. I  
23 have nothing further for this witness.

24 MR. BERTIN: Excuse me?

25 MR. LAMB: I'm sorry. I have nothing

1 further for this witness.

2 CHAIRWOMAN BETTINGER: Okay. Do we  
3 want to have counsel from Guttenberg?

4 GUTTENBERG ATTORNEY: No, no comment.

5 MR. ALAMPI: We have completed this  
6 witness. We are about to start the next. I guess  
7 the public has specific questions for Mr. Bertin.  
8 You have to stand. I know you're tired.

9 CHAIRWOMAN BETTINGER: If we can  
10 limit questions for Mr. Bertin from the public, if  
11 there is a specific spokesperson that would like to  
12 speak, please come up to the podium. State your  
13 name.

14 MR. RABEN: Jeremy Raben, R-A-B-E-N.

15 CHAIRWOMAN BETTINGER: Counsel, does  
16 he have to be sworn?

17 MS. MIDDLETON: Not to ask questions.

18 CHAIRWOMAN BETTINGER: Are you going  
19 to ask a question?

20 MR. RABEN: I was going to ask some  
21 questions of the witness.

22 MS. MIDDLETON: Are you represented  
23 by counsel here?

24 MR. RABEN: No, I'm a member of the  
25 public. I'm not representing any group or anything.

1 MR. ALAMPI: Let me clarify. We've  
2 had experience with members of the public who are  
3 also members of the association of the Galaxy.  
4 Mr. Lamb has indicated his representation is on  
5 behalf the association and board of directors.  
6 We've argued the issue. The unit owners are  
7 collectively represented through their board of  
8 directors and Mr. Lamb. To that degree when we had  
9 the municipal application, they've asked people to  
10 identify where they live, and if the questions have  
11 been asked and probed by counsel, then ask the  
12 people to accept that. If they don't live at the  
13 Galaxy, they can ask a battery of questions.

14 I'm only placing on the record that there  
15 should be some limitation as the Galaxy is  
16 represented through the board of directors, through  
17 their legal counsel. Normally, we preclude  
18 individuals from continuing to ask questions when  
19 they have legal counsel asking the questions, but we  
20 have been a little bit flexible with that. So if  
21 each witness will identify whether they live at the  
22 Galaxy, I'm not going to elongate the process if  
23 somebody has two question, but if it goes on and on.

24 COMMISSIONER FITZGIBBONS: Madam  
25 Chair, we have no problem. We believe in freedom of

1 speech. If you're represented, if we would like  
2 individuals to represent certain groups here. In  
3 other words if you want to get up and speak, it's  
4 all right, but we don't want the continuing the same  
5 questions. We want different questions, you know.

6 MR. RABEN: My question is --

7 MR. LAMB: Any residents of the  
8 Galaxy, I prefer it go through me. Again, I don't  
9 represent the individuals. I represent an entity  
10 through the board of trustees. If this gentleman is  
11 a resident of the Galaxy, which I believe, and he  
12 disagrees with me...

13 CHAIRWOMAN BETTINGER: Mr. Lamb,  
14 you're basically representing the board of directors  
15 from the Galaxy?

16 MR. LAMB: Right.

17 MR. RABEN: Thank you very much.  
18 Okay. I would like to ask some questions concerning  
19 the portion of the steep slope that has the Transco  
20 transmission gas pipeline on it because that's one  
21 of the areas that the public has been very concerned  
22 about and clearly, since a major portion of that  
23 pipeline is on that steep slope, the steep slope --

24 COMMISSIONER FITZGIBBONS: Excuse me,  
25 sir. We're just concerned with what's on the

1 property, not adjacent to the property. As far as  
2 that pipeline, okay, that has nothing to do with the  
3 application.

4 MR. RABEN: Okay. The pipeline runs  
5 parallel to the property through the sewerage  
6 treatment plant, but then it crosses through the  
7 Applevew property. I can show you where.

8 FREEHOLDER ROMANO: Madam Chair, can  
9 we have a legal opinion?

10 CHAIRWOMAN BETTINGER: I was just  
11 going to say that.

12 FREEHOLDER ROMANO: Counsel, yes or  
13 no, is it on County property?

14 MS. MIDDLETON: Is it on County  
15 property? Is the gas line on County property? I  
16 don't know.

17 MR. LAMB: It crosses the County  
18 road.

19 FREEHOLDER ROMANO: Let's try it  
20 again. Yes or no, Counsel, is it on County  
21 property?

22 MS. MIDDLETON: Is the gas line on  
23 County property, and it's under the County road?  
24 Usually County -- yes, it is.

25 MR. RABEN: So also it is on the

1 Appleview property, on a portion of the steep slope,  
2 which is the area that is specifically relevant to  
3 these hearings.

4 MR. ALAMPI: This is not a question.  
5 To his testimony, I have an objection. There is a  
6 section of the gas pipe that crosses diagonally. It  
7 hasn't been established it's on a steep slope but  
8 whatever. Let's get a few questions.

9 MR. RABEN: Mr. Bertin, is the  
10 portion of pipe that crosses through the Appleview  
11 property, is that largely on the area which would be  
12 referred to as the steep slope?

13 MR. BERTIN: There's a section of the  
14 Transco line that passes through the property that  
15 is on the steep slope section of the property.

16 MR. RABEN: Okay. And this is a  
17 major gas pipeline. It's a transmission line,  
18 36-inch high pressure. It's comparable to the one  
19 that exploded in Edison, New Jersey, in terms of the  
20 amount of gas that's inside it?

21 COMMISSIONER FITZGIBBONS: Excuse me,  
22 did you give your name?

23 MR. RABEN: Jeremy Raben.

24 COMMISSIONER FITZGIBBONS: Jeremy, we  
25 went through all this with the counselor right there

1 that represented your people. We've been through  
2 two meetings. This is the second meeting. He went  
3 through all of this. You're repeating. We keep on  
4 repeating.

5 MR. RABEN: I understand.

6 COMMISSIONER FITZGIBBONS: We know  
7 where it exists. We know what it is, okay?

8 MR. RABEN: Okay. This will lead  
9 into the line of questioning I want to engage in. I  
10 would like to get to the questioning.

11 Mr. Bertin, there is a regulation called  
12 the one-call system, which is to protect gas  
13 pipelines from construction, specifically legal  
14 construction, being done. Have you or the group  
15 that you work for ever been fined for failing to use  
16 the one-call?

17 FREEHOLDER ROMANO: How is this  
18 relevant to anything?

19 COMMISSIONER FITZGIBBONS: This Board  
20 has no jurisdiction.

21 CHAIRWOMAN BETTINGER: We have a  
22 legal question.

23 MS. MIDDLETON: I agree. The  
24 County's jurisdiction is only access, drainage,  
25 traffic and drainage. I don't think that we have to

1 limit your questions to our jurisdiction if you have  
2 anything to ask this expert.

3 MR. RABEN: I think that is very  
4 relevant.

5 MS. MIDDLETON: You're testifying. I  
6 understand. Please ask questions of the expert.

7 MR. RABEN: Could you allow me? I  
8 will ask this in the form of a question. If it's  
9 determined that it is really not relevant, there's  
10 nothing I can do about that. I think you ought to  
11 at least hear what the purpose of this questioning  
12 is.

13 MS. MIDDLETON: There will be an area  
14 for public comment, but this is really limited to  
15 asking this expert questions on what he testified  
16 to.

17 MR. RABEN: Well, this is also  
18 questioning him about the 2007 digging that he did  
19 on the site, which was done to create those test  
20 pits. He has testified extensively about the  
21 digging that he did in 2007, that unearthed the  
22 asphalt driveway and allowed the test pits.

23 MR. ALAMPI: I want to pose an  
24 objection. If he keeps talking, he's going to say  
25 what I am objecting to. The construction protocol

1 has nothing to do with the proceedings.

2 CHAIRWOMAN BETTINGER: Counselor?

3 MS. MIDDLETON: Yes, I have to agree.

4 MR. RABEN: But we have had a lot of  
5 testimony about the 2007 digging and the test pits.  
6 The questioning is that there was -- this was  
7 illegal digging that was going on in the property.

8 MS. MIDDLETON: That's not a  
9 question.

10 MR. RABEN: If it can be backed up.

11 COMMISSIONER FITZGIBBONS: First of  
12 all, we're not a court of law. If you feel  
13 something was done in illegally, go to the proper  
14 authorities.

15 MR. RABEN: That's how I know it's  
16 illegal. We did.

17 COMMISSIONER FITZGIBBONS: Don't come  
18 to us with that. Go to the proper authorities, all  
19 right?

20 MR. RABEN: I can't force you to hear  
21 this testimony. I think while the relevant witness  
22 is on the stand, you might want to find out why they  
23 were fined for that digging and what took place, but  
24 I'll go onto the next question.

25 CHAIRWOMAN BETTINGER: We're going to

1 have to limit our public speakers. Usually, it's  
2 five minutes.

3 MR. RABEN: I've spent five minutes  
4 being told none of my questions could be asked, so I  
5 haven't really asked a question yet.

6 COMMISSIONER FITZGIBBONS: What are  
7 you doing? What you're doing here, all right, is  
8 you're trying to implicate us. That is way beyond  
9 our jurisdiction, all right? We are not a court of  
10 law, and we will not pass verdict on people, what  
11 they did in the past. That has nothing to do with  
12 us. All we're concerned about is what does this  
13 mean for the County. That's all, sewerage,  
14 drainage.

15 MR. RABEN: I will object to this,  
16 but there's nothing I can do about it. I'll go onto  
17 a question that's relevant to drainage.

18 There was a lot of discussion about the  
19 riprap that's on the site and how that's an  
20 impervious surface, and therefore, I guess, by the  
21 DEP standards, that would be the area that you would  
22 be allowed to dig apparently. The area of the  
23 exposed riprap on this site, I overlook this site.  
24 I see it out my window every day, especially in  
25 winter, it's very obvious, is the area closest to

1 the Galaxy that's the southern side of the steep  
2 slope. That's exposed riprap. The rest of the  
3 steep slope is actually covered with a thick layer  
4 of soil -- I just asked a question. It's also  
5 densely covered with trees.

6 MR. ALAMPI: Mr. Bertin went over the  
7 vegetation and riprap, and all that. We were all  
8 here listening.

9 COMMISSIONER MEHTA: The expert went  
10 over this issue. It's the same issue again. It  
11 looks like it.

12 MR. RABEN: There were some specific  
13 details. Since I live on the site, I have some  
14 insight into the nature of this property, but okay.

15 You testified at the last hearing that the  
16 area that you described as an asphalt road, that  
17 this area had only an inch or two of soil over it.  
18 Was that the condition of that asphalt road before  
19 you dug with a backhoe in 2007?

20 MR. BERTIN: We didn't prior to that.  
21 We found it at a much later date in 2010.

22 MR. RABEN: That was after some  
23 clearing and digging has been done in 2007?

24 MR. BERTIN: No.

25 MR. RABEN: No what?

1 MR. BERTIN: No, we didn't go there  
2 in 2007. We were on the site many times doing many  
3 test pits at the request of you, your counsel and  
4 the North Bergen Planning Board. So we went back  
5 there repeatedly to find out more information to  
6 satisfy your questions. The last time we were out  
7 there, we happened upon this paved road.

8 MR. RABEN: But what I'm asking is,  
9 there was a backhoe in 2007, which cleared space for  
10 you to do that?

11 COMMISSIONER FITZGIBBONS: Once  
12 again --

13 MR. RABEN: I'm not asking about the  
14 other issue.

15 COMMISSIONER FITZGIBBONS: Once  
16 again, you're going over the same thing as your  
17 lawyer did, the same testimony from the last meeting  
18 and this meeting. You're repetitive in what you're  
19 saying over and over and over. I mean come on.

20 MR. RABEN: The subjects may be  
21 similar. There is nuisance differences here, but I  
22 understand. There are currently in the area that  
23 was cut in 2007, in the slope, there are currently  
24 trees on that slope that have been falling over as a  
25 result of that undercutting that took place.

1 MR. ALAMPI: It's totally improper.  
2 It should be stricken from the record.

3 CHAIRWOMAN BETTINGER: I'm trying  
4 really hard to give you an opportunity to speak, but  
5 you keep repeating the same questions that we heard  
6 here and the last meeting.

7 MR. RABEN: I said previously, trees  
8 were falling over as a result of the cutting they  
9 did on this property? Because that has directly to  
10 do with soil stability, irrigation, and these trees  
11 fell over after a heavy rain. I think that's  
12 precisely what this group is supposed to be  
13 concerned with.

14 MS. MIDDLETON: You're making  
15 statements. You need to be sworn in. You're  
16 testifying.

17 MR. RABEN: I am willing to be sworn  
18 in. It doesn't seem that --

19 MR. LAMB: I'm trying to help. Maybe  
20 comments, you'll be given an opportunity to make  
21 comments and say what I saw factually subject to  
22 objections to towards the end of the hearing. We  
23 are just asking questions now. The public will be  
24 able to comment if he wants to comment and say  
25 factually this is what I saw.

1 CHAIRWOMAN BETTINGER: I think that  
2 would be a good compromise. Thank you, Mr. Lamb.

3 MR. RABEN: I look forward to that.  
4 Thank you.

5 CHAIRWOMAN BETTINGER: Please limit  
6 your time to five minutes.

7 MS. WONG: Well, I just have a few  
8 questions. I'll try not to be repetitive, at least  
9 not deliberately. Penny Wong, I am a resident of  
10 8550 Boulevard East, North Bergen, New Jersey.

11 MS. MIDDLETON: Thank you.

12 MS. WONG: Mr. Bertin, the area of  
13 this development has historically flooded, and  
14 you've given previous testimony that it's not going  
15 to happen from this development because you've taken  
16 precautions to prevent such a thing from happening;  
17 is that correct?

18 MR. ALAMPI: What do you mean by  
19 "flooding"?

20 MS. WONG: During rainstorms, mild  
21 rainstorms, we have such flooding that interferes  
22 with traffic where River Road is traditionally two  
23 lanes going in one direction, it narrows to one lane  
24 sometimes.

25 MS. MIDDLETON: You're bordering on

1     testifying.  You're making a statement of fact.  You  
2     can ask the questions, and public comment is at the  
3     end.

4                   MS. WONG:  I made a comment at the  
5     Planning Board Hearing in North Bergen.

6                   AUDIENCE MEMBER:  And we saw evidence  
7     of water coming through the site.  I did make that  
8     comment.

9                   CHAIRWOMAN BETTINGER:  We have a  
10    counselor here.

11                   MS. WONG:  I apologize if my  
12    questions are not phrased cleverly.  I am not a  
13    lawyer.  I'm trying very hard not to do what you're  
14    telling me not to do.

15                   CHAIRWOMAN BETTINGER:  What the  
16    Commissioner is saying is that you should be sworn  
17    in.  My response was that counselor said it wasn't  
18    necessary to be sworn.

19                   MS. MIDDLETON:  If the Board would  
20    like to swear them in, I have no problem with that.

21                   COMMISSIONER FITZGIBBONS:  Excuse me,  
22    as a Commissioner, through your chair, as a  
23    Commissioner from 1997, we have never sworn in  
24    anyone from the public, okay?  This is not a court,  
25    inquiry of court.

1 CHAIRWOMAN BETTINGER: We will let  
2 the public makes statements.

3 MS. WONG: I appreciate you comments.  
4 I would agree with you. I'm letting you know I have  
5 no objection to being sworn in. I have nothing to  
6 hide other than the fact that I live in North  
7 Bergen. There is a reason why I was asking about  
8 flooding, because I drive on River Road, and I'm  
9 concerned it is going to make that flooding worse  
10 anyway.

11 All right. You have testified previously  
12 in front of this Planning Board about another  
13 development, Church Hill, where there was extensive  
14 mudslides and flooding.

15 MR. ALAMPI: I have to object to this  
16 unrelated application.

17 MS. WONG: I want to know what is the  
18 difference between precautions you took at Church  
19 Hill, versus the precautions you're taking now at  
20 Applevew, what is the difference?

21 MR. ALAMPI: How could you process  
22 this? How could I even cross examine? We don't  
23 have any information. It's totally improper.

24 MS. MIDDLETON: We can address your  
25 flooding concerns regarding in this project only.

1 MS. WONG: Well, I want to know what  
2 the difference between the design of this project  
3 versus the design of the another project you've done  
4 that had that flooding, what is the difference?

5 MS. MIDDLETON: I think we can  
6 rephrase the question, what type of precautions are  
7 you going to do with this project to prevent any  
8 type of flooding?

9 MR. BERTIN: One thing you have to  
10 distinguish is things that happened during  
11 construction, which were completely out of my  
12 control, please remember that, out of my control,  
13 and things that happen when the system is in place.  
14 We design for a system in place. What we have done  
15 and what we have been successful with other projects  
16 along the Palisade on River Road is work with the  
17 Soil Conservation District to prevent flooding  
18 during construction. That's what we've developed, a  
19 much better rapport with the County and the Soil  
20 Conservation District, and there has been no  
21 flooding on any other project on River Road that  
22 I've been involved in.

23 COMMISSIONER FITZGIBBONS: Excuse me,  
24 Mr. Reimon.

25 MR. REIMON: Yes.

1                   COMMISSIONER FITZGIBBONS: Do we  
2 have, do you have anything to say about that?

3                   MR. CONROY: Yes, I think I have a  
4 response.

5                   CHAIRWOMAN BETTINGER: Could you  
6 please speak up?

7                   MR. CONROY: I think I can respond  
8 and answer your question. This site was designed in  
9 accordance with the stormwater -- New Jersey NJDEP  
10 Stormwater Management requirement, which requires  
11 you to reduce your predeveloped stormwater and your  
12 post-development conditions to 50, 75 and 80  
13 percent, a two-year, ten-year and a hundred-year  
14 flood.

15                   He had provided drainage analysis, and he  
16 has reduced the flow coming off the site after he  
17 constructs. So the flow that's coming off the site  
18 right now before development will be reduced after  
19 the building is built with the underground  
20 stormwater retention system he's provided to reduce  
21 to stormwater into the County drainage system.

22                   MS. WONG: But since he testified in  
23 front of this very same Board in 2007, on the other  
24 development, I assume he would have given the same  
25 information. There we had flooding, a mudslide.

1 CHAIRWOMAN BETTINGER: Mr. Reimon.

2 MR. REIMON: I just want to make a  
3 quick statement in regards to this project. We have  
4 no control of construction. We can only control  
5 design. We have to abide ourselves to laws to NJDEP  
6 Best Management Practice. That's what we do as  
7 engineers. We design. We cannot go to the site and  
8 force the contractor to take measures, comply with  
9 the department. There is a bureau that takes care  
10 of that. That is nothing of the services of these  
11 people that you see here. That is beyond us.

12 MR. CONROY: The Soil Conservation  
13 District is the one that ensures that steep slopes  
14 are protected. You know, the dark area, will be  
15 protected for drainage so dirt doesn't get into  
16 that.

17 MR. REIMON: In regards to the  
18 flooding, as we say, if you look at the, you can't.  
19 Let's say that he is reducing the big flow of the  
20 ten, twenty-five, and hundred-year storm. Let's say  
21 that the water is flooding the town. You release  
22 slowly into the system so it doesn't increase the  
23 volume of water that is coming into those pipes in  
24 the big flow of the storm. Do you understand that?

25 That's what the DEP wants the developer to

1 do. That's what we have to enforce. That's the  
2 only thing what we can do. Now, what happened in  
3 prior construction, we have no control over that.  
4 If you want me to, I can do some contracts for  
5 projects.

6 MS. WONG: I understand what you are  
7 saying, that there is a limit to what you can  
8 control. I am telling you as a resident, it's very  
9 frustrating to hear this because we seem to be at  
10 the mercy of the contractor, whether he's going to  
11 file the drawing, follow the Soil Conservation  
12 District rules. It's a lot, and in the meantime,  
13 we're being flooded out, and it's disrupting  
14 traffic.

15 CHAIRWOMAN BETTINGER: And your  
16 quality of life.

17 MS. WONG: Quality of life and all  
18 that good stuff, I've always looked to planning  
19 boards, whether it's the County level or municipal  
20 level, I've always in my naivete thought that you  
21 all control our quality of life. I'm realizing  
22 that's not necessarily true. I have one more  
23 question.

24 CHAIRWOMAN BETTINGER: Your time is  
25 limited to five minutes.

1 MS. WONG: One more questions,  
2 honestly. Mr. Bertin, Mr. Bertin, you said that the  
3 decision whether to put up a gabion wall would be  
4 determined during the construction phase?

5 MR. BERTIN: We have no intention of  
6 putting up a gabion wall.

7 MS. WONG: Are you aware that there  
8 was a cliff collapse on Route 5 in Edgewater?

9 MR. BERTIN: Are you aware that --

10 MR. ALAMPI: Please.

11 MS. WONG: I don't appreciate that  
12 gesture, Mr. Bertin.

13 MR. BERTIN: I don't care.

14 MS. WONG: I know you don't care.  
15 That's the comment that you've got. That's the  
16 attitude you convey to the public. Thank you.

17 MR. TRIDENTE: Madam Chair, I have a  
18 question.

19 CHAIRWOMAN BETTINGER: Yes,  
20 Mr. Tridente.

21 MR. TRIDENTE: Being that Mr. Bertin  
22 must go to the Hudson County Soil Conservation  
23 District, have you filed an application?

24 MR. BERTIN: No, I do not believe we  
25 did. We've been through this process a number of

1 times.

2 CHAIRWOMAN BETTINGER: Do we have any  
3 other comments from the public, not a comment, a  
4 question, the question?

5 MR. TURNER: I was afraid to ask one  
6 question. My name David Turner. I live in North  
7 Bergen. Mr. Bertin, since the County's position has  
8 been very favorable in support of the value of the  
9 Palisade cliff to see it from above, to see it from  
10 below, I would like to know since this project,  
11 according to a geologist by the name of Robert  
12 Perniff, said 70 percent of it would be obscured in  
13 violation of the steep slope, what will you do to  
14 mitigate and reconcile this situation with the  
15 County's concept? We're always in the literature.  
16 We're very proud of this beautiful geological  
17 phenomenon.

18 MR. ALAMPI: I don't believe this is  
19 the appropriate witness. We do have Ms. Gruel, our  
20 planning consultant, who will address the  
21 reconciliation of the objectives to the County  
22 Master Plan.

23 CHAIRWOMAN BETTINGER: It's very  
24 difficult for me to hear. We have overhead noise.

25 MR. ALAMPI: The next witness will

1 answer the question.

2 CHAIRWOMAN BETTINGER: We will have  
3 someone.

4 MR. TURNER: Thank you.

5 CHAIRWOMAN BETTINGER: Let's go  
6 forward and have the next witness.

7 MR. ALAMPI: I was hoping that you  
8 can give us a five-minute break. I think maybe the  
9 court reporter can use five minutes. It's very warm  
10 in here. Thank you.

11 (At this point in the proceeding, a  
12 brief recess is taken.)

13 CHAIRWOMAN BETTINGER: I'd like to  
14 call the meeting to order again. I would like to  
15 remind everyone from the previous meeting that we  
16 ended our meeting at 10:30. So it is now 9:15, so  
17 if we can move this along. Are you ready?

18 MR. ALAMPI: Yes. Thank you, Madam  
19 Chair. Our next witness is Susan Gruel, planning  
20 consultant. At a previous time, she submitted a  
21 planning report, steep slope exception waiver, dated  
22 July 7, 2011. It's been filed with the Board. I  
23 did provide a copy to my adversary, Mr. Lamb. We  
24 will start with placing her under oath and voir  
25 deere, and go right to the report. I asked her to

1 stay over there by that microphone so we can both be  
2 amplified.

3 CHAIRWOMAN BETTINGER: Thank you.

4 (The witness is sworn.)

5 DIRECT EXAMINATION BY MR. ALAMPI:

6 Q Okay. Ms. Gruel, would you please  
7 give us your full name, your professional office  
8 address, and your credentials?

9 A My name is Susan Gruel, G-R-U-E-L. My office  
10 address is Broad Street in Red Bank, New Jersey.  
11 You know what? If you don't mind I can speak up if  
12 that's okay. I would rather to do that. I wouldn't  
13 want to have that.

14 I am a principal in the community planning  
15 consulting firm of Heyer Gruel & Associates. I am a  
16 licensed professional planner in the state of New  
17 Jersey. I have a graduate degree in planning from  
18 Rutgers University; post-graduate work in finance,  
19 and I am an instructor in the graduate school at  
20 Rutgers. I teach comprehensive planning. I have  
21 qualified as an expert witness in front of numerous  
22 boards and court.

23 Q Have you ever been denied your status  
24 as an expert witness in any court proceeding or  
25 administrative hearing or zoning or planning board?

1 A Not as a professional planner.

2 Q Ms. Gruel, I contacted you several  
3 months with regard to this application pending  
4 before the County Planning Board, is that true?

5 A Yes.

6 Q With regard to the preparation for  
7 your review and analysis, could you tell us what  
8 documents, records, plans and other items that you  
9 had the opportunity to review and prepare?

10 A Well, to maybe summarize and highlight, we  
11 have identified in our July 7th, 2011 report, those  
12 documents that were reviewed as well as the fact  
13 that we did a site visit. Many of the documents  
14 that are listed are County planning documents that  
15 lay the foundation of the land use policies in this  
16 County. Many of those documents our firm prepared,  
17 so I was highly familiar with the intent and the  
18 policy of the County when those documents were  
19 prepared.

20 Q Ms. Gruel, would these document be  
21 the ones that you enumerated on page 2, Hudson  
22 County Reexamination Report, the Open Space and  
23 Recreation Plan and the County Master Plan and  
24 things of that nature?

25 A Yes.

1           Q           You have just briefly indicated that  
2 you had, in fact, some participation with some of  
3 these reports and/or studies?

4           A           Yes.

5           Q           Could you just elaborate briefly what  
6 work you've done, what familiarity you have with the  
7 County Land Development Ordinance and master plan?

8           A           Okay. That's fine, unless you would like me  
9 to do that as I summarize and highlight.

10          Q           Whatever would be faster in your mind  
11 to bring it up at the end, let's just move on. I  
12 noted that the report dated July 7, 2010, noted as  
13 Planning Report Steep Slope Exception Waiver, you  
14 are the author of this report?

15          A           Yes, 2011.

16          Q           If without reading the report in  
17 full, I note that the Board knows how to read  
18 English, and they have digested it before, and so  
19 did the members of the public, just bring us through  
20 the highlights of the report and the essential  
21 elements, and what exactly is the request of the  
22 applicant and the justification for this request?

23          A           Yes, great bedtime reading so I'm not going  
24 through the whole appendix, but I would like to  
25 highlight some of the key provisions, specifically

1 related to the request for the waiver that we're  
2 asking for, and that waiver under the County Land  
3 Development Regulations is Section 8. We  
4 specifically quoted on page 9 of the report, No. 6,  
5 it is a waiver from the provision that says that the  
6 development and disturbance of steep slope is  
7 prohibited, and then it goes onto talk about the  
8 disturbance of steep slopes.

9           There is specifically within the County  
10 Land Development Regulations, Section 1E, that  
11 provides for a waiver option, and it permits the  
12 County Planning Board to waive any provision that is  
13 within the Land Development Regulation, specifically  
14 related to whether that literal enforcement of any  
15 of the provisions may be onerous and an practicable  
16 or implausible to perform or cause unnecessary  
17 hardship, and then it goes onto talk about other  
18 aspects, but basically the Board has the power to  
19 waive. So that's the foundation.

20           We are specifically asking for a waiver of  
21 that provision, and let me just go through the  
22 basis, the planning basis for that, and also how it  
23 relates to specifically many of the County planning  
24 policies and how it's consistent in our opinion, in  
25 my opinion, with those policies.

1 I would like to start with the first  
2 planning document of the County for things relevant  
3 in our contemporary situation, which is the Hudson  
4 County Urban Complex Strategic Revitalization Plan.  
5 That was adopted in 1999, and endorsed by the State  
6 Planning Commission. That established County  
7 policies as it relates to planning in the County and  
8 the interrelationship between the municipalities.  
9 There are three aspects of that, economic  
10 development, labor force and quality of life. There  
11 were certain strategies that were identified.

12 I'm not going to go through all of that.  
13 Again, this is great bedtime reading in terms of  
14 identifying the provisions, the relevant provisions  
15 that we feel are in the plan and in our report. But  
16 it talks about generally and it's a continuing theme  
17 throughout all of the planning documents in the  
18 County that I will relate to, is the quality of life  
19 and economic development and labor force. It all  
20 relates in terms of development, quality of life,  
21 refers to preservation and environmental  
22 consideration.

23 The next document was, and it came soon  
24 after, the County Master Plan, and that is dated  
25 2002. That's built off of the goals and strategies

1 of 1999 strategic plan, and it really recognized the  
2 redevelopment potential within the County on  
3 essentially reusing property that had already been  
4 used, particularly cleanup and contaminated sites  
5 and property that had already been disturbed. That  
6 was the focus of this economic development strategy;  
7 again, protection of natural resources were balanced  
8 with that as well, and there was specific provisions  
9 in the different elements of the master plan. We  
10 talked about conservation as well as an economic  
11 development.

12 The next document in terms of chronology  
13 was the Open Space and Recreation Plan of 2005, and  
14 that laid out and prioritized a number of open space  
15 parcels that were targeted for preservation  
16 acquisition. We note that because, number one, this  
17 particular site was not identified for acquisition,  
18 but number two, there are specific policies and  
19 statements related to the fact that development and  
20 preservation are not mutually exclusive, that both  
21 can happen. It's just a matter of taking both into  
22 account and determining how that can work  
23 together.

24 MR. ALAMPI: Susan, just one second.  
25 Madam Chair, I made a mistake. I should have marked

1 the report as A-7, so for the record, this report  
2 that Ms. Gruel has been addressing, can we mark it  
3 A-7, so we have it on the record?

4 CHAIRWOMAN BETTINGER: Yes.

5 Q I'm sorry, Susan. Go ahead.

6 A That's okay. And the last -- not the last  
7 but the next plan is the reexamination report of the  
8 master plan that was prepared in 2008, in August of  
9 2008, and again, that looked at and evaluated and  
10 built on all the other previous planning documents  
11 that we talked about. It established, again, goals  
12 and objectives that relate to not only things like  
13 conservation, but as well as economic development  
14 and redevelopment on contaminated sites or disturbed  
15 sites. All of those aspects were considered in  
16 light of County policy.

17 Just to note, all of the documents that  
18 I've just noted were prepared or retained by the  
19 County to work with the County in preparing those  
20 planning documents. The last planning document that  
21 we noted in our report was the Hudson County  
22 Comprehensive Economic Development Strategy. That  
23 is dated February 2010. That is really an economic  
24 plan that guides the development within the County,  
25 and it provides for certain goals. This also speaks

1 to the balancing of development and open space and  
2 other concerns, stormwater management,  
3 sustainability and preservation and balancing that  
4 together.

5 And then of course, what ultimately was  
6 adopted by the Board of Freeholders was the Land  
7 Development Regulations, which is what I work off  
8 of. That was approved in October of 2008. The  
9 purpose of those regulations was to ensure that the  
10 planning documents, there is a specific provision in  
11 the preamble, are considered in light and there is a  
12 relationship between the regulations and planning  
13 documents. That's why from a planning perspective  
14 in terms of looking at the waiver, the Board could  
15 consider all of those County plans.

16 I would also note, and I'm going to  
17 summarize our conclusion is that, as you well know,  
18 the North Bergen Planning Board has approved this  
19 application. It's important to recognize in light  
20 of looking at this waiver provision that the  
21 development is significantly less intense than what  
22 would have been permitted under their regulations,  
23 and their regulations, interestingly enough, again  
24 the balance between the County and the municipality,  
25 is this note where this property is located,

1 specifically speaks to balancing, preservation with  
2 economic development. So that's another consistency  
3 and consideration.

4 And what has been testified to by the  
5 engineer, by your engineer, and certainly, with  
6 reviewing all of our documents, is that the  
7 10,000-plus square feet that is proposed to be  
8 disturbed in the steep slope area, that again, is  
9 the waiver, the specific technical waiver that we're  
10 requesting, has been previously disturbed. We're  
11 not talking about a virgin area that has not been  
12 previously disturbed with something, and there are a  
13 number of photographs and aerials in Mr. Bertin's  
14 report that identify what occurred on the site.  
15 This is not, again, a Greenfield site as such.

16 I think it's important to note that  
17 because this is not new disturbance that is being  
18 proposed. There is an existing work historic  
19 disturbance that is being proposed, and the waiver,  
20 as a result, is looking at the disturbance that has  
21 been existing on that site throughout a number of  
22 years, and I will note that as much as we are  
23 specifically looking at your land development  
24 regulation, there is a cross-reference to the DEP  
25 regs on your stormwater management planning. Those

1 regulations, again, in terms of consistency, talk  
2 about new disturbance, not previously disturbed  
3 areas.

4 So again, we believe that it is consistent  
5 in terms of our waiver provision as to consistency  
6 with the land use policy of the County and  
7 consistent as well with the DEP provisions with  
8 respect to stormwater.

9 Q Ms. Gruel, you mentioned briefly the  
10 Land Development Regulations of Hudson County,  
11 correct?

12 A Yes.

13 Q And you are familiar, of course, with  
14 the County Planning Act, itself?

15 A Yes, I am.

16 Q And the Board has indicated that it  
17 understands that it has jurisdiction, but it's  
18 limited in scope, for example, with issues of  
19 drainage, flood control, the County roadway, things  
20 of that nature, correct?

21 A That's correct.

22 Q But turning your attention to the  
23 application itself, Appleview, 59-unit residential  
24 building, a so-called mid-rise, is the fact that it  
25 is a use permitted in the zone under the North

1 Bergen regulations, is that a factor to be  
2 considered at all in this?

3 A I think it's important in terms of  
4 consistency with County regulations and County land  
5 use policies that North Bergen is, with respect to  
6 zoning, with respect what their regulations are, are  
7 consistent with the land use policies of the County,  
8 and that not only there is consistency, but again, I  
9 would note that the approval of the application as  
10 proposed is significantly less intense in terms of  
11 density, number of units, in terms of height.

12 And interestingly, one of their  
13 distinctions here, I know there's this talk about a  
14 variance that was granted as to building coverage,  
15 but in terms of impervious coverage, which not only  
16 do the County regulations speak to quite a bit in  
17 all the planning documents and DEP regulations, that  
18 was less than what could have been maxed out. I  
19 think there is a difference of 65 percent, which is  
20 the max required versus 47 percent.

21 Q Just for a moment, there's a  
22 different between building coverage and total  
23 impervious coverage, correct?

24 A Yes.

25 Q Just briefly explain what is meant by

1 each of those terms.

2 A Well, they're -- I'll talk generically  
3 because --

4 Q I don't want to get bogged down, very  
5 simply.

6 A The difference is building is only the  
7 building, coverage of the building; the impervious  
8 coverage is the coverage including building,  
9 including parking areas, anything that is defined as  
10 impervious coverage on the site. Now, many of the  
11 references in the documents refer to impervious  
12 coverage because that relates to stormwater. It's  
13 not just building, it's impervious coverage that  
14 goes to the stormwater issue.

15 Q You heard the questioning by Mr. Lamb  
16 of Mr. Bertin that the 10,900 square feet in  
17 question disturbance was not calculated at the  
18 municipal level as part of impervious coverage, but  
19 it's being addressed tonight, you heard that  
20 question?

21 A I did hear that.

22 Q If that was thrown into the mix,  
23 would the impervious coverage still fall below the  
24 65-percent coverage?

25 A That's what my understanding is. My comments

1 are as a planner, not as an engineer. I want to  
2 make that clear.

3 Q Right. And you also had the  
4 opportunity, although not noted in your report, to  
5 be at the last meeting, July 20th meeting at the  
6 County Planning Board?

7 A Yes.

8 Q And you were there when various  
9 exhibits were marked in, and specifically A-6, the  
10 photographic exhibit?

11 A Yes.

12 Q And you were familiar with this  
13 anyway because it was contained the Mr. Bertin's  
14 initial June 11th report?

15 A Yes.

16 Q Could you just briefly, I don't want  
17 to throw your tempo off, address the photographic  
18 exhibit that was produced at the last meeting  
19 regarding previous industrial-type buildings on the  
20 site, could you just indicate to us how that affects  
21 your analysis of this request for steep slope?

22 A Well, that factually backs up and reaffirms  
23 the fact that this site has been previously used and  
24 had buildings and uses on it for a number of years  
25 prior to the current application. There's one, it's

1 clearly shown and just reaffirms that.

2 Q When you started your testimony about  
3 15 minutes ago, maybe it was longer, you addressed  
4 the Hudson County Master Plan dated 2002, and just  
5 before that, the Complex Strategic Revitalization  
6 Plan of 1999, you used the word reuse or re-adaptive  
7 use on the property. Does this history evidenced by  
8 this photograph address that concept?

9 A Yes.

10 Q Just please explain to us how you  
11 analyzed that, in other words, what makes the site a  
12 candidate suitable to be called a reuse or  
13 redevelopment of the property?

14 A Well, it's really in a generic sense for  
15 redevelopment of the site that previously had uses  
16 on it, as well as there is some evidence of some  
17 contamination on that site. So that to the extent  
18 that there would be -- that would be addressed in  
19 whatever redevelopment that occurs, that's an added  
20 benefit.

21 Q And not to throw off your tempo, the  
22 issue of some environmental remediation, regardless  
23 of the extent or the history of the uses of  
24 industrial buildings and such, relates then in your  
25 opinion that this is a readoptions or reuse of a

1 property?

2 A It does, and again, it goes to specifically a  
3 number of goals that run through the County planning  
4 document.

5 Q For this County Planning Board, why  
6 is that a factor or a criteria in which they can  
7 exercise their power or their authority to grant a  
8 waiver?

9 A Well, in our opinion it is relevant because  
10 that goes to whether there is a planning basis for  
11 the waiver and whether, in fact, it is in our  
12 opinion, it would be a hardship, an unnecessary  
13 hardship, to not grant to the waiver because it  
14 would be frankly out of character with what the land  
15 use policy of County are with respect to disturbance  
16 areas and the use of disturbed areas for, again,  
17 balancing economic development with preservation.

18 Q So I again ask you if it's a  
19 permitted use under the municipal zoning, does that  
20 tie into the streetscape, the anticipated  
21 development both at the municipal and County level,  
22 does that weigh into it?

23 A I think I already answered that.

24 Q I guess I'm being reprimanded by my  
25 witness. In any event, moving on, Susan, the report

1 goes on, it's quite extensive, are there other  
2 elements in the report that you would like to  
3 emphasize without regurgitating the whole report?

4 A No.

5 Q Lastly, I think we talked about the  
6 development itself as approved. You indicated that  
7 it was less in density and height and such than what  
8 the maximum permitted under the local ordinance,  
9 correct?

10 A That's correct.

11 Q Why is that an important criteria?

12 A I think that it shows that the applicant has  
13 been sensitive to balancing economic development  
14 with preservation and considering those aspects.

15 Q You did indicate in your report that  
16 you had the opportunity to review what we marked as  
17 A-1, which is the Steep Slope Waiver Justification  
18 Report, prepared by Bertin Engineer, June 2011, did  
19 you, in fact, review that report?

20 A Yes.

21 Q The contents of the report addressed  
22 the prior design of other buildings on the site,  
23 whether or not those applications went forward with  
24 formal review, are you familiar with the prior  
25 applications or prior building designs?

1 A I've looked at those.

2 Q And the application tonight you have  
3 with you, do you have any opinion as to the size and  
4 scale of this present application compared to those  
5 previous designs as it affects the area of the steep  
6 slope?

7 A I believe this is less.

8 Q Does that have any meaning to you, do  
9 you have any opinion about that?

10 A I think it's information that the Board can  
11 consider in making a decision.

12 Q And finally, have you drawn any  
13 conclusion as to whether or not it would be  
14 appropriate for the Planning Board to take action on  
15 this request for waiver, that would be affirmative  
16 action?

17 A Yes, I think that there is substantial  
18 planning basis for this County Planning Board to  
19 grant a waiver for this application, based upon the  
20 facts of this application, and hopefully, on all of  
21 the professionals' testimony.

22 Q Now, you've had the opportunity to  
23 visit the site on more than one occasion?

24 A Yes.

25 Q And you're familiar with the current

1 conditions of the site?

2 A Yes.

3 Q And presently there are really no  
4 building improvements, they're just some tennis  
5 courts and poles with lights and basketball courts  
6 on the site, correct?

7 A That's correct.

8 Q They're not currently being used?

9 A I don't believe so.

10 Q They wouldn't be playing something on  
11 these courts tonight?

12 A I don't think so.

13 Q With regard to those few  
14 improvements, they seem to be recreational-type  
15 structures and have been in existence for at least  
16 ten if not fifteen years, does that appear to be the  
17 case?

18 A That's my understanding, yes.

19 Q Does the fact that the property no  
20 longer presently has industrial-type warehouses  
21 and/or buildings on it affect your judgment and your  
22 opinion as to the justification for the steep slope  
23 waiver?

24 Do you want me to rephrase it?

25 A Yes, please.

1           Q           The fact that those industrial-type  
2 buildings no longer exist, have not existed for  
3 quite a few years, does that affect your analysis as  
4 a planer as to the justification for granting this  
5 waiver request?

6           A           Now I understand your question, and I can  
7 answer, no, it does not.

8           Q           Why not?

9           A           Because it's historically, it has been used  
10 for several different uses, and the fact that it was  
11 used for a previous industrial site use is relevant  
12 to consideration by the Board in my opinion.

13                       MR. ALAMPI: Thank you. Chair, I  
14 have no further questions. I get the sense that I  
15 would be retreading the same information, and at  
16 this point, this is our final witness, and I would  
17 like to move into the evidence package, A-1 through  
18 6 that Mr. Bertin produced, and A-7, which is the  
19 report this evening. I'm just moving them into  
20 evidence.

21                       CHAIRWOMAN BETTINGER: You're not  
22 going to go through each one, are you?

23                       MR. ALAMPI: No.

24                       CHAIRWOMAN BETTINGER: I just wanted  
25 to be clear.

1 MR. ALAMPI: I am taking them from  
2 identification into evidence so that they're  
3 formally in evidence. Thank you.

4 MR. LAMB: When we came back, we  
5 started with the planner. I had one question based  
6 upon some of the question for the engineer. It's  
7 only one. I want to finish with him. One question  
8 will do it. Thank you.

9 CHAIRWOMAN BETTINGER: I'm just  
10 reminding everyone of the time it's 9:45.

11 MR. LAMB: Mr. Bertin, in your  
12 investigation of the property and drainage and  
13 stormwater, have you found any subterranean or  
14 below-grade streams, currents, drainage issues, that  
15 are either on the subject property or traverse to  
16 the adjacent Galaxy property, in your  
17 investigations?

18 MR. BERTIN: Based on the question as  
19 interpreted, no, nothing that went towards the  
20 Galaxy.

21 MR. LAMB: I have more than one for  
22 her.

23 CHAIRWOMAN BETTINGER: I'm sure you  
24 do. Please proceed.

25 MR. LAMB: Does someone want to say

1 anything? I don't want to interrupt.

2 CROSS EXAMINATION BY MR. LAMB:

3 Q Ms. Gruel, you had indicated that you  
4 had some involvement in the Hudson County documents,  
5 were you involved in the Hudson County Development  
6 Regulations that were adopted in 2008?

7 A No, we were not.

8 Q Is it fair to say that all your  
9 involvement occurred prior to that 2008 Hudson  
10 County Development Regulations?

11 A Yes, and that the development regulations  
12 were based upon the planning documents.

13 Q Were you involved in the Hudson  
14 County Master Plan Reexamination Report of 2008?

15 A Our firm was.

16 Q You were not?

17 A No, I was.

18 Q What was your capacity at that time  
19 for the Master Plan Reexamination Report?

20 A I am a principal of the firm, and I always  
21 have involvement in a project such as this that I  
22 had had previous involvement in.

23 Q And is it fair to say that basically  
24 that 2008 Hudson County Master Plan Reexamination  
25 Report was really the catalyst or the reason why

1 Hudson County amended the development regulations  
2 consistent with the -- albeit all the other  
3 documents that you referenced, I won't repeat them,  
4 but also specifically the Hudson County  
5 Reexamination Report that had only been approved  
6 several months before the development regulations?

7 A Can you rephrase that question? I'm lost.

8 Q Is it fair to say that the Master  
9 Plan Reexamination Report of 2008, was the primary  
10 document that led to several months later the Hudson  
11 County Development Regulations?

12 A I'm not sure. I don't know. I can't  
13 truthfully say.

14 Q Now, your report has various  
15 references to pictures and photographs, but is it  
16 fair to say that you were relying upon Mr. Bertin  
17 and that information in his slope waiver, Steep  
18 Slope Waiver Justification Report, that formed the  
19 basis for your opinions or conclusions in your  
20 report as independent planning issues?

21 A Certainly, that was one factor that I  
22 considered.

23 Q You had nothing to do with the taking  
24 pictures or looking at the prior disturbance issue,  
25 you did not independently do that?

1 A No, I relied on an engineer, a professional  
2 engineer. I am not a professional engineer.

3 Q Is it fair to say that, again,  
4 Mr. Bertin testified that, I'll go by round numbers,  
5 46,000 square feet of the property involves steep  
6 slopes, and this project proposes to disturb  
7 approximately 11,000 square feet, which we were  
8 rounding up to about 25 percent of the total steep  
9 slope disturbance?

10 A That's what my understanding of the testimony  
11 is, yes.

12 Q From a planning standpoint, is it  
13 fair to say that a deviation of 25 percent is  
14 substantial?

15 A I don't think that you can come to that  
16 conclusion one way or the other. It depends on the  
17 facts and depends on the analysis.

18 Q This is not an application for five  
19 percent of the steep slopes, it's 25 percent?

20 A One part, one of the facts that I would  
21 consider in light of that is the fact that all of  
22 the area that's being considered as steep slope was  
23 previously disturbed, and that's a very important  
24 factor. So that the idea of just looking at numbers  
25 and trying to quantify doesn't tell the whole

1 picture.

2 Q So if this disturbance occurred 200  
3 years ago, in your review of historical use, that's  
4 part of you equation of your planning testimony, if  
5 there were industrial buildings a decade ago -- tens  
6 of decades ago, because it was historic, that's  
7 somehow relevant?

8 A What is relevant here is the fact that there  
9 are facts that indicate the area was disturbed and  
10 had industrial buildings on it in the '60s. That's  
11 what's relevant.

12 Q It's not relevant to see what was on  
13 the property the last 20 or 30 years that replaced  
14 that prior use, that's not relevant?

15 A No, I didn't say that.

16 Q Isn't that the most relevant part  
17 when you look at uses to see what has happened in  
18 the immediate past tense as opposed to 50-plus years  
19 ago?

20 A No, not necessarily. Both are relevant. The  
21 fact that this site is not, again, a virgin,  
22 pristine, Greenfield site is relevant. There has  
23 been recent disturbance as it relates to  
24 recreational facilities. That's been stated in my  
25 report. There was disturbance for industrial use

1 back in the '60s.

2 Q When this Hudson County Development  
3 Regulations prohibited steep slopes, that property  
4 was at that time recreational facilities, open  
5 space, tennis courts, whatever was described; is  
6 that correct?

7 A I'm not sure that that's the case in 2008. I  
8 don't know.

9 Q I have the same question for the DEP  
10 regulations that defined impervious coverage or  
11 surfaces, same question. When that was adopted,  
12 when the DEP passed its regulation, when this County  
13 passed its regulation, that property had been tennis  
14 courts and essentially land, there was a playground,  
15 part of it a basketball court?

16 A My understanding is that it was prior to  
17 2004, that there were recreational facilities that  
18 were utilized on that property.

19 Q Right. Now, in your report, you as  
20 in the case of Mr. Bertin, looked at impervious  
21 coverage as defined by the DEP, is there anyplace in  
22 your report that says what Hudson County defined as  
23 impervious coverage?

24 A With reference to disturbance, and that is  
25 within the County Land Development Regulation.

1           Q           You didn't quote it like you did from  
2 the DEP regulation the impervious coverage  
3 definition for Hudson County, this is a Hudson  
4 County Planning Board application?

5           A           It is.

6           Q           You agree that it's relevant?

7           A           Oh, absolutely.

8           Q           Now, in connection review of  
9 planning, you have said in general that the steep  
10 slope disturbance waiver is justified because you  
11 use generally, I think you said there is an  
12 unnecessary hardship because of the County policies;  
13 is that correct?

14          A           That is part of the consideration, yes. I  
15 thought I was far enough away. Can you repeat the  
16 question?

17          Q           Is it fair to say that your  
18 justification to this Board for granting a waiver or  
19 an exception from the steep slope disturbance  
20 prohibition is because there's an unnecessary  
21 hardship?

22          A           That is what is stated in our report.

23          Q           And is it fair to say that there is a  
24 mechanism in Hudson County, which you testified to,  
25 that allows this Board under those circumstances to

1 grant a waiver or exception?

2 A Yes.

3 Q The section that you cited, is there  
4 any other section in the Hudson County development  
5 regulations that talks about granting a waiver or  
6 exception other than that particular provision that  
7 you cited?

8 A No, that's the provision in the County  
9 regulations.

10 Q Now, it's fair to say that Hudson  
11 County said disturbance of the steep slopes is  
12 quote/unquote prohibited, that's the language; is  
13 that correct?

14 A That's correct.

15 Q They could have said it's limited,  
16 they could have said it's discouraged, is it fair to  
17 say they also could have provided an exception in  
18 that prohibition right there?

19 A Actually, if you want to get into that, we  
20 can read the rest of that section of the Section 8  
21 of the County regulation, which goes on after it has  
22 the statement about the development and disturbance  
23 of steep slopes is prohibited, later on it talks  
24 about the fact that disturbance of steep slopes  
25 shall be restricted, but it does talk about

1 restrictions, so it does include the term  
2 "prohibited." As it goes on, it talks about  
3 disturbance.

4 Q But there is a provision that your  
5 client is seeking the waiver from on the prohibition  
6 language?

7 A Absolutely, I stated that many times.

8 Q In reviewing the regulation, is it  
9 fair to say that there a number of provisions  
10 concerning exceptions for, not the steep slope  
11 prohibition, but other submission requirements?

12 A There are other exceptions in the Hudson  
13 County Development Regulations, I really focused on  
14 this provision and whether there was a -- whether  
15 this Board has the power to grant a waiver.

16 Q Would you be surprise if I told you  
17 that there's five or six other sections, which I  
18 don't want to waste the Board's time and go through,  
19 but there are five or six other sections that talk  
20 about exceptions for submission requirements,  
21 exceptions for road opening permit, exceptions for  
22 number of driveways, all those provisions right in  
23 the body of the provision has the exception right  
24 after that?

25 A Well, it depends on what you're taking about.

1 I think you're mixing and matching. Submission  
2 requirements may require an exception and a request  
3 for an exception for a submission requirement.  
4 That's different than a waiver of a provision in the  
5 regulation. We have to make sure that we don't mix  
6 and match.

7 Q Now, in connection with hardship, is  
8 it a common planning principle that it is relevant  
9 to see whether the hardship can be avoided or  
10 eliminated, is that something that is relevant in  
11 the Board's consideration?

12 A It depends on our provision and the waiver  
13 provision and the criteria for that, that is not the  
14 phrasing here in terms of the waiver.

15 Q But you're saying, you're telling  
16 this Board that there's a hardship, that you have to  
17 show -- you have to show that there's a hardship; is  
18 that correct?

19 A That's one of the criteria. That's why I say  
20 that the owner is impracticable or implausible to  
21 perform, I'm not using impossible to perform, I'm  
22 using practicable and cause unnecessary hardship.

23 Q As a result of that, you have to  
24 prove unnecessary hardship?

25 A And I believe in my testimony and the

1 testimony that is on the record proves there is, in  
2 our opinion, that there is unnecessary hardship and  
3 that is sufficient in order for this Board to  
4 consider and grant a waiver.

5 Q Are you aware that the developer's  
6 engineer testified that a complying project could be  
7 built, I think it was 44 or 45 units. That's  
8 approximately three-quarters of this size of the  
9 project proposed?

10 A I heard that.

11 Q Isn't that one of the alternatives,  
12 we talk about the alternatives, isn't a 44 or  
13 45-unit project that doesn't involve this steep  
14 slopes, that is one of the alternatives, that's a  
15 possibility?

16 A That is not the only basis for this Board to  
17 consider a waiver.

18 Q Now, the developer, you made  
19 reference briefly that you looked at alternatives  
20 one and two. There's been a lot of talk about  
21 alternatives one and two and that they've been  
22 withdrawn. Is it fair to say the developer could  
23 have proposed in its initial application that they  
24 take an entire slope, and then a year later put in  
25 an application that they take down the 90 percent of

1 the slopes, and then compared it to the other  
2 proposal, isn't that all what the developer chose to  
3 do before they withdrew that application?

4 A There are specific provisions and a request  
5 for a waiver in front of this Board. Hypothetical  
6 really has no relevance to what this Board should  
7 consider.

8 Q So you believe that a hypothetical  
9 alternate plan that provides a reasonable and  
10 practical alternative to this is not relevant?

11 A That is not the only criteria that this Board  
12 can choose to look at in terms of granting a waiver.

13 Q Now, you're aware since you've talked  
14 about your history with the Hudson County documents,  
15 you're aware that there's a definition for  
16 environmentally constrained area, have you seen that  
17 in the Hudson County regulations?

18 A I believe that I have.

19 Q I'm going to read you the definition,  
20 environmentally constrained area?

21 MR. ALAMPI: Could you identify it?

22 MR. LAMB: Yes. I'm referring to  
23 Land Development Regulations, page 19, in the  
24 definition section, the definition of environmental  
25 constrained area. That indicates, and I'll save you

1 the time from trying to find it, the following areas  
2 where the physical alteration of the land is in some  
3 way restricted, either through regulation, easement,  
4 deed restriction or ownership, such as wetlands,  
5 flood plains, steep slopes, threatened and  
6 endangered species sites or designated habitats and  
7 parts of preserves.

8 Q So it's clear that a steep slope is  
9 an environmentally constrained area that Hudson  
10 County chose to make as part of this protected area  
11 in at least 2008?

12 A That is why we're asking for a waiver.

13 Q And I'm not going to read the whole  
14 definition. Environmentally critical area also  
15 contains steep slopes. So in 2008, when Hudson  
16 County developed these regulations, they put steep  
17 slopes into two environmentally sensitive areas and  
18 prohibited it only subject to that one section  
19 dealing with getting and approving some type of  
20 hardship, is that a fair statement?

21 A They have provided for a waiver provision,  
22 and that is laid out in 1E.

23 Q And that's the general waiver  
24 provision?

25 A Right, that's the provision for any

1 regulation that is in the land development  
2 regulation.

3 CHAIRWOMAN BETTINGER: Counsel, do  
4 you have testimony from another expert witness?

5 MR. LAMB: I have my own expert, and  
6 I have a fact witnesses as well.

7 CHAIRWOMAN BETTINGER: It's like five  
8 after ten.

9 MR. LAMB: I mean I can stop now. I  
10 mean, I mean I have additional questions. I  
11 wouldn't say a lot, but I have additional questions.

12 CHAIRWOMAN BETTINGER: I'm giving you  
13 an opportunity if you want your expert to --

14 MR. LAMB: I don't expect the Board  
15 is going to complete this tonight unless the Board  
16 wants to go further. Look, I think the Board, when  
17 you get here at 6:30 and it's ten o'clock, I'm never  
18 telling anyone to go.

19 CHAIRWOMAN BETTINGER: I understand.  
20 I just wanted to point out the time for your -- if  
21 you want your expert.

22 MR. LAMB: We do want our expert, but  
23 should I continue?

24 CHAIRWOMAN BETTINGER: Counsel?

25 MS. MIDDLETON: I think he's got to

1 finish his cross examination of Ms. Gruel. Then  
2 he's got an expert, looking at the time, did you  
3 want to end at 10:30? I'm going to guess that  
4 there's enough time for his cross examination of Ms.  
5 Gruel, maybe a couple of questions, end there. I  
6 don't think his expert will have time to testify.

7 FREEHOLDER ROMANO: Madam Chair,  
8 we're not -- so the record is clear, there's going  
9 to be a continuation?

10 CHAIRWOMAN BETTINGER: Yes.

11 MR. LAMB: My sense was, I talked to  
12 Mr. Alampi about this. My sense is that we really  
13 should be able to finish up in September.

14 MS. MIDDLETON: And the Board said  
15 earlier that they would allow some portion of public  
16 comment, which may take longer.

17 FREEHOLDER ROMANO: Why don't they  
18 finish with your cross examination of this lady and  
19 end it tonight, bring everyone back in September,  
20 continue with your professional witnesses, and  
21 unfortunately, the public gets denied.

22 CHAIRWOMAN BETTINGER: We can give  
23 them 15 minutes of time.

24 MR. LAMB: I mean I'm happy. I have  
25 additional questions. If some members of the

1 public, if they want jump ahead of me, however you  
2 want to do it.

3 CHAIRWOMAN BETTINGER: The public  
4 came here tonight. I don't want to deny them.

5 COMMISSIONER FITZGIBBONS: Madam  
6 Chairman, Madam Chairman, the public will probably  
7 get up there and speak, and will come back at the  
8 next meeting to speak too. So I'd rather have this  
9 testimony finished so that we can have more time for  
10 the public, and they can represent their witness and  
11 get this thing over with in September. I don't want  
12 this hanging around until Christmas.

13 MR. ALAMPI: Commissioner  
14 Fitzgibbons, that will conclude the professional  
15 cross examination. In September, we'll recall this  
16 witness for the public, do his expert, my cross.

17 MR. LAMB: That's fine.

18 FREEHOLDER ROMANO: Let's finish with  
19 the questioning of this witness and that's it.

20 MR. LAMB: I would ask if anyone has  
21 questions.

22 CHAIRWOMAN BETTINGER: I just want to  
23 be fair to everyone.

24 Q Nows, also as far as County Planning  
25 Board Development Regulations, it's also fair to say

1 that public safety is an objective of the Board in  
2 reviewing this application for drainage, traffic,  
3 steep slope disturbance, the main issues they're  
4 focused on, public safety is important?

5 A Safety is a consideration clearly.

6 Q I'm not going to, I'm trying to  
7 abbreviate, but all those planning documents that  
8 you referred are replete with quality of life  
9 references, that's also important, public safety and  
10 quality of life?

11 A Preservation, yes.

12 Q Now, there's a lot of discussion, you  
13 said as a planner, that this was a complying site  
14 plan with respect to, I believe you used density and  
15 height?

16 A And impervious coverage.

17 Q And impervious coverage, you're  
18 referring, of course, to the North Bergen  
19 ordinances?

20 A Yes.

21 Q We're not going to go too far afield  
22 dealing with North Bergen ordinances, it is also  
23 fair to say that all the bulk regulations and all  
24 the bulk requirements determine the ability of a  
25 project to comply with that body of regulations, not

1 just one or two?

2 A I'm not sure I understand the question.

3 Q Is it fair to say that when you're  
4 saying that a project complies with municipal  
5 standards, you don't look at just height or  
6 impervious coverage or density, you look all the  
7 bulk requirements, all the regulations that shape  
8 the project as to whether it complies?

9 A The key aspect in my opinion are the ones  
10 that I spoke about particularly as it related to  
11 stormwater in terms of intensity of development.

12 Q And isn't it fair to say that, for  
13 example, you could put a 75-per-unit project here if  
14 you had enough parking and met all the other  
15 requirements, you could do a maximum density of 75  
16 units, if you could build it taller, if you avoid  
17 setback regulations, you could do something without  
18 those other hamstrings or constraints?

19 A All I know is that the maximum density in the  
20 ordinance is 75 units per acre, and approval of this  
21 application is 25 1/2 units per acre.

22 Q Are you aware that this project  
23 requires a rear yard setback, that it violated the  
24 rear yard setback?

25 A I am aware of that, and the Board granted the

1 variance.

2 Q So it's not fair to say that this  
3 project complies with all the municipal ordinances  
4 in North Bergen?

5 A I didn't say that.

6 MR. ALAMPI: Repetition, repeating  
7 again.

8 MR. LAMB: I think it's come out  
9 three times that all the witnesses only testified as  
10 to height and density and impervious coverage and  
11 forget the six or seven or eight other requirements.  
12 That was the point. Mr. Alampi, I'm going to take  
13 my time, but I'm going to hurry up.

14 Q Now, the list that you reviewed, the  
15 Palisades Slope Stability Study last revised  
16 February 3rd, 2009, on page 2 of your report; is  
17 that correct?

18 A That's correct.

19 Q Is it fair to say that if an engineer  
20 makes a recommendation that gabion walls, as a  
21 safety issue, will help protect from safety issues,  
22 that that's something that's a relevant planning  
23 consideration when the Board reviews this project?

24 A I think that's the one thing that the study  
25 was a much more macro look at what that the issues

1 were, and which site may or may not be sensitive as  
2 it relates to the Palisades. I think that there are  
3 in any instance relevance. You know, it's very  
4 specific to this site. It is a site-specific,  
5 engineer-type of review, and clearly, the approval  
6 specifically calls for the need to do subsequent  
7 geotechnical analysis to determine what the best  
8 approach is. That's clear.

9 Q You do agree that that study  
10 specifically has the subject property as Property  
11 No. 6 being discussed?

12 A Yes.

13 Q This wasn't a gabion wall  
14 recommendation for the next-door property or down  
15 the street, this was for this specific property?

16 A It was, again, in light of overall analysis,  
17 not done on a site-specific development application  
18 detail review as to exactly how you deal with that  
19 issue.

20 Q You also made a statement, the  
21 concern for the inappropriate development built into  
22 the Palisades, and I'll quote your report. This  
23 condition is obvious by reviewing some of the  
24 development that has occurred on the Palisades in  
25 recent years. What particular developments are you

1 referring to?

2 A I could go down the list, even some of the  
3 areas just south of this site to indicate the type  
4 of development that has occurred on the Palisades  
5 that clearly was considered in light of the planning  
6 documents and the land development regulations and  
7 the fact that there was a type of extreme  
8 development along the Palisades.

9 Q You do agree that the County standard  
10 that allows the County Planning Board to grant a  
11 waiver exception, that general provision, that is  
12 not what typically a planner refers to as a C-1  
13 benefits-versus-detriments standard; is that correct  
14 -- I'm sorry, C-2?

15 A Yes.

16 Q That was added after, the C-1 was  
17 there since 1976.

18 A There is no specific reference to the  
19 municipal land use law in those provisions that  
20 relate to variances.

21 Q It is also fair to say your report on  
22 page 7 quotes the DEP regulations. Although I don't  
23 believe the DEP regulation is applicable, it's your  
24 report, so I'm constrained to ask questions about  
25 it. Is it fair to say that Subsection 2

1 specifically indicates that there must be  
2 extraordinary hardship, uses the adjective  
3 "extraordinary"?

4 A That's not what we're requesting under the  
5 waiver.

6 Q So you don't believe that Subsection  
7 2 has any applicability to this?

8 A Not specifically, and it talks in that  
9 instance, it talked about new disturbance, so it  
10 really doesn't have any applicability to this  
11 application because as we have all testified to,  
12 this has been historically a disturbed site.

13 Q And if I only take what's there for  
14 the last 20 years, is it fair to say that the  
15 building is new disturbance to what's been there for  
16 the last 20 years?

17 A I'm not afraid that I have to totally  
18 disagree with you. You can't make those assumptions  
19 that arbitrarily take what was there in the last 20  
20 years. That is not the way, in my opinion, from a  
21 planning perspective, that you would look at how you  
22 would evaluate whether there was disturbance on the  
23 site, and whether in fact, it is new disturbance,  
24 old disturbance, and how it factors into a waiver  
25 request.

1           Q           You're aware with protection of  
2 buildings that are nonconforming uses; is that  
3 correct?

4           A           I'm not sure. That's broad.

5           Q           Your aware what happens when a  
6 nonconforming use is destroyed?

7           A           It depends.

8                       MR. ALAMPI: Let me object to  
9 relevance.

10          Q           If I can ask the question, are you  
11 aware of what happens to a building when it's a  
12 nonconforming use and it id destroyed under  
13 principles of planning?

14          A           Destroyed a hundred percent?

15          Q           A hundred percent destroyed.

16          A           I'm not sure I understand the relevance  
17 either, but I do a hundred percent destroying of a  
18 building generically.

19          Q           And is there a right to rebuild when  
20 it's a hundred percent destroyed?

21          A           It depends on the regulation in the  
22 ordinance.

23          Q           So you're saying what's relevant, if  
24 the prior existence of industrial buildings, in your  
25 opinion, is relevant even though there's none there

1 anymore?

2 A Absolutely.

3 Q And if before that, 30 years before  
4 that, there was another type of building that was  
5 destroyed, that's also relevant?

6 A Absolutely.

7 Q If a caveman was there and had a  
8 little hut, you go back historically, and all of  
9 those buildings disturbances are relevant to 2008,  
10 when these regulations went into effect?

11 A Let me give you an example of why all of that  
12 is relevant. That's exactly the same thing as when  
13 you do an environmental assessment, and you do a  
14 historic assessment as to what has occurred on that  
15 site in order to evaluate their environmental  
16 constraints. It's the same principle.

17 Q Environmental constraints are  
18 cleaning up the soil, we're talking about what  
19 you're proposing now that isn't built compared to  
20 what there?

21 A I made my point.

22 Q So from your standpoint, the fact  
23 that there's a riprap that maybe only goes a couple  
24 inches under the surface, that's the justification  
25 to dig two stories down on the area under the

1 riprap?

2 A That's not what I said.

3 Q Is that justification?

4 A What I heard, no. I have made a statement  
5 and what I based my conclusions on, and that place  
6 has been disturbed, not only did Mr. Bertin, but  
7 also the County engineer stated that there was  
8 15 feet of depth, of urban fill, of historic fill,  
9 that was on that site.

10 Q Can you disturb, go down two stories  
11 just because there was prior disturbance of riprap?  
12 The disturbance that Mr. Bertin testified to was  
13 there's I think it was 80 percent of the steep slope  
14 disturbance area was riprap or a substantial portion  
15 of it?

16 A I totally, maybe it's because of the time, I  
17 don't understand what you're saying. I don't  
18 necessarily agree with your facts. I may, but I  
19 don't understand.

20 Q Let me be very clear.

21 CHAIRWOMAN BETTINGER: I just want to  
22 remind you, it's 10:20.

23 Q There is riprap, you agree that part  
24 of this is only riprap, that's all that was on the  
25 slope area?

1 A I heard testimony that there is riprap  
2 existing on that site.

3 Q And there was nothing else but riprap  
4 on a portion of it, no buildings under the riprap,  
5 no pathway, just riprap?

6 A I'm not sure that I heard that, and I'm not  
7 sure I didn't hear that there wasn't historic fill  
8 that may have had evidence of previous buildings. I  
9 don't know. I don't think I heard what you just  
10 said.

11 Q Is it fair to say that the slope,  
12 however it's comprised, hard rock, loose rock,  
13 tallis, boulders, dirt, what it is comprised of,  
14 that's part of the slope that currently exists on  
15 the subject property?

16 A There is steep slope on that property that  
17 has been previously disturbed. I'm still not sure.

18 Q I understand that you don't  
19 understand the question, but it's a simple question.  
20 Is it fair to say the slope, the slope, whether the  
21 slope is solid rock, loose rock, gravel, dirt,  
22 whatever it is, is it fair to say that the slope is  
23 being disturbed, 15 to 20 feet below?

24 A I'm not sure that that is necessarily the  
25 case. That's where I guess I'm having a problem.

1 MS. MIDDLETON: I think she's  
2 answered as well as she's going to answer.

3 Q Is it fair to say that in the entire  
4 body of Hudson County regulations or all the  
5 planning documents that you referred to, nowhere  
6 does it say some slope is less worthy than other  
7 types of slope, it doesn't differentiate between  
8 slopes, does it, anyplace in the documents?

9 A Actually, there is some reference,  
10 cross-reference in the Hudson County document to the  
11 DEP regulations, which speaks to new disturbance.  
12 It makes a distinction between new disturbance and  
13 old disturbance, and if you read and you can read  
14 between the lines to determine some of the  
15 regulations in the land use policy in County  
16 documents, and I certainly would come to the  
17 conclusion that there is a distinction.

18 Q But other than the DEP, there's no  
19 other provision that you're aware of that shows a  
20 type of slope that maybe deserves more protection  
21 than another type of slope?

22 A Yes, there is, if you read the land use  
23 policies in the County documents.

24 Q Tell me what policy you referring to.

25 A I'm referring to fact that there are other

1 County goals and objectives.

2 Q I'm talking types of slopes. I'm not  
3 talking policy. I'm talking types of slope?

4 A May I finish?

5 Q Yes?

6 A Thank you, and it's getting late possibly for  
7 both of us.

8 Q I'm ready to go for another hour. I  
9 understand that but...

10 A Anyway, what I was going to say is there are  
11 specific provisions, again, balancing economic  
12 development, preservation and everything else, but  
13 one of the goals is and the objective across the  
14 board in terms of the County planning document is  
15 the redevelopment or reuse of previously disturbed  
16 and reused contaminated sites.

17 Q Is the site contaminated?

18 A My understanding is it requires some level of  
19 environmental remediation because of the historic  
20 use of that site.

21 Q Do you know if that's in the portion  
22 that's proposed to be disturbed?

23 A I do not know that for a fact, but I do know  
24 that there are environmental contaminations and  
25 remediation that was being proposed on the site.

1                   COMMISSIONER MEHTA: She is only  
2                   testifying as a planner. She is not testifying, as  
3                   a technical expert, and Mr. Lamb is questioning and  
4                   we already had a engineer's testimony and all those  
5                   questions. I don't know why this is coming up again  
6                   and again.

7                   MR. LAMB: I think with all due  
8                   respect that the witness is trying to imply that  
9                   there's some top of steep slope because it's, you  
10                  know, dirt or she said maybe historic fill, that it  
11                  doesn't deserve or merit the same type of  
12                  protection, and I'm just asking for where it says  
13                  that in the documents.

14                 CHAIRWOMAN BETTINGER: We can  
15                  probably --

16                 MR. LAMB: I think now would be a  
17                  good time to break.

18                 CHAIRWOMAN BETTINGER: I think so.

19                 MR. LAMB: Trust me, I understand.

20                 COMMISSIONER NG: Are we concluding  
21                  or breaking?

22                 CHAIRWOMAN BETTINGER: Concluding for  
23                  the night, continuing.

24                 FREEHOLDER ROMANO: I think the  
25                  Commissioners would like to get a word in first

1 before.

2 COMMISSIONER NG: It's four hours  
3 listening. It is very hard.

4 CHAIRWOMAN BETTINGER: It's very  
5 difficult. We're volunteers here. We work a full  
6 day, and we came here to volunteer our time, and  
7 it's exhausting and we want to be able to make a  
8 right decision.

9 MR. LAMB: I understand that.

10 CHAIRWOMAN BETTINGER: To clear our  
11 heads, that's the main reason.

12 MR. LAMB: I think it's time to  
13 break.

14 COMMISSIONER FITZGIBBONS: Truly.

15 CHAIRWOMAN BETTINGER: How much more  
16 do you have?

17 MR. LAMB: I'm trying to -- I think I  
18 probably need when we come back, maybe five minutes.

19 CHAIRWOMAN BETTINGER: The meeting is  
20 going to end at the next meeting.

21 MR. LAMB: The purpose is to let the  
22 public ask whatever.

23 FREEHOLDER ROMANO: Madam Chair, I  
24 think the remaining minutes, if the Commissioners  
25 have anything to say, this should be their time now.

1 Unfortunately, the public has been deprived. Let  
2 the Commissioner speak.

3 CHAIRWOMAN BETTINGER: Counsel.

4 MS. MIDDLETON: I think Mr. Lamb can  
5 continue cross examination at next meeting for five  
6 minutes. Mr. Alampi is shaking his head.

7 MR. ALAMPI: Mr. Lamb's not going to  
8 take five minutes.

9 MR. LAMB: When I say "five minutes,"  
10 it's always ten.

11 COMMISSIONER FITZGIBBONS: I just  
12 want to say something. The cross examination of  
13 these two people, even if your cross examination and  
14 you know other side cross examine, please don't keep  
15 on doing repetition, repetition. We heard about the  
16 steep slopes. We heard about everything over and  
17 over and over. I think we got it, all right? We'll  
18 make that decision, and you know, it's some of this  
19 stuff was hypothetical questions. We don't want  
20 hypothetical.

21 CHAIRWOMAN BETTINGER: Commissioner,  
22 we will continue with the meeting.

23 COMMISSIONER FITZGIBBONS: I just  
24 want to put what I have to say.

25 CHAIRWOMAN BETTINGER: We still have

1 to go through old business and new business.

2 MS. MIDDLETON: Do you have any  
3 questions for Mrs. Gruel?

4 CHAIRWOMAN BETTINGER: Do any  
5 Commissioner have any?

6 FREEHOLDER ROMANO: Not at this  
7 point.

8 CHAIRWOMAN BETTINGER: Thank you very  
9 much. See you in September.

10 MR. ALAMPI: Madam Chairperson,  
11 that's September 21, is that correct, that's at  
12 6:30?

13 CHAIRWOMAN BETTINGER: Correct.  
14 There has to be a motion. Is there a motion?

15 COMMISSIONER FITZGIBBONS: Motion to  
16 carry this over to the next meeting.

17 FREEHOLDER ROMANO: Second.

18 MS. CIAMMARUCONI: On the motion to  
19 carry Application 2010-082-SP to the next meeting.

20 CHAIRWOMAN BETTINGER: Quiet, please.

21 MS. CIAMMARUCONI: Motion made by  
22 Commissioner Fitzgibbons. Seconded by Commissioner  
23 Romano.

24 Commissioner Avagliano.

25 COMMISSIONER AVAGLIANO: I vote aye.

1 MS. CIAMMARUCONI: Commissioner  
2 DiDomenico.  
3 FREEHOLDER DiDOMENICO: Aye.  
4 MS. CIAMMARUCONI: Commissioner  
5 Fitzgibbons.  
6 COMMISSIONER FITZGIBBONS: Aye.  
7 MS. CIAMMARUCONI: Commissioner  
8 Glembocki.  
9 COMMISSIONER GLEMBOCKI: Yes.  
10 MS. CIAMMARUCONI: Commissioner  
11 Mehta.  
12 COMMISSIONER MEHTA: Aye.  
13 MS. CIAMMARUCONI: Commissioner Ng.  
14 COMMISSIONER NG: Aye.  
15 MS. CIAMMARUCONI: Commissioner  
16 Romano.  
17 FREEHOLDER ROMANO: Aye.  
18 MS. CIAMMARUCONI: Chairwoman  
19 Bettinger.  
20 CHAIRWOMAN BETTINGER: I vote aye.  
21 MS. CIAMMARUCONI: The motion passes.  
22 MR. ALAMPI: Thank you very much.  
23 MR. LAMB: Good evening.  
24 CHAIRWOMAN BETTINGER: The next item  
25 on this evening agenda is old business.

1 MS. CIAMMARUCONI: No, actually, we  
2 have the agenda. The next item on the application  
3 is -- I mean agenda, I'm sorry, is Applications to  
4 be Declared Exempt, Application 2011-058-SP/SD,  
5 Applicant, Dean R. Mon, Location 5800-5814, 5801 and  
6 5715 Jefferson Street, Block 130, Lots 4 and 5 in  
7 West New York.

8 CHAIRWOMAN BETTINGER: Do I have a  
9 motion?

10 COMMISSIONER FITZGIBBONS: I make a  
11 motion.

12 MS. CIAMMARUCONI: I'm sorry. On the  
13 motion made by Commissioner Fitzgibbons and seconded  
14 by Commissioner Ng, Commissioner Avagliano.

15 COMMISSIONER AVAGLIANO: I vote aye.

16 MS. CIAMMARUCONI: Commissioner  
17 DiDomenico.

18 FREEHOLDER DiDOMENICO: Aye.

19 MS. CIAMMARUCONI: Commissioner  
20 Fitzgibbons.

21 COMMISSIONER FITZGIBBONS: Aye.

22 MS. CIAMMARUCONI: Commissioner  
23 Glembocki.

24 COMMISSIONER GLEMBOCKI: Yes.

25 MS. CIAMMARUCONI: Commissioner

1 Mehta.

2 COMMISSIONER MEHTA: Aye.

3 MS. CIAMMARUCONI: Commissioner Ng.

4 COMMISSIONER NG: Aye.

5 MS. CIAMMARUCONI: Commissioner

6 Romano.

7 FREEHOLDER ROMANO: Aye.

8 MS. CIAMMARUCONI: Chairwoman

9 Bettinger.

10 CHAIRWOMAN BETTINGER: Aye.

11 MS. CIAMMARUCONI: The motion passes.

12 CHAIRWOMAN BETTINGER: I don't have  
13 any old business or new business listed, so any  
14 other?

15 COMMISSIONER NG: This item should be  
16 first, on the agenda first.

17 COMMISSIONER FITZGIBBONS: I agree  
18 with the Commissioner. This should be first on the  
19 agenda first. Let's get it over with and the other  
20 stuff will probably go through easier. We're going  
21 to be in for a long night again so.

22 CHAIRWOMAN BETTINGER: I will pass  
23 that along to Steve for the next agenda.

24 COMMISSIONER FITZGIBBONS: No, it's  
25 what the Commissioners would like.

1 MS. CIAMMARUCONI: I will pass that  
2 along.

3 CHAIRWOMAN BETTINGER: It's not fair  
4 for smaller applications that they have to sit here  
5 and wait. This is going to continue to be another  
6 long application. I want to disagree. I was saying  
7 I will pass that on. That's my opinion I don't know  
8 what other Commissioners think. Do I have a motion  
9 to adjourn? All in favor.

10 (There being no further matters  
11 before the Board; the Chairperson adjourns the  
12 meeting. Whereupon the proceeding is then concluded  
13 at 10:30 p.m.)

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

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I, SHARI CATHEY, a Notary Public and  
Shorthand Reporter of the State of New Jersey,  
hereby certify that the proceedings herein are from  
the notes taken by me of a Regular Meeting of the  
Hudson County Planning Board, held on Wednesday,  
August 17, 2011; and that this is a correct  
transcript of the same.

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SHARI CATHEY, S.R.  
A NOTARY PUBLIC of the  
State of New Jersey  
I.D. No. 2283786  
Commission Expires 2/4/12

<b>&amp;</b>	<b>19</b> 133:23	70:25 102:22	<b>4</b>
<b>&amp;</b> 5:20 7:8 103:15	<b>1940s</b> 74:19	104:11 105:15	<b>4</b> 10:25 51:6 64:19
<b>1</b>	<b>1976</b> 142:17	118:18 158:12	65:4,10 78:19 155:6
<b>1</b> 8:9 10:18 21:18	<b>1997</b> 94:23	<b>2011-028</b> 6:1	<b>4.01</b> 5:17
38:17 40:8 41:8	<b>1999</b> 107:5 108:1	<b>2011-036</b> 5:15	<b>40</b> 39:2,16
43:5 49:2,11 52:8	116:6	<b>2011-050</b> 5:19	<b>44</b> 132:7,12
52:12 71:2 118:17	<b>1e</b> 106:10 134:22	<b>2011-052</b> 7:3 18:8	<b>45</b> 40:7 132:7,13
121:17 142:12,16	<b>2</b>	<b>2011-054</b> 19:18	<b>4522</b> 21:11
<b>1/2</b> 139:21	<b>2</b> 10:21 41:9,10	<b>2011-056</b> 5:23	<b>46,000</b> 57:23 125:5
<b>10</b> 15:16	63:16 104:21	<b>2011-058</b> 155:4	<b>47</b> 113:20
<b>10,000</b> 38:25 57:22	140:16 142:14,25	<b>2011-059</b> 21:11	<b>480</b> 39:16
111:7	143:7	24:12 36:25	<b>486</b> 39:4
<b>10,808</b> 53:6	<b>2,800</b> 54:15 55:4	<b>2011-063</b> 4:18 5:11	<b>5</b>
<b>10,900</b> 57:19 114:16	<b>2.01</b> 5:17	<b>2011-064</b> 38:1 47:8	<b>5</b> 12:18 13:17 14:20
<b>10,909</b> 54:11	<b>2.3.</b> 52:4	<b>20th</b> 4:14 49:9 64:19	100:8 155:6
<b>100</b> 6:1	<b>2.5</b> 64:19	115:5	<b>5,600</b> 54:12 58:16
<b>100-108</b> 6:2	<b>2/4/12</b> 158:19	<b>21</b> 153:11	<b>5,629</b> 66:2
<b>10:20</b> 146:22	<b>20</b> 12:9 27:4 53:7	<b>2283786</b> 158:18	<b>5.01</b> 49:3
<b>10:30</b> 102:16 136:3	63:16 68:24 70:1,15	<b>23</b> 19:19 21:12	<b>50</b> 12:9 97:12
157:13	70:17 71:25 73:24	57:25	126:18
<b>11</b> 5:21 6:3 56:19	75:13 126:13	<b>23.8</b> 57:19	<b>504</b> 19:19
<b>11,000</b> 53:10,12	143:14,16,19	<b>241</b> 38:3	<b>50s</b> 74:19
54:4,19 57:16,17	147:23	<b>25</b> 12:9,9 13:13 58:6	<b>567</b> 1:7
58:15,25 125:7	<b>200</b> 126:2	70:18 125:8,13,19	<b>5715</b> 155:6
<b>11th</b> 50:21 57:7	<b>2002</b> 107:25 116:4	139:21	<b>5800-5814</b> 155:5
70:25 115:14	<b>2004</b> 127:17	<b>263</b> 21:12	<b>5801</b> 155:5
<b>12</b> 5:21 13:12 15:22	<b>2005</b> 108:13	<b>27</b> 5:25	<b>59</b> 112:23
<b>12th</b> 23:25	<b>2007</b> 87:18,21 88:5	<b>28</b> 5:25	<b>6</b>
<b>13</b> 5:21	90:19,23 91:2,9,23	<b>284</b> 5:17	<b>6</b> 14:21 19:19 49:11
<b>130</b> 155:6	97:23	<b>286</b> 5:20	49:12 51:6 106:4
<b>15</b> 12:8 72:4 74:10	<b>2008</b> 80:3,5,7 109:8	<b>3</b>	115:9 121:18
74:12 80:12 116:3	109:9 110:8 123:6,9	<b>3</b> 10:23 49:3	141:11
136:23 146:8	123:14,24 124:9	<b>3.01</b> 5:17	<b>600</b> 45:22
147:23	127:7 134:11,15	<b>30</b> 7:6,13 12:2 14:17	<b>60s</b> 126:10 127:1
<b>150</b> 5:16	145:9	14:18 30:23,23 39:2	<b>62</b> 5:21
<b>16</b> 71:5	<b>2009</b> 140:16	69:25 70:15 126:13	<b>65</b> 113:19 114:24
<b>1600</b> 4:18,24 19:12	<b>2010</b> 56:21 57:8	145:3	<b>6:30</b> 1:9 135:17
<b>16th</b> 56:21 57:8	71:5 90:21 105:12	<b>300</b> 45:13	153:12
<b>17</b> 1:8 158:12	109:23	<b>302-310</b> 5:20	<b>7</b>
<b>17th</b> 5:1 41:17	<b>2010-082</b> 49:1	<b>309</b> 38:2,15	<b>7</b> 15:2 38:3 102:22
<b>18</b> 13:12	153:19	<b>316</b> 49:2	105:12 109:1,3
<b>183</b> 5:24	<b>2011</b> 1:8 4:14 5:1	<b>36</b> 85:18	121:18 142:22
<b>18th</b> 52:3	7:17 49:9 50:22	<b>3rd</b> 140:16	
	51:1 52:3 56:19		

<b>70</b> 101:12 <b>7009</b> 49:2 <b>7101</b> 49:2 <b>75</b> 97:12 139:13,15 139:20 <b>7th</b> 104:11	<b>accommodate</b> 31:15 43:15 <b>accountant</b> 108:22 <b>acquisition</b> 108:16 108:17 <b>acre</b> 139:20,21 <b>act</b> 2:6 77:20 79:23 112:14 <b>acted</b> 23:23 <b>action</b> 119:14,16 <b>activities</b> 74:20 <b>actual</b> 72:15,18 <b>ada</b> 11:1,23 27:6 28:18,19,22 32:15 32:17 33:1 45:21 46:12,22 <b>adaptive</b> 116:6 <b>add</b> 30:24 <b>added</b> 54:4,15 116:19 142:16 <b>addition</b> 40:22 44:10,18 71:3 <b>additional</b> 14:18 29:25 30:1,22 40:21 135:10,11 136:25 <b>address</b> 38:15 95:24 101:20 103:8,10 115:17 116:8 <b>addressed</b> 10:14 76:7 114:19 116:3 116:18 118:21 <b>addressing</b> 109:2 <b>adequate</b> 45:15 <b>adjacent</b> 17:24 84:1 122:16 <b>adjective</b> 143:2 <b>adjourn</b> 157:9 <b>adjourns</b> 157:11 <b>adjustment</b> 42:3,3 <b>administrative</b> 80:13 103:25 <b>adopted</b> 78:14 107:5 110:6 123:6 127:11 <b>adversary</b> 102:23	<b>advertised</b> 2:3 <b>aerials</b> 111:13 <b>affect</b> 120:21 121:3 <b>affirmative</b> 119:15 <b>afield</b> 138:21 <b>afraid</b> 101:5 143:17 <b>agency</b> 28:14 <b>agenda</b> 2:7,8 5:1,13 7:2 19:17 20:8 21:10 38:1 48:25 154:25 155:2,3 156:16,19,23 <b>ago</b> 39:22 60:12 75:10 116:3 126:3,5 126:6,19 <b>agree</b> 76:3 86:23 88:3 95:4 128:6 141:9 142:9 146:18 146:23 156:17 <b>agreed</b> 40:6 45:11 80:15 <b>agreement</b> 16:6,10 31:2 <b>ahead</b> 109:5 137:1 <b>aide</b> 1:21 <b>ain't</b> 20:9 <b>aisles</b> 44:18,19 <b>alampi</b> 49:4,6 50:19 51:4 56:10 62:6 81:5 82:1 85:4 87:23 90:6 92:1 93:18 95:15,21 100:10 101:18,25 102:7,18 103:5 108:24 121:13,23 122:1 133:21 136:12 137:13 140:6,12 144:8 152:6,7 153:10 154:22 <b>albeit</b> 124:2 <b>allan</b> 5:16 <b>allow</b> 87:7 136:15 <b>allowed</b> 87:22 89:22	<b>allows</b> 128:25 142:10 <b>alteration</b> 134:2 <b>alternate</b> 133:9 <b>alternative</b> 133:10 <b>alternatives</b> 132:11 132:12,14,19,21 <b>amended</b> 124:1 <b>amin</b> 21:11,15 25:19 27:16,19 29:3 30:15 31:7,11,17,21 32:6 33:8,17,24 34:19,23 35:9,15 <b>amount</b> 45:11,15 46:24 54:5 65:9,20 67:16 85:20 <b>amplified</b> 103:2 <b>analysis</b> 73:19 97:15 104:7 115:21 121:3 125:17 141:7,16 <b>analyzed</b> 116:11 <b>answer</b> 31:4 51:7 54:11 57:6 73:3 74:10 97:8 102:1 121:7 148:2 <b>answered</b> 50:6 51:7 72:10 73:24 117:23 148:2 <b>answers</b> 73:1 <b>anthony</b> 1:15 <b>anticipate</b> 27:22 40:19 41:4 <b>anticipated</b> 49:19 117:20 <b>anymore</b> 14:20 74:24 145:1 <b>anyplace</b> 127:21 148:8 <b>anyway</b> 56:9,12 95:10 115:13 149:10 <b>apart</b> 17:19 <b>apartment</b> 26:24 33:10,12,22,24,25 34:1 35:3,9,11
<b>8</b>			
<b>8</b> 7:6,13 15:6 38:3 106:3 129:20 <b>8,000</b> 58:24,25 <b>8,200</b> 59:2 <b>8,254</b> 54:12 <b>80</b> 58:23 97:12 146:13 <b>816</b> 5:24 <b>8550</b> 93:10			
<b>9</b>			
<b>9</b> 6:3 15:13 51:1 57:7 106:4 <b>9,900</b> 39:1 <b>90</b> 132:25 <b>9:15</b> 102:16 <b>9:45</b> 122:10 <b>9th</b> 7:17 10:18 50:24			
<b>a</b>			
<b>abbreviate</b> 138:7 <b>abide</b> 98:5 <b>ability</b> 138:24 <b>able</b> 11:11 31:25 52:9 55:23 92:24 136:13 151:7 <b>absolutely</b> 29:22 32:21 57:5 128:7 130:7 145:2,6 <b>absorption</b> 63:20 <b>abstained</b> 37:16 <b>accept</b> 3:16 5:10 82:12 <b>acceptable</b> 35:5 <b>access</b> 8:22 11:23 15:5 86:24 <b>accessible</b> 13:25 27:5,6			

<p><b>apologize</b> 21:25 27:2 53:2 94:11</p> <p><b>apparently</b> 51:18 89:22</p> <p><b>appeal</b> 27:11</p> <p><b>appear</b> 77:24 120:16</p> <p><b>appearing</b> 21:14</p> <p><b>appears</b> 10:21 50:13 68:9</p> <p><b>appendix</b> 105:24</p> <p><b>appleview</b> 49:1,7 84:7 85:1,10 95:20 112:23</p> <p><b>applicability</b> 143:7 143:10</p> <p><b>applicable</b> 62:19 142:23</p> <p><b>applicant</b> 5:15,19 6:1 7:4 10:25 11:2,4 14:21 15:2,6,13,16 15:20 19:18,22,24 20:9 21:11,14 22:18 38:1,5 40:6 41:23 45:18 48:8 49:1 68:9 105:22 118:12 155:5</p> <p><b>application</b> 4:18,20 4:21,24 5:7,9,11,15 5:19,23 6:1 7:3,10 10:21 18:8 19:17,17 21:10,10,20 23:2 24:11 25:11 28:10 36:25 37:25 38:1,13 39:3,13,21 40:5 47:8 48:9,23,25,25 53:19,21 55:24 56:1 56:4,5,11 58:7 65:16 69:14 70:2,19 70:21 82:9 84:3 95:16 100:23 104:3 110:19 112:23 113:9 115:25 119:2 119:4,19,20 125:18 128:4 132:23,25</p>	<p>133:3 138:2 139:21 141:17 143:11 153:19 155:2,4 157:6</p> <p><b>applications</b> 38:5 41:1 118:23,25 155:3 157:4</p> <p><b>applied</b> 55:19 63:2</p> <p><b>apply</b> 36:2</p> <p><b>appreciate</b> 95:3 100:11</p> <p><b>approach</b> 141:8</p> <p><b>appropriate</b> 62:21 74:8 101:19 119:14</p> <p><b>approval</b> 15:9,10,18 21:23 22:4,6 34:8 39:10 40:20 41:2,3 41:5 44:21 113:9 139:20 141:5</p> <p><b>approvals</b> 15:7 22:3 34:7</p> <p><b>approve</b> 6:7 18:8 36:22,25 47:8 70:20</p> <p><b>approved</b> 5:14 10:5 34:11 36:4,6 42:1,3 69:22 110:8,18 118:6 124:5</p> <p><b>approving</b> 134:19</p> <p><b>approximate</b> 67:15 68:22</p> <p><b>approximately</b> 12:2 14:16 53:6,10,12 54:4 55:4 57:16,25 58:5 60:12 67:17 73:24 125:7 132:8</p> <p><b>arbitrarily</b> 143:19</p> <p><b>arborvitae</b> 13:3,12</p> <p><b>architect</b> 26:6 32:11</p> <p><b>architect's</b> 36:14</p> <p><b>architects</b> 5:24</p> <p><b>architectural</b> 41:9</p> <p><b>architecture</b> 26:8</p> <p><b>area</b> 8:12,19,21,23 8:25 10:24 11:11 12:21,23,24 13:14</p>	<p>13:14 14:4,6,23 15:1 16:1,2,11 17:10,19 29:13 32:7 43:19 49:18 53:6,22 54:6,11 55:5 57:16 57:17,20,22 58:9,13 58:25 59:1,17,22 60:13 62:3 64:20,20 65:4,9,21 66:2,3,5,6 66:8,19,20,21,22,24 68:12,21 72:23 74:3 74:17,20 77:3,9,15 77:18,20 85:2,11 87:13 89:21,22,25 90:16,17 91:22 93:12 98:14 111:8 111:11 119:5 125:22 126:9 133:16,20,25 134:9 134:10,14 145:25 146:14,25</p> <p><b>areas</b> 8:16 15:4 28:15 60:2 61:1 83:21 112:3 114:9 117:16,16 134:1,17 142:3</p> <p><b>arencibia</b> 2:13 3:17 20:11</p> <p><b>argued</b> 82:6</p> <p><b>arrived</b> 10:1 12:12</p> <p><b>artificial</b> 4:19,25</p> <p><b>ascertain</b> 68:20</p> <p><b>ascertained</b> 22:2</p> <p><b>ascolese</b> 1:19 11:25 12:5 14:8,13</p> <p><b>asked</b> 40:2 45:23 49:17 50:5,22 52:20 53:9 54:9 55:18 67:11 71:8 76:25 78:11 82:9,11 89:4 89:5 90:4 102:25</p> <p><b>asking</b> 30:1 57:9 62:9 69:4 71:16 74:9 82:19 87:15 91:8,13 92:23 95:7</p>	<p>106:2,20 134:12 150:12</p> <p><b>aspect</b> 139:9</p> <p><b>aspects</b> 106:18 107:9 109:15 118:14</p> <p><b>asphalt</b> 59:5,8,10,11 66:11 87:22 90:16 90:18</p> <p><b>assessment</b> 33:21 145:13,14</p> <p><b>associates</b> 103:15</p> <p><b>association</b> 82:3,5</p> <p><b>asst</b> 1:12</p> <p><b>assume</b> 97:24</p> <p><b>assumptions</b> 143:18</p> <p><b>attached</b> 31:6</p> <p><b>attendants</b> 42:18 43:13</p> <p><b>attention</b> 112:22</p> <p><b>attitude</b> 100:16</p> <p><b>attorney</b> 1:18 38:6 49:6 81:4</p> <p><b>audience</b> 94:6</p> <p><b>augmented</b> 77:19</p> <p><b>august</b> 1:8 5:1 7:17 10:18 50:24 51:1 109:8 158:12</p> <p><b>author</b> 105:14</p> <p><b>authorities</b> 88:14,18</p> <p><b>authority</b> 40:18 41:5 52:24 117:7</p> <p><b>avagliano</b> 1:12 2:13 2:14 3:20,20,21 6:10,11 18:9,10 20:15,15,16 24:12 24:13 37:1,2 47:9 47:10 153:24,25 155:14,15</p> <p><b>available</b> 34:7 35:19 36:1</p> <p><b>avenue</b> 1:7 5:16 6:3 7:11,12,12 8:4,5 9:1 9:22 10:19 11:3,5,7 11:15 12:1 13:15</p>
--	--	---	---

<p>14:14 38:23  <b>avenues</b> 7:5  <b>avoid</b> 65:8 139:16  <b>avoided</b> 131:9  <b>aware</b> 28:2 63:6          64:5 75:11 76:8,10          100:7,9 132:5          133:13,15 139:22          139:25 144:1,5,11          148:19  <b>aye</b> 3:21,24 4:2,5,7          4:10 6:11,14,17,20          6:22,25 18:10,13,16          18:22,24 19:2,5          20:16,19,22 21:3,5          21:8 24:13,16,19,25          25:2,5,8 37:2,5,8,14          37:19,22 47:10,13          47:16,22,24 48:2,5          153:25 154:3,6,12          154:14,17,20          155:15,18,21 156:2          156:4,7,10</p>	<p><b>ball</b> 14:14  <b>bank</b> 103:10  <b>baseball</b> 9:6 19:14  <b>based</b> 55:15 72:14          119:19 122:5,18          123:12 146:5  <b>basement</b> 33:22  <b>basically</b> 21:19,21          21:24 29:23 31:23          59:16 67:24 73:23          83:14 106:18          123:23  <b>basis</b> 106:22,22          117:10 119:18          124:19 132:16  <b>basketball</b> 8:14,17          11:16 120:5 127:15  <b>bath</b> 33:13  <b>battery</b> 82:13  <b>beautiful</b> 101:16  <b>bedrooms</b> 33:12,25  <b>bedtime</b> 105:23          107:13  <b>begins</b> 15:15  <b>behalf</b> 38:5 48:7          82:5  <b>believe</b> 16:17 22:8          27:8 31:20 34:12          44:9 45:12 46:14,16          51:6 52:8,18,24          55:8 67:13 70:23          71:18 80:3 82:25          83:11 100:24          101:18 112:4 119:7          120:9 131:25 133:8          133:18 138:14          142:23 143:6  <b>benefit</b> 116:20  <b>benefits</b> 142:13  <b>bergen</b> 49:3 50:4          52:23 53:14,21          69:25 76:25 79:17          79:19 91:4 93:10          94:5 95:7 101:7          110:18 113:1,5</p>	<p>138:18,22 140:4  <b>bertin</b> 38:4,7,12          42:2,7,12,22,25          43:4,17,24 44:3,13          45:9,12,17,23 46:4          46:8,14 48:7,12,20          49:19 50:1,5,10,22          50:25 51:7,15,22          52:5 53:5 62:13          65:2 68:23 70:12          72:21,24 73:18,24          75:7 78:11 79:2          80:8,14,14,24 81:7          81:10 85:9,13 86:11          90:6,20,24 91:1          93:12 96:9 100:2,2          100:5,9,12,13,21,24          101:7 114:16          118:18 121:18          122:11,18 124:16          125:4 127:20 146:6          146:12  <b>bertin's</b> 68:14          111:13 115:13  <b>best</b> 98:6 141:7  <b>better</b> 27:11 96:19  <b>bettinger</b> 1:11 2:1          2:10 3:6,7,9,12 4:9          4:10,12 6:4,24,25          7:18,21 8:6 9:24          10:4 12:3,11 15:23          16:20 17:2 18:3          19:4,5,7,15,21 20:2          21:7,8 22:5 23:6,9          24:2,6 25:7,8,17,24          26:17 27:14 30:10          31:1,5,9,14 32:4,16          33:4 35:7,12 36:16          37:21,22 42:5,10          43:14 44:5,25 45:6          46:19 47:3 48:4,5          48:10,22 67:21 68:4          68:25 70:9 75:6          78:8 81:2,9,15,18          83:13 84:10 86:21</p>	<p>88:2,25 92:3 93:1,5          94:9,15 95:1 97:5          98:1 99:15,24          100:19 101:2,23          102:2,5,13 103:3          109:4 121:21,24          122:9,23 135:3,7,12          135:19,24 136:10          136:22 137:3,22          146:21 150:14,18          150:22 151:4,10,15          151:19 152:3,21,25          153:4,8,13,20          154:19,20,24 155:8          156:9,10,12,22          157:3  <b>beyond</b> 60:7 67:9,19          69:21 89:8 98:11  <b>bicycle</b> 15:3  <b>big</b> 34:16 98:19,24  <b>bit</b> 60:7 67:9 82:20          113:16  <b>blank</b> 50:5  <b>block</b> 5:21,24 6:3          7:5,13 19:19 21:12          32:25 38:2 39:18          49:2 155:6  <b>blocks</b> 5:17 63:21  <b>blue</b> 65:1,3,4,10          77:3  <b>board</b> 1:1,18 2:2,9          5:1,8 10:20 15:9,18          26:4 28:7 34:3,9,11          36:2 39:22 42:1,2,3          49:5,16 50:20 52:6          52:20 53:14,22          61:10 64:24 67:25          69:7,19,22,25 70:14          70:19 71:20 74:7          76:25 78:23 82:5,7          82:16 83:10,14          86:19 91:4 94:5,19          95:12 97:23 102:22          103:25 104:4          105:17 106:12,18</p>
<p><b>b</b></p>			
<p><b>b</b> 38:13 81:14  <b>bachelor</b> 26:7,8  <b>bachelor's</b> 7:24  <b>bachelors</b> 8:1  <b>back</b> 13:3,15 22:19          32:2,23 34:16 35:13          35:13 36:8 63:12          65:8,23 66:12 67:18          73:20 91:4 122:4          127:1 136:19 137:7          145:8 151:18  <b>backed</b> 43:19 88:10  <b>backhoe</b> 90:19 91:9  <b>backs</b> 115:22  <b>balance</b> 39:19          110:24  <b>balanced</b> 108:7  <b>balancing</b> 110:1,3          111:1 117:17          118:13 149:11</p>			

<p>110:6,14,18 112:16                  115:6 117:5 119:10                  119:14,18 121:12                  128:4,18,25 130:15                  131:16 132:3,16                  133:5,6,11 135:14                  135:15,16 136:14                  137:25 138:1                  139:25 140:23                  142:10 149:14                  157:11 158:11  <b>board's</b> 130:18                  131:11  <b>boards</b> 99:19 103:22  <b>boardwalks</b> 63:22  <b>body</b> 130:23 138:25                  148:4  <b>bogged</b> 114:4  <b>border</b> 30:17  <b>bordering</b> 93:25  <b>borings</b> 71:12,14,23                  71:24 72:1,2,15  <b>bottom</b> 8:4 41:10                  80:7  <b>boulders</b> 17:1                  147:13  <b>boulevard</b> 19:19                  21:12,21 93:10  <b>boundary</b> 14:9  <b>box</b> 56:1  <b>brandy</b> 4:23 5:12  <b>brasilis</b> 19:18  <b>break</b> 102:8 150:17                  151:13  <b>breaking</b> 48:19                  150:21  <b>brian</b> 1:24  <b>bridge</b> 76:18  <b>brief</b> 102:12  <b>briefly</b> 50:9 63:15                  105:1,5 112:9                  113:25 115:16                  132:19  <b>bring</b> 22:12 49:15                  105:11,19 136:19</p>	<p><b>broad</b> 103:10 144:4  <b>broken</b> 11:2  <b>brought</b> 42:18 59:15                  65:23 74:15  <b>brown</b> 14:6 40:9  <b>brush</b> 59:10 61:1  <b>brushed</b> 59:18  <b>bucket</b> 23:18  <b>bucks</b> 45:22  <b>buffer</b> 77:13,15,17  <b>build</b> 48:16 139:16  <b>building</b> 1:20 26:24                  26:25 27:3,9 28:1                  29:16 31:6 33:7                  34:16,22 35:17,23                  39:25 40:1,7,8,15                  41:11,11,14 42:9,13                  42:21 48:15 50:13                  50:15 54:14,18,25                  58:13,17 60:12,14                  61:14,15,16 62:1,4                  64:22 65:8,23,25                  66:2,6,7,19 67:4,4                  68:18 72:19,19,22                  74:13 77:8,9,10,19                  78:5 97:19 112:24                  113:14,22 114:6,7,7                  114:8,13 118:25                  120:4 143:15                  144:11,18 145:4  <b>building's</b> 65:18  <b>buildings</b> 41:14,15                  49:13 115:19,24                  116:24 118:22                  120:21 121:2 126:5                  126:10 144:2,24                  145:9 147:4,8  <b>built</b> 15:20 30:5                  36:14 66:3 72:7,20                  76:14 97:19 107:25                  109:10 132:7                  141:21 145:19  <b>builts</b> 32:21  <b>bulk</b> 138:23,24                  139:7</p>	<p><b>bulletin</b> 2:9  <b>bureau</b> 98:9  <b>bus</b> 11:16 14:3,5                  16:8  <b>business</b> 34:1 35:4                  153:1,1 154:25                  156:13,13  <b>butts</b> 41:15</p> <hr/> <p style="text-align: center;"><b>c</b></p> <hr/> <p><b>c</b> 25:23 38:12 52:4                  64:19 142:12,14,16                  158:1,1  <b>c.m.e.</b> 1:23  <b>calculated</b> 114:17  <b>calculation</b> 54:8                  57:21  <b>calculations</b> 53:13                  55:6,11,12  <b>caliper</b> 13:9  <b>calisto</b> 38:7  <b>call</b> 2:2,11 22:19                  86:12,16 102:14  <b>called</b> 24:1 38:18                  39:17 72:5 86:11                  112:24 116:12  <b>calls</b> 141:6  <b>candidate</b> 116:12  <b>capacity</b> 123:18  <b>car</b> 39:7 43:12,13  <b>care</b> 98:9 100:13,14  <b>carmine</b> 49:5  <b>carolina</b> 65:3  <b>carry</b> 153:16,19  <b>cars</b> 31:14 32:2                  35:13 39:2,4,16,16                  40:14 42:5,15,18                  43:14,17,18 44:16                  44:19,23  <b>case</b> 29:19 49:11                  50:25 120:17 127:7                  127:20 147:25  <b>catalyst</b> 123:25  <b>catchment</b> 77:20,23</p>	<p><b>cathey</b> 158:7,17  <b>cause</b> 106:16 131:22  <b>caveman</b> 145:7  <b>center</b> 67:13  <b>certain</b> 29:12 83:2                  107:11 109:25  <b>certainly</b> 36:15                  65:17 111:5 124:21                  148:16  <b>certified</b> 23:1  <b>certify</b> 158:9  <b>chair</b> 1:13 3:6 4:15                  10:13 12:15 19:24                  22:11 30:12,21                  32:22 43:9,22 45:8                  46:11 49:4 61:18                  82:25 84:8 94:22                  100:17 102:19                  108:25 121:13                  136:7 151:23  <b>chairman</b> 1:11 2:4                  3:5 137:6,6  <b>chairperson</b> 153:10                  157:11  <b>chairwoman</b> 2:1,10                  3:7,9,12 4:8,10,12                  6:4,23,25 7:18,21                  8:6 9:24 10:4 12:3                  12:11 15:23 16:20                  17:2 18:3 19:3,5,7                  19:15,21 20:2 21:7                  21:8 22:5 23:6,9                  24:2,6 25:6,8,17,24                  26:17 27:14 30:10                  31:1,5,9,14 32:4,16                  33:4 35:7,12 36:16                  37:20,22 42:5,10                  43:14 44:5,25 45:6                  46:19 47:3 48:3,5                  48:10,22 67:21 68:4                  68:25 70:9 75:6                  78:8 81:2,9,15,18                  83:13 84:10 86:21                  88:2,25 92:3 93:1,5                  94:9,15 95:1 97:5</p>
---	---	--	--

<p>98:1 99:15,24 100:19 101:2,23 102:2,5,13 103:3 109:4 121:21,24 122:9,23 135:3,7,12 135:19,24 136:10 136:22 137:3,22 146:21 150:14,18 150:22 151:4,10,15 151:19 152:3,21,25 153:4,8,13,20 154:18,20,24 155:8 156:8,10,12,22 157:3 <b>chambers</b> 1:6 <b>chance</b> 53:1 <b>chapter</b> 80:12 <b>character</b> 117:14 <b>check</b> 49:20 50:7 56:1 <b>checked</b> 59:12 <b>choffo</b> 3:5 <b>choice</b> 61:6 <b>choose</b> 133:12 <b>chose</b> 133:2 134:10 <b>christmas</b> 137:12 <b>chronology</b> 108:12 <b>church</b> 95:13,18 <b>ciammaruconi</b> 1:21 2:12,15,18,21,24 3:3,8,18,22,25 4:3,6 4:8,11,15 6:8,12,15 6:18,21,23 7:1 18:7 18:11,14,17,20,23 18:25 19:3,6,16,25 20:5,13,17,20,23 21:1,4,6,9 24:9,14 24:17,20,23 25:1,3 25:6,9 36:24 37:3,6 37:9,12,15,17,20,23 37:25 47:7,11,14,17 47:20,23,25 48:3,6 48:24 153:18,21 154:1,4,7,10,13,15 154:18,21 155:1,12</p>	<p>155:16,19,22,25 156:3,5,8,11 157:1 <b>cinelli</b> 5:19 <b>circled</b> 65:10 <b>circulated</b> 50:24 <b>circumstances</b> 128:25 <b>cite</b> 63:10 <b>cited</b> 78:13 129:3,7 <b>city</b> 1:8 4:17,24 5:1 5:4 21:12,21 22:3,3 22:5,6,14 44:23 <b>civil</b> 7:25 8:1 <b>clarify</b> 82:1 <b>clause</b> 79:11 <b>clean</b> 40:11 59:12 <b>cleaned</b> 59:16 <b>cleaning</b> 145:18 <b>cleanup</b> 108:4 <b>clear</b> 33:3 46:20 115:2 121:25 134:8 136:8 141:8 146:20 151:10 <b>clearances</b> 36:7 <b>cleared</b> 59:21 91:9 <b>clearing</b> 90:23 <b>clearly</b> 72:14 83:22 116:1 138:5 141:5 142:5 <b>cleverly</b> 94:12 <b>client</b> 130:5 <b>cliff</b> 100:8 101:9 <b>cliffs</b> 75:8,13 76:9 76:11,14 <b>close</b> 30:17 76:15 <b>closed</b> 52:22 <b>closer</b> 65:19 <b>closest</b> 32:14 68:21 89:25 <b>code</b> 80:13 <b>codes</b> 28:22 <b>collapse</b> 100:8 <b>collectively</b> 49:12 82:7</p>	<p><b>combine</b> 56:8 <b>combined</b> 40:16 <b>come</b> 34:23,24 35:18 39:5,6,9 40:4 44:20 73:6 77:14 81:12 88:17 91:19 125:15 137:7 148:16 151:18 <b>comes</b> 40:14 <b>coming</b> 21:24 44:11 44:20,23 80:10 94:7 97:16,17 98:23 150:5 <b>comment</b> 10:18 30:11 49:22 51:5 78:15 81:4 87:14 92:24,24 94:2,4,8 100:15 101:3 136:16 <b>comments</b> 12:4,14 12:17 15:24 16:21 36:17,20 39:23,24 45:7 55:16 57:15 92:20,21 95:3 101:3 114:25 <b>commission</b> 15:12 107:6 158:19 <b>commissioner</b> 1:12 1:14,14 2:12,13,14 2:15,18,20,21,23,24 2:25 3:1,2,3,4,15,17 3:19,20,20,21,22,25 4:2,3,5,6,7 6:6,9,10 6:10,11,12,15,17,18 6:20,21,22 9:25 10:8 12:12 13:18,21 14:1 18:6,8,10,11 18:14,16,17,19,20 18:22,23,24,25 19:9 19:13,23 20:6,11,14 20:15,15,16,17,20 20:22,23,25 21:1,3 21:4,5,6 23:14,20 24:4,8,10,10,12,13 24:14,17,19,20,22</p>	<p>24:23,25 25:1,2,3 33:4,6,14 35:1,16 35:22 36:11,16,19 36:21,25 37:2,3,6,8 37:9,11,12,14,15,16 37:17 41:25 42:20 42:23 43:2,21,25 47:5,8,10,11,14,16 47:17,19,20,22,23 47:24,25 48:18 61:17,22 68:5,25 69:2,17 70:4 71:19 78:25 79:4 82:24 83:24 85:21,24 86:6 86:19 88:11,17 89:6 90:9 91:11,15 94:16 94:21,22,23 96:23 97:1 137:5,13 150:1 150:20 151:2,14 152:2,11,21,23 153:5,15,22,22,24 153:25 154:1,4,6,7 154:9,10,12,13,14 154:15 155:10,13 155:14,14,15,16,19 155:21,22,24,25 156:2,3,4,5,15,17,18 156:24 <b>commissioners</b> 3:13 12:13 17:4 49:17 150:25 151:24 156:25 157:8 <b>common</b> 131:8 <b>community</b> 4:23 103:14 <b>company</b> 5:20 71:5 <b>comparable</b> 85:18 <b>compared</b> 119:4 133:1 145:19 <b>competition</b> 14:2 <b>complete</b> 21:25 135:15 <b>completed</b> 5:9 21:22 30:5 49:9 81:5</p>
---	---	---	--

<p><b>completely</b> 41:12 96:11</p> <p><b>completeness</b> 50:21</p> <p><b>complex</b> 39:17 107:4 116:5</p> <p><b>compliance</b> 23:15 32:15</p> <p><b>compliant</b> 32:18,25 33:1 45:21 46:12,22</p> <p><b>complied</b> 41:18</p> <p><b>complies</b> 139:4,8 140:3</p> <p><b>comply</b> 10:25 15:16 15:19 28:19,19,22 29:5 98:8 138:25</p> <p><b>complying</b> 15:12 132:6 138:13</p> <p><b>component</b> 73:19</p> <p><b>components</b> 60:2</p> <p><b>comprehensive</b> 103:20 109:22</p> <p><b>comprised</b> 147:12 147:13</p> <p><b>compromise</b> 93:2</p> <p><b>concept</b> 68:7 101:15 116:8</p> <p><b>concern</b> 14:14 79:3 141:21</p> <p><b>concerned</b> 79:3 83:21,25 89:12 92:13 95:9</p> <p><b>concerning</b> 28:3,23 29:6,12 53:5 57:15 83:18 130:10</p> <p><b>concerns</b> 95:25 110:2</p> <p><b>concession</b> 9:11 17:24</p> <p><b>conclude</b> 137:14</p> <p><b>concluded</b> 157:12</p> <p><b>concluding</b> 150:20 150:22</p> <p><b>conclusion</b> 110:17 119:13 125:16 148:17</p>	<p><b>conclusions</b> 124:19 146:5</p> <p><b>concrete</b> 46:9</p> <p><b>condense</b> 67:23</p> <p><b>condition</b> 17:14 46:17 90:18 141:23</p> <p><b>conditional</b> 46:1</p> <p><b>conditions</b> 15:17 46:2,21 60:10 97:12 120:1</p> <p><b>confine</b> 57:15</p> <p><b>confirm</b> 13:5</p> <p><b>conform</b> 30:9 32:10 45:21</p> <p><b>conforms</b> 12:10</p> <p><b>connection</b> 128:8 131:7</p> <p><b>conroy</b> 1:24 97:3,7 98:12</p> <p><b>consequently</b> 74:21</p> <p><b>conservation</b> 10:7 15:9 41:2 96:17,20 98:12 99:11 100:22 108:10 109:13</p> <p><b>consider</b> 11:7 72:21 110:15 119:11 125:21 132:4,17 133:7</p> <p><b>considerably</b> 14:24</p> <p><b>consideration</b> 65:7 107:22 111:3 121:12 128:14 131:11 138:5 140:23</p> <p><b>considerations</b> 65:18</p> <p><b>considered</b> 63:23,25 64:7 109:15 110:11 113:2 124:22 125:22 142:5</p> <p><b>considering</b> 118:14</p> <p><b>consistency</b> 111:2 112:1,5 113:4,8</p> <p><b>consistent</b> 10:22 28:11,13 64:1</p>	<p>106:24 112:4,7 113:7 124:2</p> <p><b>constituted</b> 60:17</p> <p><b>constrained</b> 133:16 133:20,25 134:9 142:24</p> <p><b>constraints</b> 53:8 139:18 145:16,17</p> <p><b>construct</b> 8:16 38:13 39:3</p> <p><b>construction</b> 15:15 22:14,19 27:2 69:5 69:11 76:24 77:25 86:13,14 87:25 96:11,18 98:4 99:3 100:4</p> <p><b>constructs</b> 97:17</p> <p><b>consultant</b> 51:12 101:20 102:20</p> <p><b>consulting</b> 103:15</p> <p><b>contacted</b> 20:4 104:2</p> <p><b>contained</b> 40:15 115:13</p> <p><b>contains</b> 134:15</p> <p><b>contaminated</b> 108:4 109:14 149:16,17</p> <p><b>contamination</b> 116:17</p> <p><b>contaminations</b> 149:24</p> <p><b>contemplated</b> 49:18</p> <p><b>contemporary</b> 27:7 107:3</p> <p><b>contents</b> 118:21</p> <p><b>context</b> 58:4</p> <p><b>contingency</b> 17:17</p> <p><b>continuation</b> 136:9</p> <p><b>continue</b> 12:16 49:25 51:10 135:23 136:20 152:5,22 157:5</p> <p><b>continuing</b> 82:18 83:4 107:16 150:23</p>	<p><b>contractor</b> 98:8 99:10</p> <p><b>contracts</b> 99:4</p> <p><b>contribute</b> 46:24,25</p> <p><b>contribution</b> 41:24 45:10</p> <p><b>control</b> 17:23 52:2 96:12,12 98:4,4 99:3,8,21 112:19</p> <p><b>controlled</b> 18:1</p> <p><b>converting</b> 40:12</p> <p><b>convey</b> 100:16</p> <p><b>cooperative</b> 23:3</p> <p><b>copied</b> 22:13</p> <p><b>copies</b> 2:6</p> <p><b>copy</b> 51:2,17 52:13 52:15 56:23 57:13 78:22 102:23</p> <p><b>corner</b> 13:24 29:5 34:19</p> <p><b>correct</b> 16:18 30:2 54:22 56:16 57:20 59:20 60:6,14 62:17 62:25 63:3 80:19 93:17 112:11,20,21 113:23 118:9,10 120:6,7 127:6 128:13 129:13,14 131:18 140:17,18 142:13 144:3 153:11,13 158:12</p> <p><b>cost</b> 46:25</p> <p><b>counsel</b> 50:3 62:8 70:11 81:3,15,23 82:11,17,19 84:12 84:20 91:3 135:3,24 152:3</p> <p><b>counselor</b> 20:2 85:25 88:2 94:10,17</p> <p><b>count</b> 13:4 31:19 43:3</p> <p><b>counted</b> 43:8 53:23 54:21</p> <p><b>counting</b> 42:24 43:4 43:18</p>
--	---	---	--

<p><b>country</b> 75:25  <b>county</b> 1:1,6 4:25  7:5,11,12 8:4 9:13  9:21,22 10:6,19,19  10:22 11:3,7,15  12:1,20 13:14 14:13  15:8,13,14,17 17:25  21:23 28:7 32:24  36:2,4 45:15 55:10  55:13,17 56:1,22,25  57:2 58:5 61:6,18  61:23 62:23 63:4,8  63:17 69:7,10,18,20  70:1 71:8 75:11,19  76:1 78:2,19,20  79:7,8,24 80:2  84:13,14,15,17,20  84:23,23,24 89:13  96:19 97:21 99:19  100:22 101:21  104:4,14,16,18,22  104:23 105:7 106:2  106:9,12,23 107:2,4  107:6,7,18,24 108:2  109:16,19,19,21,24  110:15,24 112:6,10  112:14,19 113:4,4,7  113:16 115:6 116:4  117:3,5,15,21  119:18 123:4,5,10  123:14,24 124:1,4  124:11 127:2,12,22  127:25 128:3,4,12  128:24 129:4,8,11  129:21 130:13  133:14,17 134:10  134:16 137:24  142:9,10 146:7  148:4,10,15,23  149:1,14 158:11  <b>county's</b> 57:6 61:13  80:9 86:24 101:7,15  <b>couple</b> 59:21 67:1  136:5 145:23</p>	<p><b>course</b> 50:10 76:5  110:5 112:13  138:18  <b>court</b> 8:16,17,17  15:4 88:12 89:9  94:24,25 102:9  103:22,24 127:15  <b>courts</b> 8:13,15,18  11:16 60:11 120:5,5  120:11 127:5,14  <b>cover</b> 54:24  <b>coverage</b> 53:10,14  53:20,24 54:2,2,6,7  54:16,24 61:14,15  61:16,16 62:2,15,19  63:5,9,16,18,24,25  64:8 78:13 79:16  80:6 113:14,15,22  113:23 114:7,8,8,10  114:12,13,18,23,24  127:10,21,23 128:2  138:16,17 139:6  140:10  <b>covered</b> 65:25 90:3  90:5  <b>covering</b> 40:1  <b>create</b> 87:19  <b>credentials</b> 7:22  103:8  <b>credit</b> 40:24  <b>criteria</b> 117:6  118:11 131:13,19  133:11  <b>critical</b> 134:14  <b>cross</b> 49:14,25 51:10  51:21 64:21 67:12  67:14 68:21 71:13  95:22 111:24 123:2  136:1,4,18 137:15  137:16 148:10  152:5,12,13,14  <b>crosses</b> 84:6,17 85:6  85:10  <b>crushed</b> 63:21,21</p>	<p><b>curb</b> 16:22 27:11  29:23,24,25 30:1,3  46:5  <b>curbs</b> 32:24  <b>current</b> 58:12 75:24  115:25 119:25  <b>currently</b> 8:20 17:9  39:1 58:19 66:6  76:22 91:22,23  120:8 147:14  <b>currents</b> 122:14  <b>customers</b> 39:6  <b>cut</b> 29:25 91:23  <b>cuts</b> 29:24,24 30:1,3  <b>cutting</b> 92:8</p> <p style="text-align: center;"><b>d</b></p> <p><b>d</b> 25:20,22  <b>damaged</b> 78:5  <b>daniela</b> 1:21 2:11  <b>dark</b> 98:14  <b>date</b> 5:9 23:5 51:25  78:24 90:21  <b>dated</b> 7:17 49:12  50:21 56:19,20 57:8  70:25 71:4 102:21  105:12 107:24  109:23 116:4  <b>david</b> 7:4 25:20,22  101:6  <b>day</b> 8:25 11:9 23:24  24:1,1 89:24 151:6  <b>deal</b> 141:18  <b>dealing</b> 134:19  138:22  <b>deals</b> 12:19 15:22  <b>dean</b> 155:5  <b>debris</b> 77:14  <b>decade</b> 126:5  <b>decades</b> 60:12 126:6  <b>decide</b> 70:19 74:23  <b>decision</b> 61:19,24  72:13 100:3 119:11  151:8 152:18</p>	<p><b>declared</b> 155:4  <b>decrease</b> 61:15  <b>deed</b> 134:4  <b>deep</b> 68:20,24  <b>deepak</b> 21:11  <b>deere</b> 102:25  <b>defer</b> 45:14 70:4  <b>defined</b> 72:14 114:9  127:10,21,22  <b>definitely</b> 36:6  70:16  <b>definition</b> 62:15,19  62:20,21 63:5,9  64:3 78:13 79:6,7  79:15,15 80:6 128:3  133:15,19,24,24  134:14  <b>definitional</b> 63:7  <b>definitions</b> 80:11  <b>degree</b> 7:25 8:1 82:8  103:17  <b>deliberately</b> 93:9  <b>denied</b> 103:23  136:21  <b>densely</b> 90:5  <b>density</b> 113:11  118:7 138:14 139:6  139:15,19 140:10  <b>deny</b> 137:4  <b>dep</b> 41:2 62:16 64:3  64:5 78:12,20 79:1  79:3,6,10,15 80:1,5  80:10,11,12 89:21  98:25 111:24 112:7  113:17 127:9,12,21  128:2 142:22,23  148:11,18  <b>department</b> 5:3  12:6 20:4 22:15  36:18 98:9  <b>depends</b> 125:16,17  130:25 131:12  144:7,21  <b>deposit</b> 74:15</p>
---	---	--	---

<p><b>deprived</b> 152:1</p> <p><b>depth</b> 146:8</p> <p><b>describe</b> 7:15</p> <p><b>described</b> 90:16 127:5</p> <p><b>deserve</b> 150:11</p> <p><b>deserves</b> 148:20</p> <p><b>design</b> 26:7,23 27:7 73:13 96:2,3,14 98:5,7 118:22</p> <p><b>designate</b> 32:10</p> <p><b>designated</b> 31:15 32:5,8 33:23 134:6</p> <p><b>designation</b> 32:19</p> <p><b>designed</b> 62:22 97:8</p> <p><b>designs</b> 73:13 118:25 119:5</p> <p><b>desire</b> 77:13</p> <p><b>destroyed</b> 144:6,12 144:14,15,20 145:5</p> <p><b>destroying</b> 144:17</p> <p><b>detail</b> 141:18</p> <p><b>details</b> 90:13</p> <p><b>detention</b> 40:21</p> <p><b>determine</b> 76:21 138:24 141:7 148:14</p> <p><b>determined</b> 46:25 87:9 100:4</p> <p><b>determining</b> 108:22</p> <p><b>detriments</b> 142:13</p> <p><b>developed</b> 96:18 134:16</p> <p><b>developer</b> 98:25 132:18,22 133:2</p> <p><b>developer's</b> 132:5</p> <p><b>development</b> 4:23 10:19 40:2 62:23 63:8,17 75:20 93:13 93:15 95:13 97:12 97:18,24 105:7 106:3,6,10,13 107:10,19,20 108:6 108:11,19 109:13 109:22,24 110:1,7</p>	<p>110:21 111:2,23 112:10 117:17,21 118:6,13 123:5,10 123:11 124:1,6,11 127:2,25 129:4,22 130:13 133:23 135:1 137:25 139:11 141:17,21 141:24 142:4,6,8 149:12</p> <p><b>developments</b> 141:25</p> <p><b>deviation</b> 125:13</p> <p><b>diagonally</b> 85:6</p> <p><b>diagram</b> 36:5</p> <p><b>diameter</b> 13:2</p> <p><b>didomenico</b> 1:13 2:16,17 3:23,24 6:10,13,14 18:12,13 20:18,19 24:15,16 37:4,5 47:12,13 154:2,3 155:17,18</p> <p><b>difference</b> 95:18,20 96:2,4 113:19 114:6</p> <p><b>differences</b> 91:21</p> <p><b>different</b> 44:12 46:10 56:7 69:6,24 83:5 108:9 113:22 121:10 131:4</p> <p><b>differentiate</b> 148:7</p> <p><b>difficult</b> 26:2 101:24 151:5</p> <p><b>dig</b> 89:22 145:25</p> <p><b>digested</b> 105:18</p> <p><b>digging</b> 30:6,7 68:19 69:16 87:18,21 88:5 88:7,23 90:23</p> <p><b>dining</b> 33:11 34:1</p> <p><b>direct</b> 49:9 103:5</p> <p><b>directing</b> 29:13,18</p> <p><b>direction</b> 9:17 93:23</p> <p><b>directly</b> 92:9</p> <p><b>director</b> 4:23</p> <p><b>directors</b> 82:5,8,16 83:14</p>	<p><b>dirt</b> 40:14 47:2 59:9 98:15 147:21 150:10</p> <p><b>dirts</b> 147:13</p> <p><b>disagree</b> 78:2 143:18 157:6</p> <p><b>disagrees</b> 83:12</p> <p><b>discouraged</b> 129:16</p> <p><b>discovery</b> 72:2</p> <p><b>discuss</b> 45:9</p> <p><b>discussed</b> 65:11 69:6 141:11</p> <p><b>discussion</b> 57:14 89:18 138:12</p> <p><b>disrupting</b> 99:13</p> <p><b>distance</b> 35:13 60:21</p> <p><b>distinction</b> 148:12 148:17</p> <p><b>distinctions</b> 113:13</p> <p><b>distinguish</b> 96:10</p> <p><b>distributed</b> 70:24</p> <p><b>district</b> 10:7 15:9 96:17,20 98:13 99:12 100:23</p> <p><b>disturb</b> 125:6 146:10</p> <p><b>disturbance</b> 57:16 57:17 58:12,24 60:3 60:10 64:14,16,23 65:5,9,12,20,24 66:4 68:8,8 69:15 70:3 77:20 106:6,8 111:17,19,20 112:2 114:17 117:15 124:24 125:9 126:2 126:23,25 127:24 128:10,19 129:11 129:22,24 130:3 138:3 143:9,15,22 143:23,24 146:11 146:12,14 148:11 148:12,13</p> <p><b>disturbances</b> 145:9</p>	<p><b>disturbed</b> 53:7 54:11 58:6,16 60:2 64:20 66:1,8 108:5 109:14 111:8,10,12 112:2 117:16 125:23 126:9 143:12 146:6 147:17,23 149:15 149:22</p> <p><b>disturbing</b> 68:10,11 74:2,10</p> <p><b>doctor's</b> 21:20 26:19 26:23 27:15,20</p> <p><b>document</b> 70:23,24 71:4,18,18,21 78:22 104:20 107:2,23 108:12 109:20 117:4 124:10 148:10 149:14</p> <p><b>documents</b> 27:2 78:1 104:8,12,13,14 104:16,18 107:17 109:10,17,20 110:10,13 111:6 113:17 114:11 123:4,12 124:3 133:14 138:7 142:6 148:5,8,16,23 150:13</p> <p><b>doing</b> 67:16 69:9,22 79:23 89:7,7 91:2 152:15</p> <p><b>door</b> 141:14</p> <p><b>doreen</b> 1:13</p> <p><b>dot</b> 11:1</p> <p><b>double</b> 50:7 72:17</p> <p><b>douglas</b> 7:8</p> <p><b>dr</b> 21:15 25:19 27:16,19 29:3 30:15 31:7,11,17,21 32:6 33:8,17,24 34:19,23 35:9,15</p> <p><b>drain</b> 12:8,24 17:12 17:16 72:4</p>
--	---	---	--

<p><b>drainage</b> 12:6 17:20 40:16 52:2 55:5,12 55:17 61:11 62:3 68:16 86:24,25 89:14,17 97:15,21 98:15 112:19 122:12,14 138:2</p> <p><b>draw</b> 32:18</p> <p><b>drawing</b> 43:5 52:4 99:11</p> <p><b>drawn</b> 119:12</p> <p><b>drilling</b> 73:15</p> <p><b>drive</b> 43:12,15 95:8</p> <p><b>driveway</b> 31:24 32:2 42:9 59:3,4,5,8 66:10 87:22</p> <p><b>driveways</b> 130:22</p> <p><b>driving</b> 39:8 68:3</p> <p><b>drop</b> 14:3</p> <p><b>drops</b> 14:23</p> <p><b>drumeler</b> 7:4</p> <p><b>due</b> 5:2 150:7</p> <p><b>dug</b> 50:12,13 90:19</p>	<p><b>edison</b> 85:19</p> <p><b>education</b> 26:4</p> <p><b>edwin</b> 1:23</p> <p><b>effect</b> 61:12 145:10</p> <p><b>egregious</b> 66:4</p> <p><b>eight</b> 140:11</p> <p><b>eighteen</b> 31:20,21</p> <p><b>either</b> 19:14 39:20 44:19,20 76:4 122:15 134:3 144:17</p> <p><b>elaborate</b> 105:5</p> <p><b>elements</b> 105:21 108:9 118:2</p> <p><b>elevated</b> 63:22</p> <p><b>elevation</b> 5:5 27:8 41:10 50:14 72:15 72:18</p> <p><b>elevations</b> 41:9</p> <p><b>elevator</b> 26:23 27:6</p> <p><b>elevators</b> 39:7 42:17</p> <p><b>eleven</b> 13:11 27:19 27:20 57:24</p> <p><b>eliminate</b> 77:4</p> <p><b>eliminated</b> 131:10</p> <p><b>elongate</b> 82:22</p> <p><b>embankment</b> 17:14</p> <p><b>emergency</b> 28:14</p> <p><b>emphasize</b> 118:3</p> <p><b>employees</b> 8:24 16:10 31:25 33:10</p> <p><b>enclosed</b> 26:22 27:5 40:13 41:12 43:23 43:23</p> <p><b>endangered</b> 134:6</p> <p><b>ended</b> 102:16</p> <p><b>endorsed</b> 107:5</p> <p><b>ends</b> 14:19</p> <p><b>enforce</b> 99:1</p> <p><b>enforcement</b> 106:14</p> <p><b>engage</b> 86:9</p> <p><b>engineer</b> 1:12 7:9,23 8:2 10:14 12:4 15:14 38:8 39:23 44:15 45:15 49:10</p>	<p>69:10,11 73:12 75:19 78:3,7 111:5 111:5 115:1 118:18 122:6 125:1,2,2 132:6 140:19 141:5 146:7</p> <p><b>engineer's</b> 150:4</p> <p><b>engineering</b> 7:25 12:5 36:17 51:1</p> <p><b>engineers</b> 75:12 76:1 98:7</p> <p><b>english</b> 105:18</p> <p><b>ensure</b> 48:8 110:9</p> <p><b>ensures</b> 98:13</p> <p><b>enter</b> 31:12 42:6</p> <p><b>entered</b> 78:16</p> <p><b>entire</b> 8:21 11:12 17:1 40:1,4 46:4 52:16 78:23 132:24 148:3</p> <p><b>entity</b> 83:9</p> <p><b>enumerated</b> 104:21</p> <p><b>environmental</b> 5:4,6 8:1 52:8,12 107:21 116:22 133:24 145:13,15,17 149:19,24</p> <p><b>environmentally</b> 133:16,20 134:9,14 134:17</p> <p><b>equals</b> 38:20</p> <p><b>equation</b> 126:4</p> <p><b>erosion</b> 52:2</p> <p><b>especially</b> 44:25 89:24</p> <p><b>esq</b> 1:18</p> <p><b>essential</b> 105:20</p> <p><b>essentially</b> 58:3 68:7 108:3 127:14</p> <p><b>established</b> 85:7 107:6 109:11</p> <p><b>estimate</b> 45:13 52:21</p> <p><b>estimated</b> 58:23</p>	<p><b>evaluate</b> 143:22 145:15</p> <p><b>evaluated</b> 109:9</p> <p><b>evening</b> 7:7 21:13 51:12,15 121:19 154:23,25</p> <p><b>event</b> 117:25</p> <p><b>eventually</b> 63:2</p> <p><b>everybody</b> 25:23 26:15 27:12 70:22 70:24 72:5</p> <p><b>everybody's</b> 71:19</p> <p><b>evidence</b> 94:6 116:16 121:17,20 122:2,3 147:8</p> <p><b>evidenced</b> 116:7</p> <p><b>exact</b> 36:5 54:10 64:3</p> <p><b>exactly</b> 32:11 68:20 105:21 141:18 145:12</p> <p><b>examination</b> 49:14 51:10,21 103:5 123:2 136:1,4,18 137:15 152:5,12,13</p> <p><b>examine</b> 95:22 152:14</p> <p><b>example</b> 112:18 139:13 145:11</p> <p><b>excavate</b> 67:9 74:13</p> <p><b>excavating</b> 67:6 68:19 74:3</p> <p><b>excavation</b> 49:18 50:6,18 67:13,16 73:25</p> <p><b>exception</b> 102:21 105:13 128:19 129:1,6,17 130:23 131:2,3 142:11</p> <p><b>exceptions</b> 130:10 130:12,20,21,21</p> <p><b>excess</b> 62:1</p> <p><b>exclusive</b> 108:20</p> <p><b>excuse</b> 17:2 19:23 41:4 80:24 83:24</p>
<b>e</b>			
<p><b>e</b> 19:19 25:20,20,22 25:22 38:13 81:14 103:9 158:1</p> <p><b>earlier</b> 136:15</p> <p><b>easement</b> 80:19,21 134:3</p> <p><b>easements</b> 80:16</p> <p><b>easier</b> 27:11 156:20</p> <p><b>east</b> 16:4 93:10</p> <p><b>easy</b> 29:16,17 38:4 68:7</p> <p><b>economic</b> 107:9,19 108:6,10 109:13,22 109:23 111:2 117:17 118:13 149:11</p> <p><b>edge</b> 9:19 76:16,16 77:20</p> <p><b>edgewater</b> 100:8</p>			

<p>85:21 94:21 96:23  <b>exempt</b> 155:4  <b>exercise</b> 117:7  <b>exhausting</b> 151:7  <b>exhibit</b> 8:7,9 21:17  38:17 65:4 71:2  115:10,18  <b>exhibits</b> 49:11 115:9  <b>exist</b> 41:22 42:11  121:2  <b>existed</b> 54:23 121:2  <b>existence</b> 120:15  144:24  <b>existing</b> 8:10,11,14  8:18,22 9:9,11,14  9:14,21 12:21 16:9  17:25 26:25 27:3  29:3,24 30:2,3,13  35:17,23 38:14  53:23 58:20 74:12  76:3,22 111:18,21  147:2  <b>exists</b> 58:22 86:7  147:14  <b>expansion</b> 21:20  26:19,25 27:1  <b>expect</b> 135:14  <b>experience</b> 82:2  <b>expert</b> 87:2,6,15  90:9 103:21,24  135:4,5,13,21,22  136:2,6 137:16  150:3  <b>expires</b> 158:19  <b>explain</b> 46:12 71:21  113:25 116:10  <b>exploded</b> 85:19  <b>exposed</b> 89:23 90:2  <b>expressed</b> 70:8  <b>extensive</b> 95:13  118:1  <b>extensively</b> 87:20  <b>extent</b> 67:6 73:23  116:17,23</p>	<p><b>exterior</b> 68:10  <b>extra</b> 55:3,5 67:8  <b>extraordinary</b> 143:2  143:3  <b>extreme</b> 142:7</p> <hr/> <p style="text-align: center;"><b>f</b></p> <hr/> <p><b>f</b> 158:1  <b>fabric</b> 67:2  <b>facilities</b> 126:24  127:4,17  <b>facility</b> 27:13  <b>fact</b> 94:1 95:6  104:12 105:2  108:19 112:24  115:23 117:11  118:19 120:19  121:1,10 125:21  126:8,21 129:24  135:6 142:7 143:23  145:22 148:25  149:23  <b>factor</b> 113:1 117:6  124:21 125:24  <b>factors</b> 143:24  <b>facts</b> 119:20 125:17  125:20 126:9  146:18  <b>factually</b> 92:21,25  115:22  <b>failing</b> 86:15  <b>fair</b> 53:18 58:12  59:25 60:9,15 61:13  61:23 63:4 64:13  66:5,23 67:5 75:17  75:18 123:8,23  124:8,16 125:3,13  128:17,23 129:10  129:16 130:9  132:22 134:20  137:23,25 138:23  139:3,12 140:2,19  142:21,25 143:14  147:11,20,22 148:3  157:3</p>	<p><b>fall</b> 60:22 114:23  <b>falling</b> 91:24 92:8  <b>falls</b> 23:18 29:4  <b>familiar</b> 63:15 73:10  104:17 112:13  115:12 118:24  119:25  <b>familiarity</b> 105:6  <b>families</b> 33:22  <b>family</b> 33:21 35:4,8  35:9  <b>far</b> 9:12,15 11:25  12:20 14:8,10 22:22  34:16 63:11 79:2  84:1 128:15 137:24  138:21  <b>fashion</b> 35:4  <b>fast</b> 48:13  <b>faster</b> 105:10  <b>fault</b> 22:18  <b>favor</b> 157:9  <b>favorable</b> 101:8  <b>features</b> 14:23  <b>february</b> 109:23  140:16  <b>feel</b> 88:12 107:15  <b>fees</b> 23:2  <b>feet</b> 12:2 14:17  30:18,23,24 38:25  39:1 53:6,11,12  54:5,12,12,15,20  55:4 57:22,23 58:15  58:16,24,25 59:2  66:3 67:18 68:24  71:25 72:4 73:24  74:10,12 111:7  114:16 125:5,7  146:8 147:23  <b>fell</b> 92:11  <b>fema</b> 28:14  <b>fence</b> 8:22 11:20,22  14:9,10,11,15,17  17:15 77:19  <b>ferry</b> 76:9,13,15,17</p>	<p><b>field</b> 5:5 7:10 8:3,11  8:13 9:2,17,19  10:10 11:20,22,23  11:25 12:21,23  13:25 14:9,11 17:12  19:10,14 72:5  <b>fifteen</b> 34:13 120:16  <b>file</b> 55:22,23 71:9  99:11  <b>filed</b> 23:2 55:24,25  100:23 102:22  <b>files</b> 56:22 57:1  <b>fill</b> 74:21 146:8,8  147:7 150:10  <b>filled</b> 72:8  <b>filter</b> 67:2  <b>final</b> 48:24 51:13  77:25 121:16  <b>finally</b> 119:12  <b>finance</b> 103:18  <b>financing</b> 48:14  <b>find</b> 88:22 91:5  134:1  <b>fine</b> 36:1 45:21  105:8 137:17  <b>fined</b> 86:15 88:23  <b>fines</b> 23:4,10,13,23  24:5,11  <b>finish</b> 12:16 62:12  72:12 122:7 136:1  136:13,18 137:18  149:4  <b>finished</b> 137:9  <b>fire</b> 44:1  <b>firm</b> 30:5 103:15  104:16 123:15,20  <b>first</b> 5:13 7:2,15  12:16,22 25:13,19  25:22 28:7 33:9  38:16 39:6 42:16  43:1,3,4 59:14 70:6  74:5 78:21 88:11  107:1 150:25  156:16,16,18,19</p>
---	---	---	---

<p><b>fitzgibbons</b> 1:13                  2:19,20 3:15,19 4:1                  4:2 6:6,9,16,17 10:8                  13:21 14:1 18:6,15                  18:16 19:9,13,23                  20:6,14,21,22 23:14                  23:20 24:4,10,18,19                  36:21 37:7,8 41:25                  42:20,23 43:2,21,25                  47:5,15,16 48:18                  61:17,22 78:25 79:4                  82:24 83:24 85:21                  85:24 86:6,19 88:11                  88:17 89:6 91:11,15                  94:21 96:23 97:1                  137:5,14 151:14                  152:11,23 153:15                  153:22 154:5,6                  155:10,13,20,21                  156:17,24  <b>five</b> 30:20 43:7 89:2                  89:3 93:6 98:20                  99:25 102:8,9                  125:18 130:17,19                  135:7 151:18 152:5                  152:8,9  <b>flag</b> 3:10,11  <b>flattening</b> 12:22  <b>flatter</b> 77:15  <b>flexible</b> 82:20  <b>flood</b> 10:24 28:15,15                  28:17 41:3 97:14                  112:19 134:5  <b>flooded</b> 93:13 99:13  <b>flooding</b> 93:19,21                  95:8,9,14,25 96:4,8                  96:17,21 97:25                  98:18,21  <b>floor</b> 1:7 33:7,9,10                  35:10 39:6 43:1,1,3                  43:5,8 44:10,12,17                  45:2 46:20 47:4                  72:18  <b>floors</b> 39:8 42:19</p>	<p><b>flow</b> 17:25 97:16,17                  98:19,24  <b>flowering</b> 40:11  <b>flying</b> 14:15  <b>focus</b> 69:13,15                  108:6  <b>focused</b> 130:13                  138:4  <b>focusing</b> 64:21 70:2  <b>folders</b> 22:13  <b>follow</b> 41:20 99:11  <b>followed</b> 22:16,24  <b>following</b> 22:22 62:8                  69:8 134:1  <b>foot</b> 11:22 14:15,18                  57:16,17  <b>footing</b> 50:14 72:20  <b>footings</b> 50:16  <b>footprint</b> 66:19  <b>forbes</b> 4:23 5:12  <b>force</b> 88:20 98:8                  107:10,19  <b>forget</b> 140:11  <b>forgot</b> 78:6  <b>form</b> 87:8  <b>formal</b> 118:24  <b>formally</b> 122:3  <b>formed</b> 124:18  <b>forward</b> 27:9 68:1                  78:9 93:3 102:6                  118:23  <b>forwarded</b> 22:14  <b>found</b> 60:24 90:21                  122:13  <b>foundation</b> 72:18,22                  104:15 106:19  <b>four</b> 11:22 14:15                  43:7 60:10 151:2  <b>francesca</b> 1:22  <b>frank</b> 19:19  <b>frankly</b> 117:14  <b>freedom</b> 82:25  <b>freeholder</b> 1:13,15                  2:9,17 3:24 6:14                  9:25 18:5,13 19:2</p>	<p>20:19 24:16 25:5                  36:23 37:5,19 45:25                  46:6 47:13 48:2                  51:3 84:8,12,19                  86:17 136:7,17                  137:18 150:24                  151:23 153:6,17                  154:3,17 155:18                  156:7  <b>freeholders</b> 1:6                  110:6  <b>front</b> 26:20 27:7                  36:10 41:10,12,13                  41:22 42:7 46:5                  68:24 71:11 95:12                  97:23 103:21 133:5  <b>frontage</b> 30:14,19  <b>frustrating</b> 99:9  <b>full</b> 33:11 54:19                  59:5 103:7 105:17                  151:5  <b>fully</b> 44:4  <b>furnish</b> 15:20 30:4  <b>further</b> 13:14 31:4                  36:20 38:24 55:16                  80:22,23 81:1                  121:14 135:16                  157:10  <b>future</b> 5:9 8:23                  26:23 27:8 33:15                  35:3 36:2</p> <p style="text-align: center;"><b>g</b></p> <p><b>g</b> 78:19 103:9  <b>gabion</b> 75:21,25                  78:3 100:3,6 140:20                  141:13  <b>galaxy</b> 64:12 68:21                  82:3,13,15,22 83:8                  83:11,15 90:1                  122:16,20  <b>garage</b> 38:14 39:4,4                  40:12,13 43:23                  76:11</p>	<p><b>garden</b> 5:24  <b>garrubbo</b> 38:2  <b>gas</b> 80:17 83:20                  84:15,22 85:6,17,20                  86:12  <b>general</b> 8:18 128:9                  134:23 142:11  <b>generally</b> 107:16                  128:11  <b>generic</b> 116:14  <b>generically</b> 114:2                  144:18  <b>gentle</b> 17:15 77:11  <b>gentleman</b> 83:10  <b>geo</b> 57:7  <b>geological</b> 101:16  <b>geologist</b> 101:11  <b>george</b> 21:13  <b>geotechnical</b> 49:21                  50:11 73:12 76:24                  141:7  <b>gesture</b> 100:12  <b>getting</b> 134:19 149:6  <b>giarratana</b> 1:22  <b>give</b> 26:4 27:11 34:3                  36:5 70:20 85:22                  92:4 102:8 103:7                  136:22 145:11  <b>given</b> 22:1 92:20                  93:14 97:24  <b>giving</b> 40:24 135:12  <b>glass</b> 41:12  <b>glembocki</b> 1:12 2:22                  2:23 4:4,5 6:19,20                  18:18,19 20:24,25                  24:21,22 36:17,19                  37:10,11 47:18,19                  154:8,9 155:23,24  <b>go</b> 7:16 8:15 9:17                  10:15 11:15 25:11                  27:9 28:6 30:13                  31:12 32:23 44:20                  59:6 62:11 63:12                  67:18 69:21 73:25                  74:24 83:8 88:13,18</p>
---	--	---	---

<p>88:24 89:16 91:1  98:7 100:22 102:5  102:25 106:21  107:12 109:5  121:22 125:4  130:18 135:16,18  138:21 142:2 145:8  146:10 149:8 153:1  156:20  <b>goal</b> 14:20  <b>goals</b> 107:25 109:11  109:25 117:3 149:1  149:13  <b>goes</b> 32:2 40:16  61:12 73:16 76:11  82:23 106:7,17  114:14 117:2,10  118:1 129:21 130:2  145:23  <b>going</b> 5:2 8:15 11:20  12:8 14:2 17:11  26:21 28:18 30:7  32:9,10 33:14,15  34:16,23,24 38:17  39:15,15 41:8 43:22  44:20 46:8,24 48:13  48:14 52:25 56:10  57:3,14 58:10 63:14  64:25 65:22,25  66:15 67:18,20 69:3  69:12 72:11 73:14  73:22,25,25 75:4  77:25 78:17,18  81:18,20 82:22  84:11 87:24 88:7,25  91:16 93:14,23 95:9  96:7 99:10 105:23  107:12 110:16  121:22 133:19  134:13 135:15  136:3,8 138:6,21  140:12,13 148:2  149:10 151:20  152:7 156:20 157:5</p>	<p><b>good</b> 7:7 16:12  21:13 39:23 43:16  45:24 46:6 51:15  93:2 99:18 150:17  154:23  <b>gotten</b> 52:6 55:14  <b>grade</b> 32:25 33:1,1  45:22,24 47:1,2  122:14  <b>grades</b> 45:22 46:13  46:18,23  <b>grading</b> 52:1 66:1  <b>graduate</b> 103:17,18  103:19  <b>granite</b> 74:1  <b>grant</b> 70:19 117:7  117:13 119:19  129:1 130:15 132:4  142:10  <b>granted</b> 113:14  139:25  <b>granting</b> 121:4  128:18 129:5  133:12  <b>grass</b> 8:12 17:10  60:18,25 63:24 64:6  <b>grasses</b> 40:11  <b>gravel</b> 60:17 63:21  147:21  <b>great</b> 105:23 107:13  <b>greater</b> 53:7 67:6  <b>green</b> 14:21 29:7,10  29:18 40:5,6,9,10  40:23,23 43:8 45:18  <b>greenfield</b> 111:15  126:22  <b>ground</b> 43:1 44:10  44:17 45:2 48:19  <b>group</b> 81:25 86:14  92:12  <b>groups</b> 83:2  <b>growing</b> 60:25  <b>grown</b> 60:19  <b>gruel</b> 51:12 101:19  102:19 103:6,9,15</p>	<p>104:2,20 109:2  112:9 123:3 136:1,5  153:3  <b>guess</b> 52:21 59:15  64:9 74:25 81:6  89:20 117:24 136:3  147:25  <b>guidelines</b> 11:1  <b>guides</b> 109:24  <b>gutenberg</b> 50:4  81:3,4  <b>guy</b> 38:2  <b>guys</b> 7:17</p> <hr/> <p style="text-align: center;"><b>h</b></p> <hr/> <p><b>habitats</b> 134:6  <b>half</b> 33:12  <b>hamstrings</b> 139:18  <b>hand</b> 71:19  <b>handicapped</b> 13:22  13:23 26:21 27:6  32:5,14 36:8  <b>handle</b> 17:21,21  56:11 79:20  <b>hanging</b> 137:12  <b>happen</b> 93:15 96:13  108:21  <b>happened</b> 59:20,23  91:7 96:10 99:2  126:17  <b>happening</b> 80:7  93:16  <b>happens</b> 144:5,11  <b>happy</b> 30:9 68:2  136:24  <b>hard</b> 17:4 25:25,25  31:9 92:4 94:13  147:12 151:3  <b>hardship</b> 106:17  117:12,13 128:12  128:21 131:7,9,16  131:17,22,24 132:2  134:20 143:2  <b>harrison</b> 5:16 19:20</p>	<p><b>hashed</b> 64:21  <b>hazard</b> 10:24 28:15  <b>he'll</b> 45:19  <b>head</b> 152:6  <b>heads</b> 151:11  <b>hear</b> 17:4 26:2,16  31:10 67:22 69:12  87:11 88:20 99:9  101:24 114:21  147:7  <b>heard</b> 92:5 114:15  114:19 132:10  146:4 147:1,6,9  152:15,16  <b>hearing</b> 7:3 25:25  26:1 51:17 55:19  61:8 90:15 92:22  94:5 103:25  <b>hearings</b> 85:3  <b>heavy</b> 92:11  <b>height</b> 52:21 61:14  113:11 118:7  138:15 139:5  140:10  <b>held</b> 158:11  <b>hello</b> 38:4  <b>help</b> 40:11 92:19  140:21  <b>helped</b> 68:15,15  <b>heyer</b> 103:15  <b>hide</b> 95:6  <b>high</b> 9:3,4,5 14:2  74:10 85:18  <b>highlight</b> 64:25  104:10 105:9,25  <b>highlighted</b> 65:4,21  <b>highlighter</b> 65:1  <b>highlights</b> 105:20  <b>highly</b> 104:17  <b>highway</b> 38:24  <b>hill</b> 95:13,19  <b>historic</b> 72:5 111:18  126:6 145:14 146:8  147:7 149:19  150:10</p>
---	--	---	--

<p><b>historical</b> 58:11 126:3 <b>historically</b> 93:13 121:9 143:12 145:8 <b>history</b> 116:7,23 133:14 <b>hoboken</b> 4:18 5:25 6:3 10:9 38:3,24 39:11,12,14 41:11 42:3 44:14,15,21 <b>hoboken's</b> 4:24 <b>hold</b> 39:4 76:20 <b>holds</b> 39:2 <b>holloway</b> 2:25 <b>hon</b> 1:13,15 <b>honestly</b> 100:2 <b>hopefully</b> 119:20 <b>hoping</b> 102:7 <b>hopper</b> 7:7,8,23 8:8 8:10 10:2,6,11,17 11:18,21 12:2,18 13:8,10,20,23 14:4 14:12,16 15:25 16:5 16:9,15,17,25 17:9 17:13,20 19:11 <b>horizontal</b> 68:10 <b>horizontally</b> 67:18 <b>hour</b> 45:1 149:8 <b>hourly</b> 39:20 <b>hours</b> 151:2 <b>house</b> 76:8,10,12 <b>housing</b> 39:17 <b>hudson</b> 1:1,6 2:2 4:25 5:8 10:19,22 12:19 40:17 41:5 58:5 62:23 63:4,8 63:17 70:1 75:25 80:2 100:22 104:21 107:3 109:21 112:10 116:4 123:4 123:5,9,13,24 124:1 124:4,10 127:2,22 128:3,3,24 129:4,10 130:12 133:14,17 134:9,15 148:4,10</p>	<p>158:11 <b>hundred</b> 39:16 97:13 98:20 144:14 144:15,17,20 <b>hurry</b> 140:13 <b>hut</b> 145:8 <b>hypothetical</b> 133:5 133:8 152:19,20</p> <hr/> <p style="text-align: center;"><b>i</b></p> <hr/> <p><b>i.d.</b> 158:18 <b>idea</b> 125:24 <b>identification</b> 122:2 <b>identified</b> 104:11 107:11 108:17 <b>identify</b> 82:10,21 111:14 133:21 <b>identifying</b> 107:14 <b>illegal</b> 88:7,16 <b>illegally</b> 88:13 <b>immediate</b> 126:18 <b>immediately</b> 23:23 <b>impact</b> 40:2 72:11 <b>impervious</b> 53:9,13 53:20,24 54:2,2,6,7 54:12,16,23 58:19 61:16 62:15,19 63:5 63:9,16,18,24,25 64:7,10 78:13,21 79:16 80:6 89:20 113:15,23 114:7,10 114:11,13,18,23 127:10,20,23 128:2 138:16,17 139:6 140:10 <b>implausible</b> 106:16 131:20 <b>implement</b> 79:12,22 <b>implemented</b> 79:17 79:19 <b>implicate</b> 89:8 <b>implied</b> 64:9 <b>imply</b> 150:8 <b>important</b> 110:19 111:16 113:3</p>	<p>118:11 125:23 138:4,9 <b>impossible</b> 11:14 131:21 <b>impracticable</b> 131:20 <b>improper</b> 92:1 95:23 <b>improved</b> 53:13 <b>improvement</b> 9:7 29:17 63:19 <b>improvements</b> 28:21 34:14 63:23 120:4,14 <b>inappropriate</b> 141:21 <b>inch</b> 13:12,12 38:19 85:18 90:17 <b>inches</b> 13:2 66:24 67:1 74:5 145:24 <b>incidents</b> 22:17 <b>include</b> 33:1 47:2 130:1 <b>included</b> 59:2 67:8 72:24 <b>includes</b> 59:4 <b>including</b> 43:1 63:22 75:13 114:8,9 <b>incoming</b> 42:16 <b>increase</b> 27:23 39:15 54:5,7 98:22 <b>increased</b> 27:22 44:16 <b>independent</b> 69:10 124:20 <b>independently</b> 124:25 <b>indicate</b> 51:16 115:20 118:15 126:9 142:3 <b>indicated</b> 56:13 64:12 82:4 105:1 112:16 118:6 123:3 <b>indicates</b> 55:9 77:13 133:25 143:1</p>	<p><b>indicating</b> 61:18 <b>individuals</b> 82:18 83:2,9 <b>industrial</b> 115:19 116:24 120:20 121:1,11 126:5,10 126:25 144:24 <b>information</b> 22:1 58:11 73:23 91:5 95:23 97:25 119:10 121:15 124:17 <b>informed</b> 21:22 <b>infrastructure</b> 29:7 40:3 <b>initial</b> 115:14 132:23 <b>inlet</b> 17:16,25 <b>inlets</b> 17:7,18 <b>inquiry</b> 94:25 <b>inside</b> 29:5 43:10 69:3 85:20 <b>insight</b> 90:14 <b>inspector</b> 1:20 <b>install</b> 11:4 14:19 40:6 45:16 <b>installation</b> 47:1 <b>installed</b> 9:8,9 <b>installing</b> 14:25 15:2 <b>instance</b> 141:3 143:9 <b>instructor</b> 103:19 <b>insurance</b> 28:15 <b>intense</b> 110:21 113:10 <b>intensity</b> 139:11 <b>intent</b> 104:17 <b>intention</b> 56:7 100:5 <b>interested</b> 61:9 <b>interestingly</b> 110:23 113:12 <b>interferes</b> 93:21 <b>interior</b> 27:3 <b>interject</b> 73:18 <b>internal</b> 27:16 56:11 65:22 67:9</p>
--	--	--	---

<p><b>interpreted</b> 122:19  <b>interrelationship</b>  107:8  <b>interrupt</b> 49:24  123:1  <b>intersection</b> 7:5,11  <b>intersects</b> 66:7,20  <b>inventory</b> 13:7  <b>investigation</b> 50:11  122:12  <b>investigations</b>  122:17  <b>involve</b> 132:13  <b>involved</b> 9:13 44:13  56:6 79:1 96:22  123:5,13  <b>involvement</b> 123:4,9  123:21,22  <b>involves</b> 7:10 125:5  <b>iron</b> 5:20  <b>irrigation</b> 92:10  <b>issuance</b> 15:19  <b>issue</b> 11:8 23:17  50:9 52:24 74:4  82:6 90:10,10 91:14  114:14 116:22  124:24 140:21  141:19  <b>issued</b> 22:20  <b>issues</b> 61:8,11 73:9  76:6 80:2 112:18  122:14 124:20  138:3 140:21,25  <b>item</b> 5:13 7:2 10:21  10:23,25 12:18  14:21 15:2,6,13,16  15:22 51:6,6 57:7  154:24 155:2  156:15  <b>items</b> 10:14,15 53:4  104:8</p>	<p><b>jefferson</b> 7:5,12 8:5  9:1 11:5,8,12 16:14  16:23 17:8,10 39:18  155:6  <b>jeremy</b> 81:14 85:23  85:24  <b>jersey</b> 1:8,8 2:7 5:3  7:24 26:6,12 41:2  44:2 80:13 85:19  93:10 97:9 103:10  103:17 158:8,18  <b>job</b> 1:25 22:24  <b>john</b> 49:7  <b>johnson</b> 56:20  <b>joseph</b> 1:12 71:5  <b>journal</b> 2:8  <b>jude</b> 1:13  <b>judgment</b> 120:21  <b>july</b> 4:14 23:25 49:9  50:21 57:7 64:19  80:5 102:22 104:11  105:12 115:5  <b>jump</b> 80:8 137:1  <b>june</b> 56:19 70:25  115:14 118:18  <b>junior</b> 9:6  <b>jurisdiction</b> 10:20  23:12 28:8 40:17  69:7,8,19 71:1  86:20,24 87:1 89:9  112:17  <b>justification</b> 56:19  62:14 105:22  118:17 120:22  121:4 124:18  128:18 145:24  146:3  <b>justified</b> 128:10</p>	<p><b>keeps</b> 87:24  <b>kennedy</b> 1:14 21:12  21:21  <b>key</b> 105:25 139:9  <b>kind</b> 7:14 59:18  66:25  <b>kitchen</b> 33:11,25  <b>knew</b> 75:20 78:12  <b>know</b> 23:11,12  35:25 48:19 53:11  54:22 55:22 56:9  57:8 60:22 61:4,19  64:2,24 66:24 74:16  78:15 79:23 80:15  81:8 83:5 84:16  86:6,7 88:15 95:4  95:17 96:1 98:14  100:14 101:10  103:11 110:17  113:13 124:12  127:8 139:19 141:3  147:9 149:21,23,23  150:5,10 152:14,18  157:7  <b>knowledge</b> 50:7  <b>knows</b> 32:11 105:17</p>	<p>122:4,11,21,25  123:2 133:22 135:5  135:9,14,22 136:11  136:24 137:17,20  140:8 150:3,7,16,19  151:9,12,17,21  152:4,9 154:23  <b>lamb's</b> 152:7  <b>lambuth</b> 7:25  <b>land</b> 34:4 62:23 63:8  63:17,20 104:15  105:7 106:2,10,13  110:6 111:23 112:6  112:10 113:4,7  117:14 127:14,25  133:23 134:2 135:1  142:6,19 148:15,22  <b>landscape</b> 13:14  38:18  <b>landscaping</b> 14:22  29:15  <b>lane</b> 93:23  <b>lanes</b> 42:13 43:12  93:23  <b>language</b> 129:12  130:6  <b>large</b> 15:25 26:20  62:5  <b>largely</b> 85:11  <b>larger</b> 53:24  <b>lastly</b> 118:5  <b>late</b> 149:6  <b>latest</b> 41:16  <b>law</b> 88:12 89:10  142:19  <b>lawns</b> 63:24 64:6  <b>laws</b> 98:5  <b>lawyer</b> 91:17 94:13  <b>lay</b> 104:15  <b>layer</b> 90:3  <b>layers</b> 67:2  <b>lcc</b> 49:7  <b>lead</b> 86:8  <b>league</b> 9:6</p>
<p><b>j</b></p>	<p><b>k</b></p>	<p><b>l</b>  <b>l</b> 1:18 38:12 49:6  103:9  <b>labor</b> 107:10,19  <b>lacking</b> 62:20  <b>lady</b> 136:18  <b>laid</b> 108:14 134:22  <b>lamb</b> 49:7,14,24  51:5,10,15,21 52:1  61:21 62:11 67:21  68:2,6 69:13,24  71:2,7,16 72:10  73:5,9,21 74:25  75:4 78:10 79:5,14  79:25 80:22,25 82:4  82:8 83:7,13,16  84:17 92:19 93:2  102:23 114:15</p>	

<p><b>leave</b> 43:6  <b>leaves</b> 59:9  <b>led</b> 124:10  <b>ledger</b> 2:8  <b>left</b> 41:10,14 49:8  54:14  <b>legal</b> 82:17,19 84:9  86:13,22  <b>letter</b> 4:17,22 7:16  10:15,18 23:1,1  41:17,18 50:21,23  51:1,6 57:7  <b>letting</b> 95:4  <b>level</b> 40:22 55:25  99:19,20 114:18  117:21 149:18  <b>licensed</b> 26:10,11  103:16  <b>life</b> 99:16,17,21  107:10,18,20 138:8  138:10  <b>light</b> 109:16 110:11  110:19 125:21  141:16 142:5  <b>lighting</b> 9:9,10  <b>lights</b> 120:5  <b>limit</b> 65:5 81:10  87:1 89:1 93:5 99:7  <b>limitation</b> 82:15  <b>limited</b> 61:9 87:14  99:25 112:18  129:15  <b>limits</b> 8:22 64:23  <b>line</b> 14:18 17:1,22  31:18 50:12 65:18  65:22,24 67:10,19  68:23 80:7,17 84:15  84:22 85:14,17 86:9  <b>lines</b> 56:11 148:14  <b>list</b> 53:3 140:14  142:2  <b>listed</b> 104:14 156:13  <b>listening</b> 61:24 90:8  151:3</p>	<p><b>literal</b> 106:14  <b>literature</b> 101:15  <b>little</b> 9:6 27:7 53:11  58:23 60:6 67:9  82:20 145:8  <b>live</b> 82:10,12,21  90:13 95:6 101:6  <b>living</b> 33:25  <b>llc</b> 6:2 49:1  <b>lobby</b> 26:22  <b>local</b> 118:8  <b>locate</b> 52:10  <b>located</b> 5:20,24 6:2  7:4,10 8:23 10:23  12:24 15:3 19:18  21:11 49:1 58:13  110:25  <b>location</b> 5:16 8:18  13:16 38:2 77:6  155:5  <b>long</b> 20:8 27:17  31:11 156:21 157:6  <b>longer</b> 116:3 120:20  121:2 136:16  <b>look</b> 22:20 40:2  52:25 60:21 71:8,11  72:16 74:7,18 93:3  98:18 126:17  133:12 135:16  139:5,6 140:25  143:21  <b>looked</b> 56:22 57:1  80:9 99:18 109:9  119:1 127:20  132:19  <b>looking</b> 110:14,20  111:20,23 124:24  125:24 136:2  <b>looks</b> 19:7 90:11  <b>loose</b> 50:15,17 72:22  <b>lose</b> 147:12,21  <b>losing</b> 68:5  <b>lost</b> 124:7  <b>lot</b> 6:3 7:6,13 11:15  11:24 14:6 17:21</p>	<p>19:19 21:12 31:6,7  31:12 32:13 38:14  39:2,9,25 40:1,4,22  53:13 56:7 57:14  65:22,24 67:9 69:6  74:6,20 88:4 89:18  99:12 132:20  135:11 138:12  <b>lots</b> 5:17,21,25 38:3  49:2 56:8,11 155:6  <b>low</b> 40:2  <b>lower</b> 5:5  <b>lowest</b> 40:22</p> <hr/> <p style="text-align: center;"><b>m</b></p> <hr/> <p><b>m</b> 25:19,23 49:6  <b>macro</b> 140:25  <b>madam</b> 2:4 3:5 4:15  10:13 12:15 22:11  30:12,21 32:22 43:9  43:22 45:8 46:11  49:4 61:17 82:24  84:8 100:17 102:18  108:25 136:7 137:5  137:6 151:23  153:10  <b>mail</b> 71:20  <b>main</b> 9:18 70:15  138:3 151:11  <b>major</b> 61:10 83:22  85:17  <b>majority</b> 58:15 60:4  <b>making</b> 92:14 94:1  119:11  <b>management</b> 9:22  28:14 55:5,10 61:11  62:4 97:10 98:6  110:2 111:25  <b>manager</b> 1:19  <b>manned</b> 39:5  <b>map</b> 71:14  <b>march</b> 52:3  <b>mario</b> 1:20 23:14  <b>mark</b> 8:7 38:17 41:7  109:2</p>	<p><b>marked</b> 21:17 31:17  40:8 41:8 49:10  52:4 64:19 108:25  115:9 118:16  <b>marking</b> 78:19  <b>mary</b> 1:12  <b>massey</b> 28:3  <b>massey's</b> 10:15  12:17  <b>massive</b> 50:17  <b>master</b> 10:22 28:11  101:22 104:23  105:7 107:24 108:9  109:8 116:4 123:14  123:19,24 124:8  <b>match</b> 131:6  <b>matching</b> 131:1  <b>material</b> 72:23  74:14  <b>matter</b> 4:13 10:20  108:21  <b>matters</b> 157:10  <b>max</b> 113:20  <b>maxed</b> 113:18  <b>maximum</b> 67:15  118:8 139:15,19  <b>meadowlands</b> 15:11  <b>mean</b> 11:19 36:3  64:10 68:2 72:19  89:13 91:19 93:18  135:9,10,10 136:24  155:3  <b>meaning</b> 119:8  <b>meant</b> 113:25  <b>measures</b> 98:8  <b>mechanism</b> 128:24  <b>medicine</b> 27:16  <b>meet</b> 44:1  <b>meeting</b> 1:4 2:2,3,5  2:7 4:14 5:5,15 49:8  49:9 50:2 52:5,6  86:2 91:17,18 92:6  102:14,15,16 115:5  115:5,18 137:8  151:19,20 152:5,22</p>
--	---	---	---

<p>153:16,19 157:12 158:10 <b>meetings</b> 2:6 86:2 <b>mehta</b> 1:14 2:25 12:12 18:21,22 21:2 21:3 24:8,11,24,25 33:5,6,14 35:1,16 35:22 36:11 37:13 37:14 47:21,22 69:1 69:2,17 70:4 90:9 150:1 154:11,12 156:1,2 <b>member</b> 81:24 94:6 <b>members</b> 49:5,16 52:20 64:24 82:2,3 105:19 136:25 <b>memorandum</b> 15:10 <b>memorialization</b> 5:14 <b>memorializations</b> 4:13 <b>mention</b> 63:10 <b>mentioned</b> 15:8 54:24 64:10 72:6 80:20 112:9 <b>mercy</b> 99:10 <b>merit</b> 150:11 <b>met</b> 139:14 <b>metal</b> 5:20 <b>method</b> 69:5 <b>michael</b> 1:19 5:16 <b>microphone</b> 17:3 25:18 26:16 70:10 103:1 <b>mid</b> 112:24 <b>middle</b> 42:8,13 77:3 <b>middleton</b> 1:18 2:4 8:9 21:18 23:8,11 25:12,15 38:10 81:17,22 84:14,22 86:23 87:5,13 88:3 88:8 92:14 93:11,25 94:19 95:24 96:5 135:25 136:14</p>	<p>148:1 152:4 153:2 <b>mild</b> 93:20 <b>mind</b> 66:3 103:11 105:10 <b>mini</b> 72:21 73:3,11 73:13,15 <b>minimum</b> 35:24 73:17 <b>minor</b> 27:3 39:13 <b>minute</b> 102:8 <b>minutes</b> 3:13,16 89:2,3 93:6 99:25 102:9 116:3 136:23 151:18,24 152:6,8,9 <b>miscommunication</b> 22:15,18,23 <b>mistake</b> 22:20 108:25 <b>mitigate</b> 101:14 <b>mix</b> 114:22 131:5 <b>mixing</b> 131:1 <b>modifications</b> 39:13 <b>modifying</b> 27:9 <b>moment</b> 113:21 <b>mon</b> 155:5 <b>money</b> 45:15 73:15 <b>monitoring</b> 73:20 <b>month</b> 42:4 <b>monthly</b> 39:20 <b>months</b> 48:16 104:3 124:6,10 <b>morning</b> 42:17 45:1 <b>motion</b> 3:14,16,18 4:11 6:5,7,8 7:1 18:4,5,7 19:6 20:7,9 20:13 21:9 24:3,5,9 25:9 36:22,24 37:23 46:20 47:4,7 48:6 153:14,14,15,18,21 154:21 155:9,11,13 156:11 157:8 <b>motorists</b> 39:5 <b>move</b> 43:13 45:3 48:13 57:4 67:25 75:4,5 78:8 102:17</p>	<p>105:11 121:17 <b>moved</b> 44:12 72:7 74:15 <b>moving</b> 65:18 117:25 121:19 <b>mudslide</b> 97:25 <b>mudslides</b> 95:14 <b>municipal</b> 15:7 52:23 61:10 62:2 82:9 99:19 114:18 117:19,21 139:4 140:3 142:19 <b>municipalities</b> 79:12 79:21 107:8 <b>municipality</b> 34:3 62:9 79:24 110:24 <b>mutually</b> 108:20</p> <p style="text-align: center;"><b>n</b></p> <p><b>n</b> 25:19 38:13 81:14 158:1 <b>naivete</b> 99:20 <b>name</b> 7:7 25:15,16 25:19,20,22,23 38:11,11 49:5 81:13 85:22 101:6,11 103:7,9 <b>narrowed</b> 55:3 <b>narrows</b> 93:23 <b>nastasi</b> 5:23 <b>natural</b> 8:12 14:23 60:18 108:7 <b>nature</b> 90:14 104:24 112:20 <b>necessarily</b> 99:22 126:20 146:18 147:24 <b>necessary</b> 15:7 29:21 32:13,15 33:19 76:5 78:3,6 94:18 <b>need</b> 13:4 21:23 22:4,6 29:21,25 30:24 32:17,18 41:2 46:6 47:4 62:6</p>	<p>70:16 78:23 92:15 141:6 151:18 <b>needed</b> 55:21 73:12 77:25 <b>needs</b> 46:25 <b>neglected</b> 50:3 <b>netting</b> 14:19 <b>never</b> 56:12 94:23 135:17 <b>new</b> 1:8 5:3 7:24 9:2 26:6,12,21,22,24 27:4,5 41:2 44:2,23 46:18 80:12 85:19 93:10 97:9 103:10 103:16 111:17 112:2 143:9,15,23 148:11,12 153:1 155:7 156:13 158:8 158:18 <b>newark</b> 38:2,15,21 42:8 44:6 <b>ng</b> 1:14 3:1,2 4:6,7 6:21,22 13:18 18:23 18:24 21:4,5 25:1,2 37:15,16 47:23,24 150:20 151:2 154:13,14 155:14 156:3,4,15 <b>nice</b> 27:6 <b>nicer</b> 26:22 <b>night</b> 150:23 156:21 <b>nine</b> 13:20 <b>ninety</b> 30:20 <b>nj</b> 11:1 <b>nj308686</b> 1:25 <b>njdep</b> 97:9 98:5 <b>noise</b> 26:1 101:24 <b>nonconforming</b> 144:2,6,12 <b>normal</b> 35:23 <b>normally</b> 82:17 <b>north</b> 8:20,24 35:17 38:22 40:17 41:5 49:3 50:4 52:22,23 53:14,21 69:25</p>
---	---	--	--

<p>76:24 79:17,19 91:4 93:10 94:5 95:6 101:6 110:18 112:25 113:5 138:18,22 140:4 <b>northeast</b> 13:24 <b>northern</b> 64:17 <b>northwest</b> 8:13 15:4 <b>notary</b> 158:7,17 <b>note</b> 9:25 12:12 50:19 105:17 108:16 109:17 110:16,25 111:16 111:22 113:9 <b>noted</b> 105:12,12 109:18,21 115:4 <b>notes</b> 41:20 49:20 50:8 57:21 158:10 <b>notice</b> 22:12,22 23:16 <b>noticed</b> 2:5 <b>notices</b> 22:16 <b>notified</b> 19:24 20:1 22:25 <b>nova</b> 65:2 <b>nows</b> 137:24 <b>nuisance</b> 91:21 <b>number</b> 36:5 44:16 71:12 100:25 108:14,16,18 111:13,21 113:11 115:24 117:3 130:9 130:22 <b>numbers</b> 57:18 125:4,24 <b>numerous</b> 103:21</p>	<p><b>objecting</b> 67:25 87:25 <b>objection</b> 62:7 85:5 87:24 95:5 <b>objections</b> 79:5 92:22 <b>objective</b> 138:1 149:13 <b>objectives</b> 101:21 109:12 149:1 <b>obscured</b> 101:12 <b>observer</b> 38:23 <b>obvious</b> 89:25 141:23 <b>obviously</b> 39:14 <b>occasion</b> 119:23 <b>occupy</b> 77:8 <b>occurred</b> 111:14 123:9 126:2 141:24 142:4 145:14 <b>occurs</b> 116:19 <b>october</b> 41:17 110:8 <b>offered</b> 45:18 <b>office</b> 15:14 21:20 22:16,24 26:20,23 27:15,20 33:9,11 35:10 52:14 103:7,9 <b>officer</b> 23:15 <b>official</b> 5:10 22:19 69:11 <b>oh</b> 59:9 128:7 <b>okay</b> 4:22 12:18 13:6,8,10 26:16 44:22 52:15 61:20 68:4 72:23 79:4 81:2 83:18 84:2,4 85:16 86:7,8 90:14 94:24 103:6,12 105:8 109:6 <b>old</b> 52:6 143:24 148:13 153:1 154:25 156:13 <b>once</b> 5:9 32:6 91:11 91:15</p>	<p><b>onerous</b> 106:15 <b>ones</b> 104:21 139:9 <b>open</b> 2:6 39:19 44:19 52:21 53:4 104:22 108:13,14 110:1 127:4 <b>opening</b> 130:21 <b>operated</b> 52:23 <b>operation</b> 73:17 <b>opinion</b> 62:18 84:9 106:24,25 116:25 117:9,12 119:3,9 120:22 121:12 132:2 139:9 143:20 144:25 157:7 <b>opinions</b> 124:19 <b>opportunity</b> 5:3 92:4,20 104:9 115:4 118:16 119:22 135:13 <b>opposed</b> 11:6 126:18 <b>opposite</b> 16:16 <b>option</b> 106:11 <b>order</b> 2:3 23:18 102:14 132:3 145:15 <b>ordinance</b> 62:10 79:12,17,20 105:7 118:8 139:20 144:22 <b>ordinances</b> 62:2 138:19,22 140:3 <b>originally</b> 59:18 <b>ought</b> 87:10 <b>outdated</b> 9:10 <b>outdoor</b> 27:25 <b>outlet</b> 17:23 <b>outline</b> 77:9 <b>outs</b> 36:8 <b>outside</b> 11:3 <b>overall</b> 141:16 <b>overflow</b> 11:24 16:11</p>	<p><b>overhangs</b> 76:17 <b>overhead</b> 26:1 101:24 <b>overlook</b> 89:23 <b>overview</b> 26:18 <b>owned</b> 16:4 <b>owner</b> 131:20 <b>owners</b> 82:6 <b>ownership</b> 134:4</p> <p style="text-align: center;"><b>p</b></p> <p><b>p</b> 25:20,22,23 49:6 <b>p.e.</b> 1:23,24 <b>p.m.</b> 1:9 157:13 <b>package</b> 50:20 121:17 <b>packet</b> 4:17 <b>page</b> 38:22 63:16 71:11 104:21 106:4 133:23 140:16 142:22 <b>paid</b> 23:2 <b>palisade</b> 96:16 101:9 <b>palisades</b> 75:8,13 77:12 140:15 141:2 141:22,24 142:4,8 <b>parallel</b> 11:10 17:22 84:5 <b>parcels</b> 108:15 <b>park</b> 4:19,24 16:8 19:12 31:13 39:6,9 <b>parked</b> 44:10 <b>parking</b> 8:19,25 11:9,10,15,22,24 13:18,22 15:25 16:10,11 17:21 31:6 31:7,12 32:1,5,13 32:18 33:15 34:6,7 34:10,17,25 35:19 35:24,25 36:4 38:14 39:2,3,4,8,16,19,25 40:22 43:10,11 44:18 45:4 76:10 114:9 139:14</p>
<b>o</b>			
<p><b>o</b> 25:23 38:12 158:1 <b>o'clock</b> 135:17 <b>o'dea</b> 3:4 <b>oath</b> 50:2,3 102:24 <b>object</b> 89:15 95:15 144:8</p>			

<p><b>part</b> 17:16 29:17 39:12 43:6 44:21 45:4 54:18 56:4 58:7 64:21 65:24 75:1 76:17,23 77:7 77:8 114:18 125:20 126:4,16 127:15 128:14 134:10 146:23 147:14</p> <p><b>participation</b> 105:2</p> <p><b>particles</b> 40:14</p> <p><b>particular</b> 28:4 75:14 108:17 129:6 141:25</p> <p><b>particularly</b> 108:4 139:10</p> <p><b>parts</b> 134:7</p> <p><b>pass</b> 76:19 89:10 156:22 157:1,7</p> <p><b>passed</b> 127:12,13</p> <p><b>passes</b> 4:11 7:1 19:6 21:9 37:23 48:6 85:14 154:21 156:11</p> <p><b>pasts</b> 25:9</p> <p><b>paterson</b> 6:2,2</p> <p><b>path</b> 60:1,4 66:11</p> <p><b>pathway</b> 147:5</p> <p><b>patients</b> 27:12 31:25</p> <p><b>pave</b> 11:11</p> <p><b>paved</b> 8:21,23,25 38:14 39:1,25 40:12 59:3,5,24 60:3 91:7</p> <p><b>paver</b> 63:21</p> <p><b>pavers</b> 46:3</p> <p><b>paving</b> 63:20</p> <p><b>pavonia</b> 1:7</p> <p><b>pay</b> 15:6 45:19</p> <p><b>pe</b> 1:12</p> <p><b>pedestrians</b> 11:14</p> <p><b>pencil</b> 71:22</p> <p><b>pending</b> 104:3</p> <p><b>pennsylvania</b> 26:8,9 26:12</p>	<p><b>penny</b> 93:9</p> <p><b>people</b> 35:18 49:21 67:23 82:9,12 86:1 89:10 98:11 152:13</p> <p><b>percent</b> 12:9,9 27:4 40:7 53:7 57:19 58:1,6 69:25 70:1 70:15,15,18 97:13 101:12 113:19,20 114:24 125:8,13,19 125:19 132:25 144:14,15,17,20 146:13</p> <p><b>percentage</b> 54:7</p> <p><b>perform</b> 106:16 131:21,21</p> <p><b>performed</b> 15:21</p> <p><b>perides</b> 21:15 25:11 25:21,21 26:5,5,11 26:15,18 27:24 28:5 28:9,12,16,21 29:1 29:9,14,22 30:2,20 31:19 32:12,20 35:20 36:3</p> <p><b>perimeter</b> 9:18</p> <p><b>permission</b> 63:14</p> <p><b>permit</b> 130:21</p> <p><b>permits</b> 15:7,14,19 22:21 29:21 106:11</p> <p><b>permitted</b> 110:22 112:25 117:19 118:8</p> <p><b>perniff</b> 101:12</p> <p><b>perspective</b> 110:13 143:21</p> <p><b>pervious</b> 64:11</p> <p><b>peter</b> 25:22</p> <p><b>phase</b> 52:8,12 100:4</p> <p><b>phenomenon</b> 101:17</p> <p><b>photograph</b> 49:12 49:13 116:8</p> <p><b>photographic</b> 115:10,17</p> <p><b>photographs</b> 52:7,7 52:11 111:13</p>	<p>124:15</p> <p><b>photos</b> 74:18</p> <p><b>phrased</b> 94:12</p> <p><b>phrasing</b> 131:14</p> <p><b>physical</b> 134:2</p> <p><b>picture</b> 59:11 126:1</p> <p><b>pictures</b> 124:15,24</p> <p><b>piles</b> 72:21 73:3,12 73:13,15</p> <p><b>pipe</b> 9:18,20 85:6,10</p> <p><b>pipeline</b> 83:20,23 84:2,4 85:17</p> <p><b>pipelines</b> 86:13</p> <p><b>pipes</b> 98:23</p> <p><b>pit</b> 59:15</p> <p><b>pits</b> 50:12 71:25 72:1,3,15 87:20,22 88:5 91:3</p> <p><b>place</b> 27:10,11 42:12 88:23 91:25 96:13 96:14 146:5</p> <p><b>placed</b> 50:2 75:21</p> <p><b>placing</b> 82:14 102:24</p> <p><b>plain</b> 41:3</p> <p><b>plains</b> 134:5</p> <p><b>plan</b> 5:2 8:5 10:22 11:4 13:2,13 27:8 28:11 38:16 40:7,19 41:7 48:11 51:13,18 51:25 52:2 53:21 54:3,6,16 55:10 69:5 75:24 101:22 104:23,23 105:7 107:4,15,24 108:1,9 108:13 109:7,8,24 116:4,6 123:14,19 123:24 124:9 133:9 138:14</p> <p><b>planer</b> 121:4</p> <p><b>planner</b> 103:16 104:1 115:1 122:5 138:13 142:12 150:2</p>	<p><b>planning</b> 1:1,21 2:2 4:25 5:8 10:20 15:9 15:18 34:3,11 36:2 42:1 51:11 52:6 53:14,22 61:10 69:7 69:18,21,25 70:14 70:18 71:20 76:25 91:4 94:5 95:12 99:18 101:20 102:19,21 103:14 103:17,20,25 104:4 104:14 105:13 106:12,22,23 107:2 107:6,7,17 109:10 109:20,20 110:10 110:12,13,18 111:25 112:14 113:17 115:6 117:3 117:5,10 119:14,18 119:18 123:12 124:20 125:12 126:4 128:4,9 131:8 137:24 138:7 140:22 142:5,10 143:21 144:13 148:5 149:14 158:11</p> <p><b>plans</b> 13:11 15:21 30:5 32:19 36:14 40:19 42:14 65:11 65:13 67:11 104:8 110:15</p> <p><b>plant</b> 8:23 84:6</p> <p><b>planted</b> 30:23</p> <p><b>planting</b> 29:19</p> <p><b>playground</b> 16:2 127:14</p> <p><b>playing</b> 120:10</p> <p><b>pleas</b> 87:6</p> <p><b>please</b> 2:11 3:10 5:10 8:7 10:16 12:11,16 17:3 25:16 25:18 32:19 36:11 70:10 78:9 81:12 93:5 96:12 97:6</p>
--	---	---	--

<p>100:10 103:6 116:10 120:25 122:24 152:14 153:20 <b>plus</b> 42:24 57:19 111:7 126:18 <b>pmk</b> 75:8 <b>podium</b> 51:9 81:12 <b>point</b> 18:1 45:24 49:15 50:5,23 68:9 69:2,14,18 70:22 71:22 74:1 102:11 121:16 135:20 140:12 145:21 153:7 <b>pointed</b> 77:2 <b>points</b> 51:5 <b>poles</b> 120:5 <b>policies</b> 104:15 106:24,25 107:7 108:18 113:5,7 128:12 148:23 <b>policy</b> 104:18 109:16 112:6 117:15 148:15,24 149:3 <b>porch</b> 26:22 27:5 <b>porous</b> 63:20 <b>portion</b> 54:17,20 58:13 59:24 64:13 67:15 77:2 83:19,22 85:1,10 136:15 146:14 147:4 149:21 <b>portions</b> 52:17 75:21 <b>pose</b> 87:23 <b>position</b> 101:7 <b>possibility</b> 132:15 <b>possibly</b> 13:15 149:6 <b>post</b> 97:12 103:18 <b>posted</b> 2:9 <b>potential</b> 108:2 <b>power</b> 106:18 117:7 130:15</p>	<p><b>pp</b> 1:12 <b>practicable</b> 106:15 131:22 <b>practical</b> 133:10 <b>practice</b> 98:6 <b>preamble</b> 110:11 <b>precautions</b> 93:16 95:18,19 96:6 <b>precisely</b> 92:12 <b>preclude</b> 82:17 <b>predeveloped</b> 97:11 <b>prefer</b> 83:8 <b>preparation</b> 104:6 <b>prepare</b> 104:9 <b>prepared</b> 38:18 39:11 104:16,19 109:8,18 118:18 <b>preparing</b> 109:19 <b>present</b> 1:17 2:13,25 3:1,4,5,5,13 21:7 119:4 <b>presentation</b> 51:14 63:11 <b>presently</b> 120:3,20 <b>preservation</b> 107:21 108:15,20 110:3 111:1 117:17 118:14 138:11 149:12 <b>preserves</b> 134:7 <b>pressure</b> 85:18 <b>prevent</b> 93:16 96:7 96:17 <b>prevents</b> 63:19 <b>previous</b> 49:13 58:11 93:14 102:15 102:20 109:10 115:19 119:5 121:11 123:22 147:8 <b>previously</b> 13:16 51:22 54:21 56:13 92:7 95:11 111:10 111:12 112:2 115:23 116:15</p>	<p>125:23 147:17 149:15 <b>primary</b> 124:9 <b>principal</b> 103:14 123:20 <b>principle</b> 131:8 145:16 <b>principles</b> 144:13 <b>prior</b> 15:19 90:20 99:3 115:25 118:22 118:24,25 123:9 124:24 126:14 127:16 144:24 146:11 <b>prioritized</b> 108:14 <b>pristine</b> 126:22 <b>pro</b> 1:13 <b>probably</b> 21:16 48:16 50:20 137:6 150:15 151:18 156:20 <b>probed</b> 82:11 <b>problem</b> 12:10 82:25 94:20 147:25 <b>problems</b> 12:25 <b>proceed</b> 7:19 122:24 <b>proceeding</b> 102:11 103:24 157:12 <b>proceedings</b> 1:4 88:1 158:9 <b>process</b> 44:21 82:22 95:21 100:25 <b>produced</b> 115:18 121:18 <b>professional</b> 7:23 103:7,16 104:1 125:1,2 136:20 137:14 <b>professionals</b> 119:21 <b>profile</b> 72:13 <b>program</b> 1:19 <b>prohibited</b> 106:7 127:3 129:12,23 130:2 134:18</p>	<p><b>prohibition</b> 58:4 80:3 128:20 129:18 130:5,11 <b>project</b> 7:15 8:15 12:20 19:8 21:22,25 26:14,19 28:4 29:8 30:6 38:8 44:14 62:22 64:15 95:25 96:2,3,7,21 98:3 101:10 123:21 125:6 132:6,9,13 138:25 139:4,8,13 139:22 140:3,23 <b>projects</b> 96:15 99:5 <b>proper</b> 36:7 88:13 88:18 <b>properly</b> 2:3,5 <b>property</b> 16:4,7 17:22 28:25 29:2,4 30:14,16,16 32:3 33:21 34:20,22 50:11 52:22 53:8 57:20 58:22 59:7 60:11 61:12 62:5 64:13 67:14 75:12 75:14,15,19 77:3 80:18 84:1,1,5,7,13 84:15,15,21,23 85:1 85:11,14,15 88:7 90:14 92:9 108:3,5 110:25 116:7,13 117:1 120:19 122:12,15,16 125:5 126:13 127:3,13,18 141:10,10,14,15 147:15,16 <b>proposal</b> 28:7 58:3 67:5 75:20 77:4,5 77:16,22 133:2 <b>propose</b> 75:25 <b>proposed</b> 8:13 9:2 10:18 12:7 17:13,20 29:1 52:21 53:7 64:15 65:8 66:7 111:7,18,19 113:10</p>
---	--	---	---

<p>132:9,23 149:22,25  <b>proposes</b> 125:6  <b>proposing</b> 145:19  <b>protect</b> 14:25 86:12  140:21  <b>protected</b> 98:14,15  134:10  <b>protection</b> 5:4 14:22  108:7 144:1 148:20  150:12  <b>protocol</b> 87:25  <b>proud</b> 101:16  <b>prove</b> 36:10 131:24  <b>proves</b> 132:1  <b>provide</b> 14:21 34:17  34:25 36:6,12,13,15  39:24 102:23  <b>provided</b> 9:20 52:17  58:11,14 78:12,21  97:15,20 129:17  134:21  <b>provides</b> 106:11  109:25 133:9  <b>providing</b> 5:4  <b>provision</b> 106:5,12  106:21 110:10,20  112:5 129:6,8 130:4  130:14,23 131:4,12  131:13 134:21,24  134:25 142:11  148:19  <b>provisions</b> 105:25  106:15 107:14,14  108:8 112:7 130:9  130:22 133:4  142:19 149:11  <b>pro w</b> 11:1  <b>pse&amp;g</b> 8:23,24 11:8  14:6 16:1,4,7,10  <b>public</b> 2:6 7:3 39:20  67:23 81:7,10,25  82:2 83:21 87:14  89:1 92:23 94:2,24  95:2 100:16 101:3  105:19 136:15,21</p>	<p>137:1,3,6,10,16  138:1,4,9 151:22  152:1 158:7,17  <b>pull</b> 42:15  <b>purpose</b> 74:4 87:11  110:9 151:21  <b>purposes</b> 53:19,20  61:7  <b>put</b> 11:14 13:15  23:21 29:8,9 35:6  36:14 40:5,10 41:23  43:12 45:18 46:18  50:22 53:3 60:9  74:13,16,21 77:5  78:7 80:3,5 100:3  132:24 134:16  139:13 152:24  <b>putting</b> 40:20,25  68:18 100:6</p>	<p><b>questioning</b> 86:9,10  87:11,18 88:6  114:15 137:19  150:3  <b>questions</b> 10:2  12:13 13:17 14:7,20  15:22,23 18:2 31:4  41:6 69:4 73:22  81:7,10,17,21 82:10  82:13,18,19 83:5,5  83:18 85:8 87:1,6  87:15 89:4 91:6  92:5,23 93:8 94:2  94:12 100:1 121:14  135:10,11 136:5,25  137:21 142:24  150:5 152:19 153:3  <b>queuing</b> 44:6  <b>quick</b> 80:9 98:3  <b>quickly</b> 43:18 48:9  <b>quiet</b> 153:20  <b>quite</b> 75:10 113:16  118:1 121:3  <b>quorum</b> 3:8  <b>quote</b> 128:1 129:12  141:22  <b>quoted</b> 106:4  <b>quotes</b> 142:22</p>	<p><b>ramp</b> 26:22 27:6  32:14  <b>rapport</b> 96:19  <b>rates</b> 39:20  <b>read</b> 3:16 4:16 63:15  105:17 129:20  133:19 134:13  148:13,13,22  <b>reading</b> 105:16,23  107:13  <b>readoptions</b> 116:25  <b>ready</b> 75:5 102:17  149:8  <b>reaffirms</b> 115:22  116:1  <b>realizing</b> 99:21  <b>really</b> 13:4 41:23  54:17 59:17 66:20  66:25 80:17 87:9,14  89:5 92:4 108:1  109:23 116:14  120:3 123:25  130:13 133:6  136:12 143:10  <b>realty</b> 6:2  <b>rear</b> 50:12 68:23  139:23,24  <b>reason</b> 12:22 20:7  48:12 95:7 123:25  151:11  <b>reasonable</b> 133:9  <b>reasons</b> 63:1  <b>rebuild</b> 144:19  <b>recall</b> 53:5 57:17  59:17 78:15 137:15  <b>receive</b> 41:16  <b>received</b> 3:13 7:16  23:25 39:10 50:21  51:25 52:1  <b>reception</b> 43:19  <b>recertified</b> 76:4  <b>recess</b> 102:12  <b>recognize</b> 110:19  <b>recognized</b> 108:1</p>
	<p style="text-align: center;"><b>q</b></p> <p><b>qualification</b> 64:6  <b>qualified</b> 103:21  <b>quality</b> 79:23 99:16  99:17,21 107:10,18  107:20 138:8,10  <b>quantify</b> 125:25  <b>quarter</b> 58:2  <b>quarters</b> 132:8  <b>question</b> 13:3 17:6  35:21 42:1 43:22  54:10 55:2 57:6  62:7 69:1,4,10 73:2  74:25 79:1 81:19  82:23 83:6 85:4  86:22 87:8 88:9,24  89:5,17 90:4 96:6  97:8 99:23 100:18  101:4,4,6 102:1  114:17,20 121:6  122:5,6,7,18 124:7  127:9,11 128:16  139:2 144:10  147:19,19</p>	<p style="text-align: center;"><b>r</b></p> <p><b>r</b> 25:22 38:13 81:14  103:9 155:5 158:1  <b>raben</b> 81:14,14,20  81:24 83:6,17 84:4  84:25 85:9,16,23,23  86:5,8 87:3,7,17  88:4,10,15,20 89:3  89:15 90:12,22,25  91:8,13,20 92:7,17  93:3  <b>racks</b> 15:3  <b>rain</b> 92:11  <b>rainstorms</b> 93:20,21  <b>raise</b> 62:6</p>	

<p><b>recommend</b> 23:4 30:22 71:10 73:14</p> <p><b>recommendation</b> 23:22 29:12,17 46:1 140:20 141:14</p> <p><b>recommendations</b> 22:9 28:3 30:8 75:15</p> <p><b>recommended</b> 11:4 15:18 29:10 35:2 72:20 75:19,25</p> <p><b>reconcile</b> 101:14</p> <p><b>reconciliation</b> 101:21</p> <p><b>reconstruct</b> 8:16</p> <p><b>record</b> 4:16 9:25 25:16 36:12 49:11 49:24 50:25 51:16 82:14 92:2 109:1,3 132:1 136:8</p> <p><b>records</b> 70:5 104:8</p> <p><b>recreation</b> 104:23 108:13</p> <p><b>recreational</b> 120:14 126:24 127:4,17</p> <p><b>red</b> 71:22 103:10</p> <p><b>redesign</b> 5:10</p> <p><b>redevelopment</b> 108:2 109:14 116:13,15,19 149:15</p> <p><b>redivision</b> 55:20 56:5</p> <p><b>reduce</b> 12:8 97:11 97:20</p> <p><b>reduced</b> 97:16,18</p> <p><b>reduces</b> 63:19</p> <p><b>reducing</b> 98:19</p> <p><b>reexamination</b> 104:22 109:7 123:14,19,24 124:5 124:9</p> <p><b>reexamine</b> 49:23</p> <p><b>refer</b> 114:11</p>	<p><b>reference</b> 56:17,20 80:12 111:24 127:24 132:19 142:18 148:9,10</p> <p><b>referenced</b> 62:15 71:13 80:16 124:3</p> <p><b>references</b> 114:11 124:15 138:9</p> <p><b>referred</b> 57:10 64:18 80:11 85:12 138:8 148:5</p> <p><b>referring</b> 10:17 57:18 79:13,14,16 133:22 138:18 142:1 148:24,25</p> <p><b>refers</b> 107:21 142:12</p> <p><b>refile</b> 5:8</p> <p><b>regard</b> 104:3,6 120:13</p> <p><b>regarding</b> 4:24 17:18 69:4,5 95:25 115:19</p> <p><b>regardless</b> 116:22</p> <p><b>regards</b> 98:3,17</p> <p><b>registered</b> 26:6</p> <p><b>regrading</b> 12:23</p> <p><b>regs</b> 111:25</p> <p><b>regular</b> 1:4 46:8 49:8 158:10</p> <p><b>regulation</b> 9:4 58:5 71:4 80:9 86:11 106:13 111:24 127:12,13,25 128:2 129:21 130:8 131:5 134:3 135:1,2 142:23 144:21</p> <p><b>regulations</b> 28:20 30:23 44:1 62:23,24 63:8,17 70:13,13,14 70:17 78:12,17,20 79:8,10,22 80:2,5 80:10 106:3,10 110:7,9,12,22,23 112:1,10 113:1,4,6</p>	<p>113:16,17 123:6,10 123:11 124:1,6,11 127:3,10 129:5,9 130:13 133:17,23 134:16 137:25 138:23,25 139:7,17 142:6,22 145:10 148:4,11,15</p> <p><b>regurgitating</b> 118:3</p> <p><b>reimon</b> 1:23 16:3,6 16:13,16,22 17:3,6 17:11,18 32:16,17 33:20 34:2,6,10,15 34:21,24 43:9,16 44:5,8,22 45:2 51:24 70:6,11 71:3 71:10,17 72:12 73:1 73:7,11 74:9 75:3 79:9,19 96:24,25 98:1,2,17</p> <p><b>reinforced</b> 76:4</p> <p><b>relate</b> 107:18 109:12 142:20</p> <p><b>related</b> 106:1,14 108:19 139:10</p> <p><b>relates</b> 106:23 107:7 107:20 114:12 116:24 126:23 141:2</p> <p><b>relationship</b> 16:12 110:12</p> <p><b>release</b> 98:21</p> <p><b>relevance</b> 133:6 141:3 144:9,16</p> <p><b>relevant</b> 52:18 78:22 85:2 86:18 87:4,9 88:21 89:17 107:2,14 117:9 121:11 126:7,8,11 126:12,14,16,20,22 128:6 131:8,10 133:10 140:22 144:23,25 145:5,9 145:12</p>	<p><b>relied</b> 125:1</p> <p><b>relocate</b> 33:15</p> <p><b>relying</b> 124:16</p> <p><b>remain</b> 9:12 30:3 50:3</p> <p><b>remaining</b> 54:15 151:24</p> <p><b>remediating</b> 11:6</p> <p><b>remediation</b> 5:6 116:22 149:19,25</p> <p><b>remember</b> 61:7 96:12</p> <p><b>remind</b> 50:1 102:15 146:22</p> <p><b>reminded</b> 61:7</p> <p><b>reminding</b> 122:10</p> <p><b>remington</b> 7:8</p> <p><b>removal</b> 50:15</p> <p><b>remove</b> 65:23</p> <p><b>removed</b> 13:7 26:21 50:17 54:13 55:1 77:7</p> <p><b>removing</b> 12:20</p> <p><b>rendering</b> 38:19</p> <p><b>renee</b> 1:11</p> <p><b>renovations</b> 27:4</p> <p><b>repair</b> 11:2</p> <p><b>repeat</b> 35:21 58:10 124:3 128:15</p> <p><b>repeatedly</b> 91:5</p> <p><b>repeating</b> 86:3,4 92:5 140:6</p> <p><b>repetition</b> 140:6 152:15,15</p> <p><b>repetitive</b> 91:18 93:8</p> <p><b>rephrase</b> 62:8 96:6 120:24 124:7</p> <p><b>replaced</b> 46:5 54:1 54:13 126:13</p> <p><b>replacing</b> 12:25</p> <p><b>replete</b> 138:8</p> <p><b>report</b> 9:23 12:6 39:11 50:9 52:8,9 52:10,16,19 55:8</p>
--	---	---	--

<p>56:18,19,20,23 57:8 57:11 59:11 62:13 62:14 63:10 73:14 78:14 102:21,25 104:11,22 105:12 105:13,14,16,20 106:4 107:15 109:1 109:1,7,21 111:14 115:4,14 117:25 118:2,3,15,18,19,21 121:19 123:14,19 123:25 124:5,9,14 124:18,20 126:25 127:19,22 128:22 140:16 141:22 142:21,24 <b>reporter</b> 102:9 158:8 <b>reports</b> 52:12 105:3 <b>represent</b> 56:21 83:2,9,9 137:10 <b>representation</b> 82:4 <b>represented</b> 81:22 82:7,16 83:1 86:1 <b>representing</b> 7:8 81:25 83:14 <b>reprimanded</b> 117:24 <b>request</b> 5:10 51:20 52:15 57:13 91:3 105:21,22 106:1 115:21 119:15 121:5 131:2 133:4 143:25 <b>requested</b> 23:17 44:16 51:17 <b>requesting</b> 4:18,19 4:21 111:10 143:4 <b>requests</b> 41:19 <b>require</b> 131:2 <b>required</b> 13:13 41:20 113:20 <b>requirement</b> 69:9 97:10 131:3</p>	<p><b>requirements</b> 5:6 12:19 13:1 15:17 130:11,20 131:2 138:24 139:7,15 140:11 <b>requires</b> 41:11 97:10 139:23 149:18 <b>research</b> 57:4 <b>reserved</b> 39:17 <b>resident</b> 83:11 93:9 99:8 <b>residential</b> 112:23 <b>residents</b> 83:7 <b>resolution</b> 35:6 70:20 <b>resolutions</b> 4:13 5:14 62:16 <b>resources</b> 108:7 <b>respect</b> 66:5 75:15 75:18 77:1 112:8 113:5,6 117:15 138:14 150:8 <b>respond</b> 97:7 <b>response</b> 50:23 52:25 55:14,20 94:17 97:4 <b>rest</b> 51:14 52:19 59:25 65:25 66:19 90:2 129:20 <b>restricted</b> 129:25 134:3 <b>restriction</b> 69:20 134:4 <b>restrictions</b> 130:1 <b>result</b> 27:22 91:25 92:8 111:20 131:23 <b>retain</b> 15:13 40:23 <b>retained</b> 109:18 <b>retaining</b> 14:25 60:1 60:5,6,7 66:13,14 66:15,16,18 77:1,4 77:5 <b>retention</b> 40:25 97:20</p>	<p><b>retentions</b> 12:7 <b>retreading</b> 121:15 <b>reuse</b> 116:6,12,25 149:15 <b>reused</b> 149:16 <b>reusing</b> 108:3 <b>reverse</b> 55:19 56:5 <b>review</b> 39:23 49:20 50:8 52:14 55:23 75:7 76:24 104:7,9 118:16,19,24 126:3 128:8 141:5,18 <b>reviewed</b> 12:6 39:14 70:5 75:12 104:12 140:14 <b>reviewing</b> 74:7 111:6 130:8 138:2 141:23 <b>reviews</b> 140:23 <b>revised</b> 41:17 51:18 52:3 140:15 <b>revising</b> 5:2 <b>revitalization</b> 107:4 116:5 <b>right</b> 8:5 11:18 14:12 23:1,21 28:8 30:1 31:18 32:7 38:23 41:13 42:8 54:25 57:15 58:20 58:22 65:15 69:18 69:23 70:12 71:24 72:8,8 74:13 76:12 76:13 77:22 83:4,16 85:25 88:19 89:7,9 95:11 97:18 102:25 115:3 127:19 129:18 130:22,23 134:25 144:19 151:8 152:17 <b>riprap</b> 54:24 58:14 58:24,25 59:3 60:1 60:4,16,17,19,20,22 66:7,8,10,20,22,23 66:25 67:7,16 68:8 68:15 72:6,17 74:21</p>	<p>89:19,23 90:2,7 145:23 146:1,11,14 146:23,24 147:1,3,4 147:5 <b>rise</b> 3:10 112:24 <b>river</b> 49:2 65:19 93:22 95:8 96:16,21 <b>road</b> 5:21 15:14 49:2 65:19 74:22 76:9,13,15,17,19 84:18,23 90:16,18 91:7 93:22 95:8 96:16,21 130:21 <b>roadway</b> 76:18 112:19 <b>robert</b> 101:11 <b>rock</b> 49:17 50:6,13 50:14,15,18 72:3,3 72:16 74:1,1,14 75:1 147:12,12,21 147:21 <b>rocks</b> 50:16,17 77:14,21,23 <b>rodgers</b> 19:19 <b>roll</b> 2:11 <b>romano</b> 1:15 3:4 10:1 18:5 19:1,2 21:7 25:4,5 36:23 37:18,19 45:25 46:6 48:1,2 51:3 84:8,12 84:19 86:17 136:7 136:17 137:18 150:24 151:23 153:6,17,23 154:16 154:17 156:6,7 <b>roof</b> 40:5,6,9,10,23 40:23 43:8 45:18 <b>room</b> 33:11 34:1 41:23 42:14 <b>rough</b> 60:18 <b>round</b> 125:4 <b>rounded</b> 57:18,25 <b>rounding</b> 125:8 <b>route</b> 100:8</p>
--	--	--	---

<p><b>rules</b> 99:12  <b>run</b> 29:13 40:13  117:3  <b>runs</b> 9:18 17:10  38:21 84:4  <b>rush</b> 42:16,16 45:1  <b>rushabh</b> 1:14  <b>rutgers</b> 103:18,20</p>	<p>33:7,10 36:23 47:4  47:5 51:11 86:2  108:24 153:17  <b>seconded</b> 6:9 20:14  24:10 153:22  155:13  <b>section</b> 63:16 67:12  67:14 68:21 78:16  79:18 80:12 85:6,13  85:15 106:3,10  129:3,4,20,20  133:24 134:18  <b>sections</b> 72:14,16  130:17,19  <b>see</b> 38:23 40:8 43:7  52:17 55:24 56:23  59:6,18 60:19,20,23  63:12 64:24 71:21  72:17 73:11 74:19  89:24 98:11 101:9,9  126:12,17 131:9  153:9  <b>seek</b> 65:22  <b>seeking</b> 130:5  <b>seen</b> 133:16  <b>sense</b> 23:3 116:14  121:14 136:11,12  <b>sensitive</b> 118:13  134:17 141:1  <b>sent</b> 4:22 22:12  <b>september</b> 56:21  57:8 71:5 136:13,19  137:11,15 153:9,11  <b>serve</b> 23:15  <b>served</b> 23:16  <b>services</b> 98:10  <b>session</b> 55:15 63:7  <b>set</b> 15:21 43:6 50:16  <b>setback</b> 139:17,23  139:24  <b>setbacks</b> 56:6,12  <b>seven</b> 39:3 42:21,24  42:25 43:7 72:1  140:11</p>	<p><b>sewer</b> 40:16,18  80:16  <b>sewerage</b> 84:5 89:13  <b>shade</b> 12:19 13:1,13  28:24,24 29:2 30:24  30:25 32:23 41:21  45:10,16 46:12  <b>shaft</b> 73:16  <b>shaking</b> 152:6  <b>shape</b> 139:7  <b>shari</b> 158:7,17  <b>shell</b> 63:21  <b>shetik</b> 7:10 8:3  <b>shorthand</b> 158:8  <b>show</b> 36:7 41:7,8  42:14 43:5 59:11  71:14 77:8 78:18  84:7 131:17,17  <b>showed</b> 49:13 64:18  <b>showing</b> 13:20 51:4  59:11  <b>shown</b> 13:2,10,24  64:20 77:11 116:1  <b>shows</b> 38:19 40:8  41:18 68:22 71:12  118:12 148:19  <b>shut</b> 22:24  <b>side</b> 9:1 13:4 14:18  16:14,15,16,23,24  17:7 31:24 35:17,18  38:22 41:14 42:8,15  44:19 90:1 152:14  <b>sides</b> 29:15  <b>sidewalk</b> 11:3,5,6,7  11:11,14 13:24 15:4  16:13 46:3,4  <b>sidewalks</b> 32:24  <b>signed</b> 5:11  <b>significantly</b> 110:21  113:10  <b>similar</b> 13:15 64:4  91:21  <b>simple</b> 26:18 28:1  147:19</p>	<p><b>simply</b> 50:3,5 114:5  <b>sir</b> 16:19 83:25  <b>sit</b> 157:4  <b>site</b> 8:10,11,14,20  9:7,12 10:23 14:24  15:3,21 18:1 29:15  38:19,20,22,25  40:16 41:22 42:7,13  46:5 49:10,14 50:18  51:18,25 53:21  54:16 57:23 65:5  71:13 72:2 74:17  76:13 78:5 87:19  89:19,23,23 90:13  91:2 94:7 97:8,16  97:17 98:7 104:13  108:17 111:14,15  111:21 114:10  115:20,23 116:11  116:15,17 118:22  119:23 120:1,6  121:11 126:21,22  138:13 141:1,4,4,17  142:3 143:12,23  145:15 146:9 147:2  149:17,20,25  <b>sites</b> 108:4 109:14  109:15 134:6  149:16  <b>situation</b> 70:7  101:14 107:3  <b>six</b> 13:2 32:1 43:7  66:24 67:1 130:17  130:19 140:11  <b>size</b> 9:4 35:23,23  36:9 119:3 132:8  <b>sizes</b> 36:8  <b>skipping</b> 78:10  <b>sleep</b> 58:16 64:16  101:13  <b>slope</b> 15:1 17:15  53:8 56:18 57:20,23  58:4,17 59:25 62:14  63:2 64:16 66:20  68:13,14,15 69:15</p>
<p><b>s</b></p>			
<p><b>s</b> 25:22,23,23 38:12  <b>s.r.</b> 158:17  <b>safe</b> 76:22  <b>safety</b> 14:18 44:1  73:10 138:1,4,5,9  140:21,21  <b>salute</b> 3:10,11  <b>satisfied</b> 44:6  <b>satisfy</b> 91:6  <b>save</b> 133:25  <b>saw</b> 12:6 92:21,25  94:6  <b>saying</b> 11:13 16:3  17:5 56:25 57:1  61:21,23 73:2 79:7  79:25 80:1 91:19  94:16 99:7 131:15  139:4 144:23  146:17 157:6  <b>says</b> 57:21 63:12,18  79:11 106:5 127:22  150:12  <b>scale</b> 119:4  <b>scaled</b> 65:8  <b>scheduled</b> 7:2  <b>school</b> 9:3,4,5 14:2  103:19  <b>scope</b> 7:15 112:18  <b>scoreboard</b> 9:8  <b>sd</b> 5:15 155:4  <b>secaucus</b> 5:21,22 7:6  7:9,13 8:4 9:3 10:5  16:7  <b>second</b> 3:17,19 18:6  20:11 24:7,8 29:4</p>			

<p>70:1,2,15,17 71:1 72:7,14 74:12 75:2 75:8,22 76:1,6 77:11,12,14 78:16 79:13 83:19,23,23 85:1,7,12,15 90:2,3 91:23,24 101:13 102:21 105:13 106:6 111:8 115:21 118:17 119:6 120:22 124:17,18 125:9,22 128:10,19 130:10 132:24 134:8 138:3 140:15 146:13,25 147:11 147:14,16,20,20,21 147:22 148:6,7,20 148:21 149:3 150:9 <b>sloped</b> 66:3 77:10 <b>slopes</b> 58:6 64:14 65:5,6 70:8 79:3 80:4 98:13 106:8 125:6,19 127:3 129:11,23,24 132:14 133:1 134:5 134:15,17 148:8 149:2 152:16 <b>slowly</b> 98:22 <b>small</b> 8:19 38:20 <b>smaller</b> 157:4 <b>soccer</b> 8:11 9:3,4,5,6 10:10 <b>soil</b> 10:7 15:8 41:1 52:2 59:15 71:5 74:14 90:4,17 92:10 96:17,19 98:12 99:11 100:22 145:18 <b>soils</b> 56:20 <b>solid</b> 75:1 147:21 <b>somebody</b> 82:23 <b>soon</b> 22:25 23:24 107:23 <b>sorry</b> 27:1 35:20 42:2 43:17 80:25</p>	<p>109:5 142:14 155:3 155:12 <b>south</b> 9:1,19 16:24 17:7 38:24 77:9 142:3 <b>southerly</b> 64:13,15 67:15 77:2 <b>southern</b> 64:17 90:1 <b>southwest</b> 14:24 <b>sp</b> 4:18 5:11,15,19 5:23 6:1 7:3 18:8 19:18 21:11 24:12 38:1 47:8 49:1 153:19 155:4 <b>space</b> 32:18 34:15 34:25 35:18,24,25 55:3 91:9 104:22 108:13,14 110:1 127:5 <b>spaces</b> 13:19 34:6,7 34:11,17 35:25 39:16 44:18 45:4,5 <b>speak</b> 17:3 25:18 36:10 70:10 81:12 83:3 92:4 97:6 103:11 113:16 137:7,8 152:2 <b>speakers</b> 89:1 <b>speaks</b> 109:25 111:1 148:11 <b>species</b> 134:6 <b>specific</b> 54:9 75:14 81:7,11 90:12 108:8 108:18 110:10 111:9 133:4 141:4,4 141:15,17 142:18 149:11 <b>specifically</b> 49:17 53:9 85:2 86:13 105:25 106:4,9,13 106:20,23 111:1,23 115:9 117:2 124:4 141:6,10 143:1,8 <b>speech</b> 83:1</p>	<p><b>speed</b> 22:12 <b>spell</b> 25:16 38:11 <b>spent</b> 89:3 <b>spoke</b> 139:10 <b>spokesperson</b> 81:11 <b>sports</b> 9:8,9 <b>spot</b> 33:16 <b>spots</b> 31:15,20,22 32:1,5,13 <b>spout</b> 29:13 <b>spring</b> 48:16 <b>sprinklered</b> 44:4 <b>spruce</b> 27:10 <b>square</b> 38:25 39:1 53:6,11,12 54:5,12 54:12,15,19 55:4 57:16,17,22,23 58:15,16,24,25 59:2 66:2 77:18 111:7 114:16 125:5,7 <b>stability</b> 68:15 76:1 76:6 77:12 92:10 140:15 <b>stack</b> 42:15 <b>stacked</b> 43:18 <b>staff</b> 21:24 22:8 39:22 50:8 <b>staircase</b> 26:20,22 <b>stall</b> 36:8,8 <b>stand</b> 9:11 17:24 81:8 88:22 <b>standard</b> 142:9,13 <b>standards</b> 11:2 89:21 139:5 <b>standpoint</b> 61:13 74:2 125:12 145:22 <b>stanford</b> 21:13,14 21:19 22:7 25:10 26:3,10,13 27:17,21 28:2,6,10,13,18,23 29:6,11,20,23 30:4 31:3,23 32:9 34:5,8 34:12 35:5 36:13 37:24</p>	<p><b>star</b> 2:8 <b>start</b> 4:16 48:15 51:24 81:6 102:24 107:1 <b>started</b> 49:14 59:14 116:2 122:5 <b>starting</b> 48:11 <b>state</b> 15:7 25:15 26:11 38:10 44:1,8 70:13 81:12 103:16 107:5 158:8,18 <b>stated</b> 17:25 126:24 128:22 130:7 146:7 <b>statement</b> 79:11 94:1 98:3 129:22 134:20 141:20 146:4 <b>statements</b> 92:15 95:2 108:19 <b>states</b> 7:24 <b>status</b> 103:23 <b>stay</b> 103:1 <b>steep</b> 15:1 53:8 56:18 57:19,23 58:4 58:6 62:14 63:2 64:14 65:6 66:20 69:14,25 70:2,7,17 71:1 75:8,21 78:16 79:13 80:4 83:19,23 83:23 85:1,7,12,15 90:1,3 98:13 102:21 105:13 106:6,8 111:8 115:21 118:17 119:5 120:22 124:17 125:5,8,19,22 127:3 128:9,19 129:11,23 129:24 130:10 132:13 134:5,8,15 134:16 138:3 146:13 147:16 150:9 152:16 <b>steve</b> 156:23 <b>stipulate</b> 35:3</p>
--	---	---	---

<p><b>stone</b> 9:20 54:24 63:21 <b>stop</b> 11:16 23:17 135:9 <b>storage</b> 9:20 <b>store</b> 45:3 <b>stored</b> 44:17 <b>stories</b> 42:25 145:25 146:10 <b>storing</b> 44:19 <b>storm</b> 76:3 98:20,24 <b>storms</b> 12:8 <b>stormwater</b> 9:15 29:18 40:21 55:5,10 61:11 62:3 63:20 97:9,10,11,20,21 110:2 111:25 112:8 114:12,14 122:13 139:11 <b>story</b> 26:25 27:1 33:7,9 39:3 42:21 <b>strategic</b> 107:4 108:1 116:5 <b>strategies</b> 107:11,25 <b>strategy</b> 108:6 109:22 <b>streams</b> 122:14 <b>street</b> 5:24 11:17 14:10 38:2,15,16,21 41:21 42:6,8 43:20 44:7 103:10 141:15 155:6 <b>streetscape</b> 117:20 <b>stretch</b> 17:1 <b>stricken</b> 92:2 <b>strip</b> 11:9,12 <b>stripe</b> 32:12,13 <b>striped</b> 9:2,5 32:15 <b>strongly</b> 71:10 <b>structure</b> 17:23 60:13 63:18,22 <b>structures</b> 63:23 120:15 <b>stuck</b> 38:7</p>	<p><b>studies</b> 105:3 <b>study</b> 75:8,9 76:2 77:12 140:15,24 141:9 <b>stuff</b> 99:18 152:19 156:20 <b>subdivision</b> 55:20 56:2,5 <b>subject</b> 22:9 53:8 57:20 62:5 75:18 80:17 92:21 122:15 134:18 141:10 147:15 <b>subjects</b> 91:20 <b>submission</b> 51:19 55:9 130:11,20 131:1,3 <b>submit</b> 56:4,25 <b>submitted</b> 2:7 9:22 39:12,21 40:19 42:14 45:12 55:11 55:13 56:24,24 67:12 75:24 102:20 <b>subsection</b> 142:25 143:6 <b>subsequent</b> 141:6 <b>substantial</b> 119:17 125:14 146:14 <b>subterranean</b> 122:13 <b>successful</b> 96:15 <b>sufficient</b> 11:10 132:3 <b>suitable</b> 116:12 <b>sum</b> 58:7 67:22 <b>summarize</b> 104:10 105:9 110:17 <b>summit</b> 76:8,10,12 <b>supplied</b> 51:19 <b>support</b> 49:21 101:8 <b>supposed</b> 92:12 <b>sure</b> 10:17 12:18 32:21 36:3 48:20 50:25 56:24 61:5 122:23 124:12</p>	<p>127:7 131:5 139:2 144:4,16 147:6,7,17 147:24 <b>surface</b> 63:18 66:25 67:17 68:8,10,11,17 68:18,18 74:3,6 78:21 89:20 145:24 <b>surfaces</b> 63:23 74:5 127:11 <b>surprise</b> 130:16 <b>susan</b> 51:12 102:19 103:9 108:24 109:5 117:25 <b>suspected</b> 80:16,18 80:20 <b>sustainability</b> 110:3 <b>swale</b> 17:10 <b>swear</b> 7:19 25:12 94:20 <b>sworn</b> 7:20 21:15 25:14 38:9 81:16 92:15,17 94:16,18 94:23 95:5 103:4 <b>synthetic</b> 9:16 <b>system</b> 9:16,21 12:7 17:17,19,21 69:19 86:12 96:13,14 97:20,21 98:22</p> <hr/> <p style="text-align: center;"><b>t</b></p> <hr/> <p><b>t</b> 25:23 38:12,13 158:1,1 <b>table</b> 20:3,7,7,10 71:12 <b>take</b> 20:3 23:7,8 39:7 42:17 48:15 49:22 56:12 73:20 74:11 98:8 119:14 132:24,25 136:16 140:12 143:13,19 152:8 <b>taken</b> 43:13 71:13 71:15,23 72:1 93:15 102:12 158:10</p>	<p><b>takes</b> 98:9 <b>talk</b> 106:7,17 112:1 113:13 114:2 129:25 130:19 132:12,20 <b>talked</b> 44:15 108:10 109:11 118:5 133:13 136:11 143:9 <b>talking</b> 34:21 58:18 87:24 111:11 145:18 149:2,3,3 <b>talks</b> 107:16 129:5 129:23 130:2 143:8 <b>taller</b> 139:16 <b>tallis</b> 147:13 <b>tanks</b> 52:22 <b>targeted</b> 108:15 <b>teach</b> 103:20 <b>team</b> 9:4 <b>tech</b> 57:7 <b>technical</b> 111:9 150:3 <b>technically</b> 29:4 <b>techniques</b> 29:7,10 <b>technologies</b> 14:22 29:18 <b>tell</b> 26:13 43:10 68:3 68:5 104:7 125:25 148:24 <b>telling</b> 94:14 99:8 131:15 135:18 <b>tells</b> 46:9 <b>tempo</b> 115:17 116:21 <b>temporarily</b> 44:10 <b>temporary</b> 45:3 <b>tempore</b> 1:13 <b>ten</b> 12:8 14:10 31:22 32:1 38:20 67:18 71:25 97:13 98:20 120:16 135:8,17 152:10 <b>tenant</b> 33:16</p>
--	---	--	--

<p><b>tennessee</b> 7:24 8:2  <b>tennis</b> 8:17 60:11  120:4 127:5,13  <b>tens</b> 126:5  <b>tense</b> 126:18  <b>term</b> 130:1  <b>terms</b> 27:24 85:19  107:13,20 108:12  110:14 112:1,5  113:3,10,11,15  114:1 131:14  133:12 139:11  149:14  <b>terra</b> 19:18  <b>test</b> 50:12 72:1,2,15  87:19,22 88:5 91:3  <b>testified</b> 51:23 58:14  87:15,20 90:15  95:11 97:22 111:4  125:4 128:24 132:6  140:9 143:11  146:12  <b>testify</b> 21:16 136:6  <b>testifying</b> 87:5 92:16  94:1 150:2,2  <b>testimony</b> 49:10  51:8 53:5 56:3  58:10 59:17 60:16  61:25 63:11 68:14  80:15 85:5 88:5,21  91:17 93:14 116:2  119:21 125:10  126:4 131:25 132:1  135:4 137:9 147:1  150:4  <b>testing</b> 76:21  <b>tests</b> 15:22 59:14,15  <b>thank</b> 2:10 19:15  25:10 37:24 48:8  49:4 75:6 83:17  93:2,4,11 100:16  102:4,10,18 103:3  121:13 122:3,8  149:6 153:8 154:22</p>	<p><b>thanks</b> 48:21  <b>theme</b> 107:16  <b>thick</b> 67:2 90:3  <b>thing</b> 30:13 40:3  41:16,19,20 57:14  59:12 69:12,23  70:16 91:16 93:16  96:9 99:2 137:11  140:24 145:12  <b>things</b> 27:25 39:24  69:3 78:10 96:10,13  104:24 107:2  109:12 112:19  <b>think</b> 17:19 26:15  33:18 34:13 35:1  45:20 48:12,14 55:8  58:23 60:16 64:22  66:4 69:3 72:10  75:12 78:4,23 86:25  87:3,10 88:21 92:11  93:1 96:5 97:3,7  102:8 111:16 113:3  113:19 117:23  118:5,12 119:10,17  120:12 125:15  128:11 131:1 132:7  135:16,25 136:6  140:8,24 141:2  146:13 147:9 148:1  150:7,16,18,24  151:12,17,24 152:4  152:17 157:8  <b>third</b> 1:7  <b>thirteen</b> 13:11  <b>thought</b> 56:14 99:20  128:15  <b>threatened</b> 134:5  <b>three</b> 26:6 33:8,9,22  41:21 43:7 71:25  72:13 107:9 132:8  140:9  <b>throw</b> 115:17  116:21  <b>thrown</b> 114:22</p>	<p><b>tie</b> 9:17,21 117:20  <b>tied</b> 17:24  <b>time</b> 5:8 25:25,25  44:24 49:22 52:9  70:7 74:15,19 91:6  93:6 99:24 102:20  122:10 123:18  127:4 130:18 134:1  135:20 136:2,4,6,23  137:9 140:13  146:16 150:17  151:6,12,25  <b>times</b> 69:6 91:2  101:1 130:7 140:9  <b>tired</b> 81:8  <b>today</b> 78:4  <b>told</b> 55:16 89:4  130:16  <b>tommy</b> 25:23 26:3  <b>tonight</b> 20:8 38:18  114:19 119:2  120:11 135:15  136:19 137:4  <b>top</b> 8:21 14:19 33:22  38:21 59:10 76:9,12  76:14 150:9  <b>total</b> 54:2 57:19  113:22 125:8  <b>totally</b> 92:1 95:23  143:17 146:16  <b>touch</b> 54:14 66:12  66:15  <b>touching</b> 66:16  <b>town</b> 7:9,12 8:3 11:5  12:25 15:9,11 16:12  29:12 55:25 69:8,21  98:21  <b>town's</b> 69:6  <b>township</b> 5:17 10:5  50:4  <b>traditionally</b> 93:22  <b>traffic</b> 9:13,14 27:22  27:25 39:11,14,15  42:16 43:10 44:15  69:19 86:25 93:22</p>	<p>99:14 138:2  <b>transco</b> 73:2,6,7,10  80:17 83:19 85:14  <b>transcript</b> 1:4  158:13  <b>transmission</b> 83:20  85:17  <b>traverse</b> 122:15  <b>treating</b> 53:19  <b>treatment</b> 84:6  <b>tree</b> 12:19 13:1 15:1  28:24 29:2,3,4  30:22,24,25 32:23  32:25,25 33:1 41:24  45:10,16,19,21,22  45:24,24 46:13,18  46:22 47:1,1,2,2  61:5  <b>trees</b> 12:21,23 13:1  13:7,12,12,13 28:24  30:14 41:21,22  46:12,23,23 59:21  90:5 91:24 92:7,10  <b>trench</b> 9:20  <b>trespass</b> 59:7  <b>tridente</b> 1:20 10:13  11:13,19 12:15 13:6  13:9 16:18,24 22:11  23:16,22 30:10,12  30:18,21 32:22 45:8  45:14,20 46:2,11,16  46:22 100:17,20,21  <b>tridente's</b> 46:1  <b>true</b> 75:3 99:22  104:4  <b>truly</b> 151:14  <b>trust</b> 39:18 150:19  <b>trustees</b> 83:10  <b>truthfully</b> 124:13  <b>try</b> 84:19 93:8  <b>trying</b> 68:19 69:13  69:15 89:8 92:3,19  94:13 125:25 134:1  138:6 150:8 151:17</p>
--	--	--	--

<p><b>tsampicos</b> 25:21 26:5 <b>turf</b> 4:19,25 9:17 <b>turn</b> 51:9 56:10 <b>turner</b> 101:5,6 102:4 <b>turning</b> 112:22 <b>turns</b> 36:8 <b>twelve</b> 12:21 31:22 <b>twenty</b> 43:17,18 44:6 98:20 <b>two</b> 8:13,14,16 14:21 15:2 26:25 28:24 29:7,10,24 30:15 33:2,7,9,12 33:21,22 41:21 42:13,17 43:7,12 46:23 50:23 51:5 60:12 61:5 65:11,17 66:14,24 74:5 80:16 82:23 86:2 90:17 93:22 97:13 108:18 132:20,21 134:17 139:1 145:25 146:10 152:13 <b>tylin</b> 41:17 <b>type</b> 27:14 50:18 77:16 96:6,8 115:19 120:14,20 121:1 134:19 141:5 142:3 142:7 145:4 148:20 148:21 150:11 <b>types</b> 60:10 61:3 148:7 149:2,3 <b>typical</b> 40:10 <b>typically</b> 72:5 142:12</p>	<p><b>underground</b> 9:16 9:19 12:7 97:19 <b>underneath</b> 58:17 67:3 76:19 <b>understand</b> 35:21 52:16 58:9 62:7 68:6 69:17 86:5 87:6 91:22 98:24 99:6 121:6 135:19 139:2 144:16 146:17,19 147:18 147:19 149:9 150:19 151:9 <b>understanding</b> 15:11 35:2 114:25 120:18 125:10 127:16 149:18 <b>understands</b> 112:17 <b>underwater</b> 10:10 <b>unearthed</b> 87:21 <b>unfortunately</b> 22:15 136:21 152:1 <b>union</b> 21:12,21 22:6 22:14 <b>unit</b> 82:6 112:23 132:13 139:13 <b>units</b> 113:11 132:7 139:16,20,21 <b>university</b> 7:25 8:2 26:7,9 103:18 <b>unnecessary</b> 106:16 117:12 128:12,20 131:22,24 132:2 <b>unquote</b> 129:12 <b>unrelated</b> 95:16 <b>updated</b> 32:24 <b>updating</b> 28:1 <b>upgrade</b> 9:11 <b>upstairs</b> 33:25 35:10 <b>urban</b> 107:4 146:8 <b>use</b> 16:7 19:10 26:16 27:11,12 28:1 31:25 34:4 45:2,4 53:10 53:12,16,22 55:4 63:8 79:7 86:15</p>	<p>102:9 104:15 112:6 112:25 113:5,7 116:7 117:15,16,19 121:11 126:3,14,25 128:11 142:19 144:6,12 148:15,22 149:20 <b>uses</b> 9:14 115:24 116:15,23 121:10 126:17 143:2 144:2 <b>usually</b> 31:12 84:24 89:1 <b>utilities</b> 52:23 <b>utility</b> 41:5 52:2 <b>utilize</b> 8:24 16:10 <b>utilized</b> 14:5 127:18 <b>utilizes</b> 11:9</p> <p style="text-align: center;"><b>v</b></p> <p><b>valet</b> 39:5 43:11 <b>value</b> 101:8 <b>variance</b> 113:14 140:1 <b>variances</b> 142:20 <b>various</b> 42:19 115:8 124:14 <b>vegetated</b> 29:13 <b>vegetation</b> 60:18,18 60:20 61:3 63:25 64:7 90:7 <b>vehicles</b> 44:9,11 45:3 <b>verdict</b> 89:10 <b>verified</b> 21:23 22:8 23:24 <b>vernick</b> 7:9 <b>versus</b> 95:19 96:3 113:20 142:13 <b>vertically</b> 67:20 68:11 <b>vibration</b> 73:4,16,19 <b>villa</b> 65:2 <b>violated</b> 22:2 139:23 <b>violation</b> 22:13,23 23:17 101:13</p>	<p><b>virgin</b> 72:3 74:14 111:11 126:21 <b>visit</b> 104:13 119:23 <b>voir</b> 102:24 <b>volume</b> 98:23 <b>voluntarily</b> 65:14 <b>volunteer</b> 151:6 <b>volunteers</b> 151:5 <b>vote</b> 18:24 19:5 20:3 23:7,8,21 24:13 37:22 48:5 153:25 154:20 155:15</p> <p style="text-align: center;"><b>w</b></p> <p><b>wait</b> 157:5 <b>waiting</b> 44:11 <b>waive</b> 23:4,12,23 24:5,11 106:12,19 <b>waiver</b> 56:18 62:14 63:2 69:15 70:3,16 71:1 74:4,23 102:21 105:13 106:1,2,5,11 106:20 110:14,20 111:9,9,19 112:5 117:8,11,13 118:17 119:15,19 120:23 121:5 124:17,18 128:10,18 129:1,5 130:5,15 131:4,12 131:14 132:4,17 133:5,12 134:12,21 134:23 142:11 143:5,24 <b>waiving</b> 23:9 <b>walked</b> 60:24 <b>wall</b> 14:25 60:1,7 66:14,16,18 75:21 77:2,4,5,7 78:3 100:3,6 141:13 <b>walls</b> 60:5,6 66:13 66:15 75:25 76:3,19 140:20 <b>want</b> 20:7,9 28:6 30:13 35:6 43:9 44:8 49:15 50:7</p>
<b>u</b>			
<p><b>u</b> 103:9 <b>ultimately</b> 110:5 <b>underbush</b> 15:1 <b>undercutting</b> 91:25 <b>underdrains</b> 9:16</p>			

<p>62:11 67:24 70:19 70:22 71:21 73:5 81:3 83:3,4,5 86:9 87:23 88:22 95:17 96:1 98:2 99:4 103:13 114:4 115:1 115:16 120:24 122:7,25 123:1 129:19 130:18 135:13,21,22 136:3 137:1,2,4,11,22 146:21 151:7 152:12,19,24 157:6 <b>wanted</b> 36:9 48:8 50:24 51:7 121:24 135:20 <b>wants</b> 56:10 61:18 61:23 92:24 98:25 135:16 <b>warehouses</b> 120:20 <b>warm</b> 102:9 <b>waste</b> 130:18 <b>watchdog</b> 79:21 <b>water</b> 9:22 17:11,16 29:12 40:11,23 61:12 94:7 98:21,23 <b>way</b> 44:22 60:3 72:17 74:24 89:8 125:16 134:3 143:20 <b>we've</b> 29:9 30:7 51:6 64:20 73:15 82:1,6 86:1 96:18 100:25 <b>wednesday</b> 1:8 158:11 <b>week</b> 40:20 48:13 <b>weeks</b> 39:22 <b>weigh</b> 117:22 <b>went</b> 34:2 44:14 59:6,7 60:20 65:2 71:8 85:25 86:2 90:6,9 91:4 118:23 122:19 145:10 <b>west</b> 16:23 155:7</p>	<p><b>westerly</b> 34:22 <b>wetlands</b> 134:4 <b>white</b> 65:3 <b>willing</b> 22:9 92:17 <b>willow</b> 38:16,23 <b>window</b> 89:24 <b>winter</b> 60:23 89:25 <b>wish</b> 10:9 <b>withdraw</b> 5:7,11 <b>withdrawn</b> 4:20,22 132:22 <b>withdrew</b> 65:14,17 133:3 <b>witness</b> 7:20 25:14 38:9 51:11,13 80:23 81:1,6,21 82:21 88:21 101:19,25 102:6,19 103:4,21 103:24 117:25 121:16 135:4 137:10,16,19 150:8 <b>witnesses</b> 135:6 136:20 140:9 <b>wonderful</b> 19:8 <b>wong</b> 93:7,9,12,20 94:4,11 95:3,17 96:1 97:22 99:6,17 100:1,7,11,14 <b>word</b> 116:6 150:25 <b>words</b> 64:22 83:3 116:11 <b>work</b> 23:17 55:15 79:22 86:15 96:16 103:18 105:6 108:22 109:19 110:7 111:18 151:5 <b>workers</b> 27:12 <b>working</b> 10:11 19:11 40:18 48:9 <b>works</b> 44:22 <b>worse</b> 95:9 <b>worthy</b> 148:6 <b>write</b> 53:2 <b>writing</b> 50:22 51:7</p>	<p style="text-align: center;"><b>y</b></p> <p><b>yard</b> 139:23,24 <b>yards</b> 14:10 <b>yeah</b> 10:11 12:5 54:1 59:9 <b>year</b> 12:8 48:15,17 97:13,13,13 98:20 132:24 <b>years</b> 26:6 27:20 78:17 111:22 115:24 120:16 121:3 126:3,13,18 141:25 143:14,16 143:20 145:3 <b>yellow</b> 31:18 <b>york</b> 44:23 155:7</p> <p style="text-align: center;"><b>z</b></p> <p><b>zero</b> 68:24 <b>zone</b> 14:18 28:17 112:25 <b>zoning</b> 103:25 113:6 117:19</p>
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