

1 CITY OF ELIZABETH
 2 BOARD OF ADJUSTMENT
 3 THURSDAY, SEPTEMBER 9, 2021
 4 7:30 PM
 5 RE: Z-03-21, 538-550 MORRIS AVENUE & 539-553 CHERRY
 6 STREET, GRAND AT MORRIS, LLC.

10 BOARD MEMBERS:

11 GEORGE CASTRO, Chairman
 ANTONIO GONCALVES
 12 ELIZABETH CANO
 MICHELLE SILVA AFONSO
 13 JOE NUNES, Vice Chairman
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2 INDEX OF EXHIBITS

3	<u>EXHIBIT</u>	<u>DESCRIPTION</u>
4	A-1	COLORIZED SITE PLAN
5	A-2	SHEET C-1
6	A-3	DRAINAGE & UTILITY PLAN
7	A-4	HARBOR CONSULTANTS REPORT AUGUST 5
8	A-5	MR. LOOMIS REPORT
9	A-6	VIEW FROM MORRIS AVENUE
10	A-7	SIDE VIEW RENDERING FROM CHERRY STREET
11	A-8	RENDERINGS IN APPLICATION PACKAGE

1 APPEARANCES:

2
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 8 **Appearing on behalf of the Board**
 9
 10 **LAW OFFICES OF DAVID M. SHAFKOWITZ, ESQS.**
 11 **BY DAVID M. SHAFKOWITZ, ESQ.**
 12 713 BETHLEHEM PIKE
 13 GLENSIDE, PENNSYLVANIA 19038
 14 **Appearing on behalf of the Applicant**
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2 (There was no objection by all parties that the
 3 witness be sworn via the ZOOM platform.)
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 5 (The enclosed transcript was conducted based on the
 6 accuracy of the ZOOM platform.)
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1 CHAIRMAN CASTRO: So the first application
2 that we're going to hear today is application Z-03-21,
3 538-550 Morris Avenue and 539-553 Cherry Street, known
4 as Grand at Morris, LLC. This is a proposal to build a
5 4 story multifamily residential building with 9
6 one-bedroom and 52 two-bedroom in a C-1 zone.

7 THE PUBLIC: Mr. Chairman, I make an
8 application for the meeting adjournment and I'm sorry
9 sir, I cannot hear what you're saying.

10 MR. McNAMARA: The meeting has been duly
11 noticed by the applicant and is proceeding. It is not
12 being adjourned.

13 THE PUBLIC: The file is so incomplete for
14 us to adequately even participate --

15 MR. McNAMARA: Sir, we're going to do
16 everything we can to make sure that the public has every
17 opportunity to participate in this hearing and any
18 subsequent hearings that are conducted after tonight, so
19 that the public will have a full and complete -- sir,
20 please let me finish. We will make sure every member of
21 the public has every opportunity to ask any questions
22 they want of any witness. All we ask is that the
23 questions not be repetitive. After that is done the
24 public will have the opportunity if they have retained
25 an expert as a rebuttal witness, whether it's in

1 architecture, engineering, traffic or planning, to
2 present rebuttal testimony. But what I will say, if
3 anyone is looking to retain experts, if they have those
4 people here this evening would you please let us know as
5 soon as possible. If not then the only other hearing
6 that they could conceivably be heard at would be the
7 next hearing in October.

8 THE PUBLIC: That doesn't really answer the
9 question. The documents regarding traffic, engineering,
10 they just haven't been developed, so there's nothing to
11 rebut.

12 MR. McNAMARA: Sir, I'm not going to get
13 into an argument with you now. The applicants package
14 has been on file, it's part of a public record. It was
15 noticed that the file was available here at City Hall
16 for the benefit of the public to be inspected at any
17 time during business hours.

18 THE PUBLIC: It was inspected.

19 MR. McNAMARA: Ladies and gentlemen, please.
20 Okay. We're going to give everyone every opportunity to
21 be heard.

22 CHAIRMAN CASTRO: We're going to continue
23 with the meeting.

24 Mr. Shafkowitz.

25 MR. SHAFKOWITZ: Good evening, Mr. Chairman,

1 members of the board. Good to see everybody in person
2 for once.

3 As you know, my name is David Shafkowitz.
4 I'm here on behalf of the applicant, Grand at Morris,
5 LLC. Grand at Morris, LLC is the owner of a parcel of
6 property, as also noted by the Chairman, located at
7 538-550 Morris Avenue and 539-553 Cherry Avenue -- or
8 Cherry Street. Sorry about that. The applicant, as the
9 board may be familiar with, is a well-known developer in
10 the city of Elizabeth. The Engel family has developed
11 several of our properties within the state and is known
12 for building high end luxury apartment buildings
13 throughout the area. Most recently, which -- one that's
14 recently been completed, is on Murray Street. The
15 applicant there built a 80 unit apartment building which
16 was the first redevelopment structure that was built in
17 that area pursuant to the cities redevelopment plan. I
18 believe this particular builder, particular applicant,
19 this owner, has a stellar reputation in the community
20 for the type of building he will build.

21 Having said that, I just want to give the
22 board a little background about the property. As I
23 indicated, the property is approximately 51,000 square
24 feet, a little over an acre and a quarter. It's located
25 in the C-1 zone district. The C-1 zone district does

1 permit, by the way, multifamily dwellings. The property
2 is located predominantly in the multifamily
3 redevelopment area and specifically acts as a
4 transitional area from a commercial space on and off
5 Morris Avenue through this particular property and
6 properties surrounding the Morris and Cherry Street
7 triangle. And as you leave Cherry Street you go towards
8 a single development area. The property was the home of
9 a former bank building with a separate accessory
10 structure for a four bay drive-thru area. That
11 particular property was a commercial use in the
12 district. That particular property has only recently,
13 stopped being used. That particular property had a
14 particular use also had associated parking and ingress
15 and egress both on Cherry Street and Morris Avenue.

16 Most important part of our application, the prior use
17 on that property contained over 90 percent cover for
18 that particular use and that particular use, as I'm sure
19 the boards well aware, did not contain stormwater
20 management. Did not contain landscaping. The former
21 bank branch building was located on Morris, had two
22 entrances on Morris Avenue and two entrances and exits
23 on Cherry Street.

24 The prior use allowed for a full movement
25 driveway -- full movement uses both on Cherry and

1 Morris. The uses being proposed tonight as shown by the
2 plans here before the board is a 61 unit multifamily
3 structure. It's three stories above one story
4 apartment. The applicants proposing 49 two-bedroom
5 units, 12 single -- one-bedroom units, with 95 parking
6 spaces.

7 The project, also importantly, proposes to
8 eliminate two points of access, one on Morris, one on
9 Cherry. One particular item that will be discussed by
10 our experts, the access that's being moved to Cherry,
11 Cherry being a one way street, only will allow for right
12 turn access and divert most of our traffic away from the
13 single developed family residential uses that are in the
14 -- down Lincoln Avenue area.

15 The applicants proposal does require certain
16 variances for the boards consideration. Most
17 importantly is going to be a height variance. The
18 applicant is proposing a 58 foot height building. We
19 believe the testimony that we will present tonight will
20 show that that height and four story structure that is
21 proposed is consistent with other uses in the area.

22 The applicant is also asking, requesting
23 certain bulk area relief related to setbacks. The
24 setbacks, as you will see during the course of
25 testimony, are a wide variety in this area. They range

1 from zero feet to 40 feet in some instances. There are
2 experts tonight who will explain in detail why those
3 setbacks are being proposed here. Why they're
4 appropriate and how the buildings designed further
5 enhance those setbacks and improve on the overall
6 quality in the area.

7 So with us -- additionally, there's two
8 other variances that we're going to present to the board
9 to consider. One is the impervious coverage. As noted
10 in our reviews the impervious coverage proposed for the
11 site is about 93 percent, which is relatively consistent
12 with what exists on-site today. We would argue, and
13 have our engineer discuss a little bit of the
14 preexisting nonconforming nature of that impervious
15 surface limitation. What the applicant is proposing
16 however does not exist on-site today, the stormwater
17 management. I know that it unfortunately effected a lot
18 of people in the last week with the hurricane that came
19 through, it had a great effect where I live, just missed
20 where I happen to live. We know the world is changing,
21 we know that these things have to be addressed and I
22 think our experts will testify that the stormwater
23 management that will be propose for this site will be a
24 great benefit to the community as a whole and will be a
25 perfect dovetail to the improvements that are proposed

1 on Cherry Street.

2 So having said that, based on our
3 application proposed tonight, I do have four witnesses
4 we intend to present. Our fist witness will be Anthony
5 Kurus, for site design, civil engineer. We have Ivano
6 Marulunda with us, our architect, to describe the
7 building we're proposing. Nick Verderese is our traffic
8 engineer present tonight and will discuss most
9 importantly the traffic situation that this particular
10 project being proposed. Also we expect we'll have our
11 traffic engineer to discuss the parking. As we
12 discussed, the parking we're proposing will require a
13 variance. We're proposing 95 spots, about 1.5 parking
14 spots per unit. He will discuss in detail how we think
15 that's more than sufficient parking for this use in this
16 particular area in the city and that we don't anticipate
17 that it will pose any problem whatsoever to the
18 community.

19 We also have with us Christine Cofone, our
20 planner tonight, who will sum up in detail the variances
21 that we're seeking.

22 Mr. Chairman, if the board doesn't have any
23 questions, we will start with Mr. Kurus.

24 CHAIRMAN CASTRO: Commissioners, do you have
25 any questions for Mr. Shafkowitz?

1 MR. SOSA: Mr. Chairman.

2 CHAIRMAN CASTRO: Commissioner Sosa.

3 COMMISSIONER SOSA: Were you able to conduct
4 a community meeting?

5 MR. SHAFKOWITZ: Sorry, sir.

6 COMMISSIONER SOSA: Were you able to conduct
7 a community meeting?

8 MR. SHAFKOWITZ: I honestly don't believe
9 that one in particular was had, but I know that some of
10 our representatives have scoured the community to
11 request and ask for feedback with regard to the proposed
12 use and some of the things that can be benefits -- I'm
13 sorry.

14 CHAIRMAN CASTRO: Please.

15 MR. SHAFKOWITZ: And in particular we had
16 discussions with township staff, we've received
17 something back from this particular board in terms of
18 architectural design. So yes, there wasn't a meeting
19 per se, but from our perspective we did everything we
20 could to solve whatever issues in that regard.

21 COMMISSIONER SOSA: Any particular reason
22 why?

23 MR. SHAFKOWITZ: I don't have any particular
24 answer for that.

25 COMMISSIONER SOSA: Okay. Thank you.

1 CHAIRMAN CASTRO: I'm going to ask the
 2 people in the public to please stay silent. You're
 3 going to speak when the time comes. Please.
 4 MR. SHAFKOWITZ: Thank you, Mr. Chairman
 5 CHAIRMAN CASTRO: Any other questions for
 6 Mr. Shafkowitz, please?
 7 Do you have any other witnesses?
 8 MR. SHAFKOWITZ: First witness, Andy Kurus.
 9 MR. McNAMARA: Sir, as I stated before, the
 10 order of questioning is as follows. The applicants
 11 witness will give direct testimony. Once that is done
 12 members of the board will ask questions of the
 13 applicants witness. Once that is done the floor will be
 14 open to all members of the public to come to the podium
 15 and ask any questions specifically regarding that
 16 witnesses testimony. This gentleman is a civil
 17 engineer, so your questions will be, we ask that they be
 18 limited to just his testimony. If you have questions
 19 for the architect or the traffic expert or the planner
 20 you will have an opportunity to ask them questions as
 21 well. And we'll start from this side of the room and
 22 then work from that side of the room going back, so that
 23 everyone will have an opportunity to ask questions.
 24 When that is done, and the entire hearing is over, the
 25 public will then be afforded a second opportunity to

1 speak to the board and express their opinions for or
 2 against the application.
 3 Sir, please raise your right hand.
 4 Do you swear or affirm the testimony you're
 5 about to present to the City of Elizabeth Zoning Board
 6 of Adjustment concerning this application shall be the
 7 truth the whole truth nothing but the truth.
 8 THE WITNESS: I do.
 9 MR. McNAMARA: For the record sir, please
 10 state you name, spell your last name, and provide your
 11 business affiliation.
 12 THE WITNESS: Anthony Kurus, K-U-R-U-S.
 13 Business address, Neglia Engineering Associates, 34 Park
 14 Avenue, Lyndhurst, New Jersey. I'm a licensed
 15 professional engineer in the state of New Jersey. Been
 16 practicing civil engineering for the past 20 years.
 17 Appeared before numerous boards throughout the state,
 18 including this board.
 19 CHAIRMAN CASTRO: And your licenses are
 20 still active?
 21 THE WITNESS: They are.
 22 CHAIRMAN CASTRO: This board accepts your
 23 credentials.
 24 THE WITNESS: Thank you.
 25 A N T H O N Y K U R U S, having been duly

1 sworn under oath according to law testifies as follows:
 2 Q. Thank you, Mr. Chairman.
 3 Andy, why don't you take the opportunity to
 4 discuss the property and the surrounding area related to
 5 your testimony?
 6 A. Sure.
 7 I'm going to refer to our sheet C-1 of the
 8 submitted drawing set which is --
 9 MR. McNAMARA: Okay. You can't turn your
 10 back to him.
 11 THE WITNESS: Okay.
 12 MR. McNAMARA: All right. So here's what we
 13 got to do. You got to stand over here so that these can
 14 be seen by the board and you got to look at him.
 15 MR. SHAFKOWITZ: Mr. McNamara, does this
 16 exhibit have to marked as Exhibit A-1?
 17 MR. McNAMARA: If it's something that was
 18 part of the submittal package, just identify what sheet
 19 it was in the package. If it was not in the application
 20 package then we'll mark it as an exhibit.
 21 MR. SHAFKOWITZ: I believe that was in the
 22 application package.
 23 A. Yes, this is sheet C1.00, which was part of the
 24 submitted application plans. That is the site
 25 demolition plan.

1 So starting with the site demolition plan, I'll
 2 go through the existing conditions at the existing site
 3 at 538-550 Morris Avenue and 539-553 Cherry Street. The
 4 site is bound by Morris Avenue on the east side, Cherry
 5 Street on the west side. The existing 7-Eleven property
 6 to the north, as well as a multifamily residential
 7 apartment building to the south.
 8 The overall property size is 50,926 square feet.
 9 1.17 acres. The site is located in the C-1 zone.
 10 Morris Avenue is under the jurisdiction of the NJ
 11 DOT. Cherry Street is a City of Elizabeth road. Cherry
 12 Street is a one-way roadway heading in the northerly
 13 direction. The site shown on the demolition plan is
 14 what previously existed on the property. When we
 15 performed the survey back in December of 2020, as was
 16 shown on the sheet, the site previously contained a one
 17 story brick bank building. It was used as a bank. It
 18 was also a drive-thru facility fronting Cherry Street
 19 that contained four drive-thru bays. Access to the
 20 existing site is through two existing curb cuts off of
 21 Morris Avenue. There's a one way, a prior one driveway
 22 out as well as ingress and egress onto Morris Avenue on
 23 the northerly side.
 24 On Cherry Street there's also additional two curb
 25 cut driveway access points. There's access to the

1 existing, what was the existing parking lot on the south
2 side as well as an oversized curb cut on the north side
3 that previously provided egress from the drive-thru
4 facility from the prior bank.

5 Topography on the site is gently sloping from the
6 southerly to the northerly direction. We have a grade
7 change of approximately three feet cross the parking lot
8 from south to north. There are existing retaining walls
9 along the southerly property line, such that the
10 properties to the south sit approximately two to four
11 feet higher than the subject property.

12 Based on the prior bank and prior parking lot the
13 preexisting impervious coverage at the site is
14 approximately 0.93 acres. The site contained, again,
15 the building, the parking lot, concrete sidewalks and
16 all adding up to approximately point 93 acres of
17 impervious coverage over the 1.17 acre site.

18 The property is in the C-1 zone. We are located
19 within close proximity to similar multifamily
20 residential dwelling structures. Again, we have multi
21 family residential to the south and as our planner will
22 get into later, we are within close proximity to
23 additional multifamily residential structures ranging
24 from three stories to six stories in height.

25 Q. As part of the review of the existing site plan

1 A. Sure.

2 MR. McNAMARA: I asked the witness to please
3 describe the type of landscaping being proposed.

4 A. So the proposed landscaping plan and landscaping
5 design includes new foundation plantings along the
6 proposed building consisting of a variety of shrubs,
7 perennial plantings. In addition we're proposing street
8 trees, new street trees within the applicants property
9 on Cherry Street. Those are the larger green circles
10 shown there. In addition there will be screening on the
11 northern end around the proposed transformer. Those
12 would be evergreen screen type plantings to screen the
13 proposed transformer area. Yeah, in summary it's a mix
14 of foundation plantings, perennial plantings, shrubs to
15 provide a desirable visual environment from both street
16 frontages.

17 Q. Mr. Kurus, what about the proposed dog run on the
18 property?

19 A. There is on the, I guess, southwesterly corner of
20 the site there's a proposed dog -- proposed dog run area
21 shown on the plan. That area is fenced in and would
22 also consist of green area or green space.

23 Q. And could you briefly describe the building being
24 proposed for the site and the architect will talk about
25 most of the detail?

1 did you review the stormwater management?

2 A. There's currently no on-site stormwater
3 management on the property. The prior site contained
4 roof area asphalt paving. The construction of that bank
5 site predated the NJ DEP stormwater management
6 regulations that requires stormwater management. So the
7 existing condition is such that there is no on-site
8 stormwater management system.

9 Q. Thank you. Why don't you get into what's being
10 proposed here?

11 A. Sure. So this exhibit I will have to mark. This
12 is a colorized site plan.

13 MR. McNAMARA: All right. For the record,
14 let's mark this A-1. And ask you to please identify
15 what this is.

16 A. Yes. It's called, Colorized Site Plan. It's
17 dated August 12, 2021. It's sheet number C3.00. It's
18 basically a colorized version of sheet C-2 that was
19 submitted as part of the drawing package. Only
20 difference is it's been colorized with the landscaping
21 supper imposed to provide a color visual of the proposed
22 site improvements.

23 MR. McNAMARA: If you could describe for the
24 benefit of the board and public the types of plantings
25 being proposed around the perimeter of the property?

1 A. Sure.

2 So in summary the project proposes a new four
3 story multifamily residential building with 61
4 apartments. 49 two-bedroom units, 12 one-bedroom units,
5 as per the site plan and architectural plans.

6 With respect to the building and the setbacks.
7 On Morris Avenue we're providing a minimum four foot of
8 four feet, which is -- which occurs at the apartment on
9 the south side of the plan and we're providing a
10 ten-foot four foot to the property line to the proposed
11 fitness area on the north end of Morris Avenue.

12 The Cherry Street side the proposed four foot is
13 a minimum of 9.25 feet on the north end and generally a
14 ten-foot four foot to the property line as you head
15 south. With respect to side yards, we're
16 providing a minimum side yard of five feet on the north
17 end, which occurs at the electrical room and on the
18 south side we're proposing a minimum of a ten-foot side
19 yard four foot to the south.

20 Parking for the project will be -- we're
21 proposing a covered parking area that would be covered
22 by the upper levels of the building. It's ground level
23 parking, it's not below grade parking. Access to the
24 parking will be from a ingress/egress driveway from
25 Morris Avenue as well as a secondary driveway on the

1 north side of the property on Cherry Street.
 2 So with respect to ingress/egress, we
 3 consolidated two driveways on Morris Ave to one
 4 centrally located ingress and egress driveway on Morris
 5 Ave and similarly on the Cherry Street side we've
 6 consolidated two existing curb cuts and driveway access
 7 locations to one driveway shifting further to the north
 8 away from Lincoln Avenue to provide means of ingress and
 9 egress on Cherry Street.

10 A total of 92 off-street parking spaces are being
 11 provided within the proposed covered parking area. In
 12 addition there will be additional three on-street
 13 parking spaces to provide us a total of 95 total parking
 14 spaces for the project.

15 The upper floors of the building will contain the
 16 remaining residential units and amenities, which will be
 17 described in more detail by the architect.

18 With, again respect to parking, we're proposing 9
 19 foot by 18 foot deep parking stalls with a minimum of a
 20 24 foot wide driveway. Adjacent to parking is, which is
 21 in accordance with Residential Site Improvement
 22 Standards. There are no tandem parking spaces proposed
 23 with the project.

24 Q. What about ADA parking?

25 A. With respect to ADA parking we have two proposed

1 ADA parking stalls over on the easterly portion right
 2 behind the proposed lobby is the closest spaces to the
 3 lobby. As far as the number of ADA spaces, because it's
 4 a residential use group we're required 2 percent of the
 5 overall parking supply to be ADA accessible parking
 6 spaces. So we have 92 spaces proposed, requirement of
 7 1.8 spaces, we have two ADA parking spaces provided.

8 Q. Thank you.

9 Before you get into the topic of stormwater
 10 management, what are the setbacks proposed for the
 11 building? I believe the plan has the survey of the
 12 existing features, the prior existing features, some of
 13 the setbacks of the adjoining parcel and the buildings
 14 thereon. Can you just identify those for the board?

15 MR. McNAMARA: Let's mark that as A-2.

16 THE WITNESS: This is my -- we already
 17 marked this one.

18 MR. SHAFKOWITZ: Yeah, I think that was in
 19 the existing plan set.

20 MR. McNAMARA: Okay. Let's just mark
 21 everything as we go.

22 MR. SHAFKOWITZ: Okay. Mark it A-2.

23 MR. McNAMARA: If you could identify for the
 24 record what sheet that is in the submission package.

25 THE WITNESS: That is sheet C-1.

1 MR. McNAMARA: Let's put it up on the center
 2 easel so it can be seen.

3 A. So with respect to the existing -- existing bank
 4 --

5 Q. And also the structure that surrounds that
 6 property.

7 THE WITNESS: I think they're on the aerial
 8 exhibit they're not on this sheet.

9 MR. SHAFKOWITZ: Oh, sorry.

10 A. Well, let me show the side yard setbacks to the
 11 adjacent multifamily buildings, 8.5 feet. 8.7 to the
 12 building on the south. 9.8 feet to the other structure
 13 adjacent to us on the south. The existing bank building
 14 is approximately 14.9 feet from Morris Avenue and the
 15 accessory covered drive-thru was approximately 10 feet
 16 to the Cherry Street four foot.

17 I think, I know we did take a look at the aerial
 18 photography, I know the restaurant across the street
 19 from us on Morris Avenue is built right up to the front
 20 yard four foot. I do not have those on this exhibit
 21 though.

22 Q. Yeah, I understand that. I just wanted you to
 23 reference the two multifamily properties adjacent to the
 24 southeast, which seem to be similar setbacks to what the
 25 applicant is proposing here?

1 A. Correct. So specifically to the south side we're
 2 providing a minimum of a 10 foot side yard four foot to
 3 the south where the existing buildings to the south
 4 range from eight and a half feet to nine point eight
 5 feet. So there's continuity on that south -- southerly
 6 property line.

7 Q. Thank you.

8 Why don't we get right into the stormwater
 9 management, that's going to be a technical component of
 10 this project. That's something you designed?

11 A. I did. I'll pull up the sheet from our drawing
 12 set just to refer to.

13 MR. McNAMARA: Can you mark that as A-3.
 14 Just identify the sheet for the record.

15 THE WITNESS: Sure.

16 A. So A-3 is the Drainage and Utility Plan, Sheet
 17 C4.00 and that was part of the submitted drawing
 18 package.

19 MR. McNAMARA: Thank you.

20 A. So with respect to stormwater management. We're
 21 proposing to construct a new on-site drainage system
 22 consisting of an underground storm detention comprised
 23 of a 36 inch high density polyethylene HDPE piping. To
 24 summarize it, it's basically a storage system. It's --
 25 the proposed systems is approximately 1,000 linear feet

1 of 36 inch HDPE pipe. The system provides 7,176 cubic
 2 feet of storage for stormwater below grade, below that
 3 ground level parking area. As I described the current
 4 site has no on-site stormwater management system. The
 5 designed methodology behind this proposed stormwater
 6 management system is what's typically designed for
 7 projects of this type in New Jersey in order to comply
 8 with the NJ DEP stormwater management regulations as
 9 well as the City of Elizabeth's stormwater management
 10 ordinance. The requirements are that we must store
 11 runoff on our property in order to have -- in order to
 12 have no adverse impact onto the adjacent properties and
 13 the adjacent city stormwater conveyance system. So the
 14 design is such that water from the roof area of the
 15 proposed building comes down the downspouts, goes into
 16 this underground storage vault type system, which is a
 17 series of HDPE 36 inch pipe connected together with an
 18 outlet control structure. The outlet control structure
 19 controls and regulates the amount of water that is
 20 discharged from the system and from the site. That
 21 outlet control structure is specifically designed to
 22 satisfy the stormwater management flow reduction
 23 requirements which requires to reduce the peak rate of
 24 runoff from the property by 50 percent for the two year
 25 storm. 25 percent reduction for the ten-year storm and

1 20 percent reduction for the 100-year storm. So in
 2 summary the system holds the water back, the outlet
 3 control structure releases it back to the city
 4 stormwater system at a controlled and reduced rate such
 5 that there's, so that there's no adverse impact with
 6 respect to drainage as a result of this project.
 7 As it relates to the proposed connection to the
 8 city system, we did reach out to the City Engineering
 9 Department and we are aware of an upgrade, a significant
 10 stormwater conveyance system upgrade that is -- will be
 11 undertaken for Cherry Street, so the design of the
 12 outlet for this system will ultimately tie into that new
 13 42 inch stormwater conveyance system with Cherry Street
 14 upon its completion. In the interim the system has been
 15 designed to meet the states stormwater management
 16 regulations as well as the city ordinance to reduce
 17 runoff -- to reduce runoff by 50 percent, 25 percent, 20
 18 percent of the existing peak rate of runoff with an
 19 interim connection to the existing system. But the
 20 ultimate intent is for this project to mesh with the
 21 cities storm drainage improvements so that we can tie
 22 right into that in order to realize the full benefit of
 23 the stormwater management improvement.
 24 Any questions on stormwater?
 25 Q. Just out of curiosity, my understanding is the

1 DEP standards recently changed for stormwater
 2 management, can you explain of -- what had happened and
 3 how we are going to comply with that?
 4 A. So in March new state stormwater regulations went
 5 into effect. Those regulations are, they -- they
 6 provide additional restrictions and additional
 7 regulations on stormwater management. This project has
 8 to comply with them and again those are noted by the
 9 city engineer and the design will meet, you know, the
 10 latest and greatest most stringent NJ DEP standards for
 11 stormwater management control.
 12 Q. And the intent of the system is to retain the
 13 stormwater on our site?
 14 A. Correct. Retain and hold it on our site and
 15 release it back to the city storm system at a controlled
 16 reduced rate. That's the best way to design it.
 17 Q. Those are the two keys to be met and those have
 18 been met here?
 19 A. Yes, they will. Absolutely.
 20 Q. And based on that design it's your opinion that
 21 with the stormwater management system proposed this site
 22 will not have an adverse impact on the neighborhood with
 23 regard to stormwater distribution?
 24 A. That's correct. That's our conclusion and in the
 25 report and calculation that we prepared there will be no

1 adverse impact with respect to stormwater management as
 2 a result of this project.
 3 With respect to cite utilities. New utility
 4 connections are proposed for the new building. Utility
 5 connections will come from the adjoining roadways.
 6 There is an existing utility infrastructure for water,
 7 sanitary sewer, telephone, electric and gas. The
 8 proposed sanitary connection will be made to the
 9 existing sanitary sewer on Cherry Street. We're
 10 proposing new water, gas and electric connections.
 11 Again, subject to the coordination with the utility
 12 authority, those are also shown being proposed off of
 13 Cherry Street.
 14 Landscaping I spoke about already.
 15 Q. Anthony, we mentioned earlier about the need for
 16 variance relief related to impervious coverage. Now, I
 17 know you went into detail about the preexisting site,
 18 can you explain to the board what is being proposed and
 19 offer your opinions as to whether or not the stormwater
 20 management system that you have been discussing in
 21 detail would be suitable to handle that cover?
 22 A. So the proposed impervious coverage for the
 23 project is approximately 1.05 acres. The existing
 24 impervious coverage on the property was 0.93 acres. So
 25 we are proposing a slight increase in impervious

1 coverage of approximately point one two acres. So it's
 2 not a substantial increase in the impervious coverage
 3 from what previously existed when the bank and the
 4 parking was there. However, again there was no on-site
 5 stormwater management system with the existing bank.
 6 We're propose a substantial on-site stormwater
 7 management system. Again 7,176 cubic feet of storage.
 8 Converted to gallons that's approximately 50,000 gallons
 9 of storage on the property. So in my opinion the minor
 10 increase in impervious coverage is more than mitigated
 11 by the substantial stormwater management improvement
 12 that will be installed on-site.

13 Q. Thanks Anthony.

14 Lastly, did you have an opportunity to review the
 15 city's engineers review letter on the property?

16 A. I did.

17 Q. Is there anything in that letter that the
 18 applicant couldn't comply with?

19 A. No, we can comply with all the recommendations of
 20 the report. We have no issues with it.

21 Q. Why don't you just give a brief summary of what
 22 those items recommended and then pick out the
 23 administrative points?

24 A. So referring to the City of Elizabeth Engineering
 25 Division report, I believe this was from Dan Loomis.

1 "Proposed development shall comply with the applicable
 2 requirements of the City of Elizabeth flood prevention
 3 damage ordinance and municipal stormwater control
 4 ordinance." We will comply.

5 His comments with respect to some of the
 6 additional stormwater tabulations and calculations,
 7 we'll provide them.

8 One comment was, "Developer will need to
 9 coordinate with the City to make final connection of the
 10 on-site stormwater system to the City's proposed storm
 11 sewer on Cherry Street, the need for a temporary
 12 connection and to the existing combined sewer will
 13 depend on timing of the two projects." As I stated, the
 14 intention is to ultimately make that connection to that
 15 brand new storm sewer on Cherry Street.

16 "Proposed development shall comply with the
 17 applicable NJ DEP regulations. This site will need
 18 Treatment Works approval, sanitary sewer requirements."
 19 We will comply. "Project will require Treatment Works
 20 approval." We'll submit that application and we'll
 21 obtain it. "Profile the sanitary sewer." That's part
 22 of the TWA. "All applicable permits shall be obtained."
 23 Yes.

24 "Gas service will be provided by Elizabethtown
 25 Gas." We acknowledge that.

1 "All site ordinances for Morris Ave shall comply
 2 with the latest county and/or DOT standards and details
 3 and shall match the existing streetscape design."
 4 That's one thing I didn't mention, which is shown on the
 5 site plan. There will be curb and sidewalk improvements
 6 along both street frontages to enhance and improve the
 7 existing streetscape. That was included within the site
 8 plans and that's noted by the engineers letter. These
 9 improvements need to be coordinated with the city and
 10 town engineer to the extent applicable.

11 "All site work within Cherry Street shall comply
 12 with the City of Elizabeth's standards." We will
 13 comply. "Existing tax lots shall be consolidated by
 14 deed. Copy of the lot consolidation shall be provided
 15 to this office." The applicant will comply.

16 Q. So based on the city engineering review that we
 17 received, the applicant will comply with all comments?

18 A. Yes.

19 MR. SHAFKOWITZ: I have no further
 20 questions.

21 A. I also have the arborists report.

22 MR. McNAMARA: For the record, we're going
 23 to mark the Harbor Consultants report of August 5
 24 Exhibit A-4 and Mr. Loomis report from City Engineering
 25 as Exhibit A-5.

1 Go ahead, Mr. Kurus.

2 A. I don't -- do you want me to go through the
 3 report or can I just agree to --

4 MR. SHAFKOWITZ: If you want to just
 5 highlight some of the items in there. If there's
 6 anything that requires further discussion or the
 7 applicant will comply with the report.

8 CHAIRMAN CASTRO: I think we can address the
 9 report with Mr. Gallerano at a later date. I just would
 10 like to see if you can finish with this witness and we
 11 can ask some questions.

12 MR. SHAFKOWITZ: Okay. I have no further
 13 questions, Mr. Chairman.

14 CHAIRMAN CASTRO: Okay.

15 Commissioners, do you have any questions for this
 16 witness?

17 I have some questions for you.

18 On several occasions you refer to the stormwater
 19 and drainage system as stormwater management and I want
 20 to underline the word, management. Can you elaborate on
 21 that?

22 THE WITNESS: Stormwater management?

23 CHAIRMAN CASTRO: Yes.

24 THE WITNESS: So stormwater management is the
 25 management of stormwater from our site. From our

1 apartment.
 2 CHAIRMAN CASTRO: I understand the
 3 definition of management. I just would like you, for me
 4 and the public, to elaborate a little bit on management.
 5 You indicated that there would be, if I can refer to it
 6 as a tank, that will be storing 50,000 gallons of
 7 stormwater that would be released slowly into the
 8 drainage and sewer system.

9 THE WITNESS: Correct.

10 CHAIRMAN CASTRO: As you remember we had a
 11 storm last week with big floods in that specific
 12 neighborhood and one of the concerns that the neighbors
 13 have brought to the attention of the board is that. So
 14 it is important for you to elaborate on the management
 15 per say of the 50,000 gallons of stormwater and how is
 16 it going to be released slowly into the sewer system?

17 THE WITNESS: Okay. So presently on the
 18 property there is no stormwater management system. The
 19 proposed system, the proposed design, consists of a
 20 stormwater management system that's comprised of the
 21 50,000 gallons worth of 36 inch high density
 22 polyethylene pipe that's buried below ground. The
 23 discharge is controlled by an outlet control structure,
 24 which is a below grade concrete box structure that has a
 25 concrete wall with a low flow orifice which is a small

1 hole in the wall. A mid flow orifice, which is a
 2 secondary hole and then an overflow leader. So by
 3 creating this -- by designing this baffled wall in the
 4 structure it only releases a certain flow of water at a
 5 time and that's specifically designed to release it at a
 6 controlled reduced rate in order to not rush that water
 7 to the city system all at once. There is no stormwater
 8 management on-site and the rain hits the ground, sheet
 9 flows off and it all rushes to the adjacent streets. In
 10 our case, Cherry Street and Morris Avenue, because the
 11 flow from the site is generally from south to north. So
 12 instead of that water just all rushing to the city
 13 system, it's held back on our site with the stormwater
 14 management system and it's through that outlet control
 15 structure the water is petered of into the low flow
 16 orifice and mid flow or the overflow leader. And that
 17 outlet structure is designed for a two year storm, a
 18 ten-year storm and a 100-year storm. What happened last
 19 week that may have been in exces of a 100-year storm.
 20 That was one of the worst rainfall events that we have
 21 all seen. Are we designed for that, I -- I mean, we are
 22 designed for a 100-year storm. There is some
 23 flexibility in the detention system. We do have some
 24 freedom, but again we can't control what's happening
 25 around us. We can't control what's happening in the

1 surrounding area or the downstream system. The only
 2 thing we can control is our own stormwater from our own
 3 site. So that's what we're tasked with. The DEP
 4 regulations is the management of stormwater from our
 5 project site. So we have designed this system to manage
 6 up to a 100-year storm on our own property to slowly
 7 release that back into the cities system in order to
 8 have no adverse impact with respect to drainage.

9 CHAIRMAN CASTRO: So what you're saying is
 10 right now the land, because of course the bank was
 11 demolished, the bank currently that does not have
 12 stormwater management or drainage system right now?

13 THE WITNESS: Correct.

14 CHAIRMAN CASTRO: That's probably one of the
 15 reasons for the -- there was a flood in that
 16 neighborhood.

17 So would it be fair to say that what you
 18 proposed is going to alleviate that specific problem?

19 THE WITNESS: No, I'm not saying it's going
 20 to alleviate the flooding in the neighborhood. All I'm
 21 saying is that it's -- it's going to be an improvement
 22 for this site. It's definitely an improvement. In
 23 order for flooding to, globally for flooding to be
 24 alleviated you would need systems like this installed on
 25 properties up and down the street. So this project is a

1 small piece of the overall puzzle and the inclusion of a
 2 stormwater management system on the property is a
 3 benefit to the surrounding area. Is it a solution to
 4 the overall issues with respect to flash flooding and
 5 flooding, I can't say that.

6 CHAIRMAN CASTRO: But it's a benefit?

7 THE WITNESS: Absolutely it's a benefit. 100
 8 percent.

9 CHAIRMAN CASTRO: Mr. Gallerano, what
 10 relates to that --

11 MR. McNAMARA: Mr. Gallerano, raise your
 12 right-hand.

13 Do you swear or affirm the testimony you're
 14 about to present before the board concerning this
 15 application shall be the truth the whole truth nothing
 16 but the truth.

17 MR. GALLERANO: I do.

18 MR. McNAMARA: For the record, state your
 19 name and qualifications.

20 MR. GALLERANO: Anthony Gallerano, with
 21 the firm of Harbor Consultants. Professional engineer
 22 and professional planner.

23 MR. McNAMARA: And your license is still
 24 valid?

25 MR. GALLERANO: Yes, correct.

1 MR. McNAMARA: Thank you.
 2 ANTHONY GALLERANO, having
 3 been duly sworn under oath according to law testifies as
 4 follows:
 5 CHAIRMAN CASTRO: Thank you, Mr. McNamara.
 6 In what relates to what this witness is
 7 testifying about, stormwater management system, I'm sure
 8 you had an opportunity to review what the applicant is
 9 proposing. What is your position regarding this water
 10 management system or stormwater management and drainage
 11 system that the applicant is proposing in this
 12 application?
 13 THE WITNESS: Sure. So we reviewed the plan
 14 for compliance with the city ordinance and with the
 15 statewide storm water management regulations. Any
 16 project that's considered a major project, under the
 17 definition is a project that disturbs either one acre of
 18 area or increases impervious coverage by more than a
 19 quarter acre. So in this case because they're
 20 disturbing more than one acre they fall under the
 21 jurisdiction of the statewide stormwater management
 22 regulations. So we reviewed the project for compliance
 23 with the statewide rules. The city ordinance pretty
 24 much stays consistent with the statewide rules, so
 25 they're pretty much consistent with each other. I find

1 that they are in compliance with the rules and
 2 regulations. Their stormwater design is adequate.
 3 Meets all the regulations and it will provide a
 4 reduction of runoff as Mr. Kurus pointed out, because if
 5 statewide regulations require runoff they're required to
 6 provide that reduction and they have provided that. So
 7 in conclusion they do meet the stormwater management
 8 regulations.
 9 CHAIRMAN CASTRO: Thank you, Mr. Gallerano.
 10 The last question that I have for you is in what
 11 relates to point 2 in the general comments of Mr.
 12 Gallerano's review letter, Page 6. This is what it
 13 reads. "The site plans indicate that 95 parking spaces
 14 are proposed as opposed to 96 spaces indicated on the
 15 architectural plans." Can you clarify that for this
 16 board, please?
 17 THE WITNESS: Yes. It's 95 total parking
 18 spaces. 92 within the covered parking area plus three
 19 on street for a total of 95.
 20 CHAIRMAN CASTRO: Thank you.
 21 Commissioners, do you have any questions for
 22 Mr. Kurus?
 23 COMMISSIONER GONCALVES: Mr. Chairman, I
 24 have a question.
 25 CHAIRMAN CASTRO: Commissioner Goncalves.

1 COMMISSIONER GONCALVES: Just clarify your
 2 stormwater management. When it rains on the roof where
 3 does that water go?
 4 THE WITNESS: The roof, the runoff on the
 5 roof comes to a roof drain, down the downspout,
 6 underground piped to the stormwater management system.
 7 COMMISSIONER GONCALVES: Okay.
 8 Second question. Going in the same line.
 9 When it rains on your impervious parking area where does
 10 that water go?
 11 THE WITNESS: The same place. But the
 12 majority of the project is building and the roof.
 13 COMMISSIONER GONCALVES: No, I understand.
 14 I just want to make sure 100 percent, I don't need to
 15 know the engineering criteria, I'm an engineer myself,
 16 so I totally understand what you're talking. I want to
 17 make sure that we understand that any water that falls
 18 on your piece of property goes to where?
 19 THE WITNESS: To the stormwater management
 20 system.
 21 COMMISSIONER GONCALVES: Okay. Everything
 22 into Cherry Street? Meaning your drainage, your sewer.
 23 Has that been pre-approved or subject to our approval?
 24 THE WITNESS: I'm not --
 25 COMMISSIONER GONCALVES: Basically you're

1 tying into Cherry Street?
 2 THE WITNESS: Correct.
 3 COMMISSIONER GONCALVES: As you said, it
 4 will be good for the city, yes? It's good or you, just
 5 taking a guess here.
 6 THE WITNESS: We did receive a report from
 7 the city engineer. I think that the question is related
 8 to the timing of the stormwater infrastructure
 9 improvements on Cherry Street. I don't know if the --
 10 if we will be permitted to connect on an interim basis.
 11 I don't know that's decided yet.
 12 COMMISSIONER GONCALVES: So just looking at
 13 the positive a second. If we approve this application
 14 you're still subject to the city saying no, you can't
 15 have the drainage, is that the case?
 16 What I'm trying to say is, here you're
 17 planning something and you're not sure if you can tie
 18 into an existing system. I just want to know, is the
 19 system adequate to accept additional load or --
 20 THE WITNESS: I believe it is.
 21 COMMISSIONER GONCALVES: And I believe your
 22 engineer -- I understand that, but someone pre-reviewed
 23 it other than Harbor or has the city looked at it?
 24 THE WITNESS: We received a report from Dan
 25 Loomis, the city engineer.

1 COMMISSIONER GONCALVES: So -- but it's all
 2 subject to todays approval?
 3 THE WITNESS: Correct. I'm sure additional
 4 review will be required.
 5 COMMISSIONER GONCALVES: And whatever they
 6 request obviously you will satisfy?
 7 THE WITNESS: 100 percent.
 8 COMMISSIONER GONCALVES: Thank you very
 9 much.
 10 CHAIRMAN CASTRO: Very good.
 11 MR. SHAFKOWITZ: I'm sorry Mr. Chairman,
 12 just to clarify a point. That was a good question. I
 13 think the question was focused on whether that
 14 connection was designed yet and was that design for our
 15 system will connect into the Cherry connection approved.
 16 Can you explain to the board how that works?
 17 THE WITNESS: So we did receive -- we reached
 18 out to the city engineer, so we received copies of the
 19 Cherry Street storm drainage system in order to design
 20 the connection for the new -- for our system to the
 21 cities new system. So we have, we discussed with the
 22 city engineer, city engineer wants us to connect into
 23 that new storm drain when it comes in. That's the
 24 direction that we received. So that's been incorporated
 25 into this design.

1 CHAIRMAN CASTRO: Commissioners, any
 2 questions for Mr. Kurus?
 3 COMMISSIONER NUNES: Mr. Chairman.
 4 CHAIRMAN CASTRO: Commissioner Nunes.
 5 COMMISSIONER NUNES: Just a follow up on
 6 your recent comment.
 7 You said that the city wants you to tie into
 8 the upcoming new sewer system?
 9 THE WITNESS: Correct.
 10 COMMISSIONER NUNES: So if the board is to
 11 approve it and they don't have the sewer in place yet,
 12 what are you going to do?
 13 THE WITNESS: So we designed the interim
 14 connection. Again, that will be subject to city review,
 15 I don't know have the answer from the city engineering
 16 whether or not that would be permitted.
 17 COMMISSIONER NUNES: So just to clarify.
 18 You designed something for the existing sewer and
 19 designed something for the upcoming use. So either way
 20 the more calculations that you come up with meet the
 21 criteria of the city in order to connect into the old
 22 one or the new one, is that right?
 23 THE WITNESS: That's how we design it,
 24 correct.
 25 CHAIRMAN CASTRO: Mr. Gallerano, do you have

1 anything to --
 2 MR. GALLERANO: Yeah. I don't think that
 3 the city's going to object to a connection. Again, what
 4 the applicants obligation is, is to reduce the runoff
 5 into that system. So when you go through the analysis,
 6 as we go through this analysis, we look at what's going
 7 into the existing system now and then it would have to
 8 be reduced to the, you know, reduction required under
 9 the stormwater regulations. So as long as they're
 10 meeting reductions and complying with the ordinance
 11 there's no to reason for them, I believe the city to
 12 deny temporary connection. If that storm -- if there
 13 was a proposed storm sewer, you know, going to be built
 14 in Cherry Street they would then connect into the
 15 existing system. And as long as they're meeting
 16 reductions there's no reason for them not to get into
 17 that interim connection and then the reason why they
 18 would want them to tie into the new sewer is because
 19 they would be going into the storm sewer only and
 20 disconnect from a combined sewer. As you know most of
 21 the city is a combined sewer and any time you can
 22 separate the storm from the sanitary, they always try to
 23 do that. So if there's going to be a storm sewer only
 24 installed on Cherry Street then they want them to tie,
 25 ultimately tie the storm system into the storm sewer

1 system. But I don't see any reason why the city would
 2 not grant them a connection permit even on an interim
 3 basis.
 4 CHAIRMAN CASTRO: What I hear, Mr.
 5 Gallerano, is that probably what the applicant is
 6 proposing is better than currently exists?
 7 MR. GALLERANO: Yes, I would say that.
 8 CHAIRMAN CASTRO: Thank you.
 9 Commissioner's, any other questions for the
 10 witness?
 11 Do you have any other witnesses?
 12 MR. McNAMARA: Mr. Chairman, at this time we
 13 should make the witness available to the public.
 14 CHAIRMAN CASTRO: We will do that.
 15 Is there any one from the public who wishes
 16 to ask any questions to this witness?
 17 MR. McNAMARA: Okay. What we're going to
 18 ask you to do is one at a time please come up, you go to
 19 the podium. You will give us your name and address and
 20 again I would ask only questions regarding the testimony
 21 that you heard from the engineer. If you have questions
 22 regarding traffic or the architect, they'll testify
 23 separately and then you can ask them those questions.
 24 Okay.
 25 Please come forward. Over to the podium.

1 Mr. Kurus, I think it would be easier if you
 2 were a little closer and let's put the exhibits up so
 3 the public would be able to refer to them.
 4 THE PUBLIC: My name is Betsy Fabricant. I
 5 live at 118 Lincoln Avenue. Right across the street.
 6 I have in front of me a document I think
 7 that all of you were looking at from Harbor Consultants
 8 and there's a chart called, The Planning and Zoning
 9 Review. And in that chart you were asking for ten
 10 variances and two waivers and I believe that only, as I
 11 counted, eight items are being, are considered
 12 conforming and many of these items that you're asking
 13 for variances are in your presentation. And the list of
 14 the requirements, I'm assuming, is what's required in
 15 the C-1 zone, correct? That's what that chart refers
 16 to. Required items. And my question is, why are you
 17 not conforming to what is required? Just given the
 18 parking example, their requirement is 120 and you're
 19 asking for 61 parking spaces. 95 parking spots, excuse
 20 me. 61 apartments. And three of which are on the
 21 street, on Cherry Street. That's just one of them. I
 22 can go down this list from the amount of space on the
 23 side of the building and just because the building
 24 before you didn't have --
 25 MR. McNAMARA: Okay. Can we try to

1 compartmentalize it into questions.
 2 THE PUBLIC: So that's the question I have.
 3 Why are you not conforming to what's required?
 4 MR. SHAFKOWITZ: Thank you. Before you
 5 answer that question, I don't mean to interrupt but we
 6 do have other witnesses who might be more suited to
 7 answer that question when the time comes.
 8 MR. McNAMARA: There's going to be an
 9 architect who can address a lot of the four foot
 10 questions regarding building dimensions. He might be
 11 suitable to that.
 12 Mr. Kurus, if you could just respond
 13 relative to what you testified to with regard to some of
 14 the variances there. I think why is something the
 15 architect and the planner who will both eventually
 16 testify can better answer.
 17 THE PUBLIC: So even the last page, which I
 18 think is another variance, the amount of space --
 19 MR. McNAMARA: Well, let him answer.
 20 THE PUBLIC: Go ahead.
 21 MR. McNAMARA: Okay.
 22 MR. SHAFKOWITZ: Mr. Kurus, maybe you first
 23 want to start with, in terms of the variance list, would
 24 be the imperious coverage. If you could spend some time
 25 talking about that.

1 THE WITNESS: Page 4?
 2 THE PUBLIC: Page 3 and Page 4. The chart.
 3 THE WITNESS: So Page 3 is the --
 4 THE PUBLIC: The minimum front yard setback
 5 in the --
 6 THE WITNESS: So front yard four foot
 7 requires 15 feet, the proposed is four foot, which is
 8 the minimum which I testified. That four foot minimum
 9 is what occurs on Morris Avenue on the north, so that's
 10 the apartment on the south side. This apartment has the
 11 four foot setback. So it's not really four foot the
 12 entire frontage on Morris Avenue. It's ten feet to the
 13 fitness center on the north side. It's four foot
 14 minimum to the parking apartment on the southerly side.
 15 Front yard on Cherry Street is 9.25 at the
 16 northwest corner and ten foot -- ten foot as you head
 17 further south along Cherry Street. So it's not a four
 18 foot minimum setback on Cherry Street, it's more of a
 19 ten foot setback to the property line on Cherry Street.
 20 And on Morris that four foot setback really only occurs
 21 along the apartment on the southern end of the project
 22 where as we're providing ten feet to the fitness center
 23 at the north side on Morris Avenue.
 24 THE PUBLIC: But my question is, if they're
 25 requiring 15-foot, why do you need a variance? Why

1 can't you comply with what's required.
 2 MR. SHAFKOWITZ: Again Mr. Kurus, we think
 3 -- if that question is more suited for our architect and
 4 our planner we can defer your response.
 5 THE WITNESS: Or planners going to provide
 6 testimony about the benefits will outweigh the
 7 detriments along with other planning specific testimony.
 8 MR. McNAMARA: Sir, please come up.
 9 THE PUBLIC: I'm Betsy's partner, Mike
 10 Fabricant, 118 Lincoln Avenue.
 11 I have a series of questions.
 12 One, do you believe that the proposal that
 13 you have made in any way, shape or form will effect the
 14 quality of life on Cherry Street or Lincoln Avenue?
 15 MR. McNAMARA: I think that question should
 16 be deferred to the planner, sir. He's a civil engineer.
 17 You can answer to the extent he can, please do.
 18 THE PUBLIC: Then let me then ask a follow
 19 up question.
 20 MR. McNAMARA: Okay.
 21 THE PUBLIC: On the question of ingress and
 22 egress on parking, can you guarantee that the tenants
 23 from your apartment building, if and when there's
 24 spillover, will not be parking on Cherry Street and
 25 Lincoln Avenue? Can you address that question. Can you

1 make some kind of assurance on ingress and egress.
2 MR. McNAMARA: Sir, there's a separate
3 witness to testify to traffic requirements. He can
4 answer it, but I'm --

5 THE PUBLIC: He raised the issue. Is he
6 going to answer?

7 MR. McNAMARA: I'm not objecting to the
8 question, sir. I'm saying for the record --

9 THE PUBLIC: I'll come back and ask it
10 again.

11 MR. McNAMARA: Okay.

12 THE PUBLIC: This is a central question for
13 people in the neighborhood.

14 MR. SHAFKOWITZ: And because it's a central
15 question, we understand that, we do have a traffic
16 engineer who's present tonight who will testify.

17 CHAIRMAN CASTRO: Mr. Shafkowitz, it's
18 probably better if you move to the other side of the
19 table.

20 THE PUBLIC: So I will raise the question as
21 well to the traffic consultant, but this was broached in
22 his presentation.

23 Can you assure, as the first consultant,
24 you're the first of the night, that on the basis of your
25 ingress and egress provisions that there will not be

1 spillover in parking on already overcrowded streets,
2 parking wise?

3 THE WITNESS: It's my opinion that the
4 parking supply being proposed is adequate for the
5 proposed project.

6 THE PUBLIC: So let me follow that up. Do
7 you believe that for two-bedroom apartments, we are not
8 talking about two cars for many of the units, that in
9 many instances as when you look at the data on two unit
10 apartments, especially in your income group, you're
11 talking about two cars per apartment. You're suggesting
12 that's adequate. On what basis and with what data do
13 you suggest that that is accurate? Nationally, locally
14 or regionally.

15 MR. SHAFKOWITZ: Mr. Fabricant, as I have
16 mentioned we do have a traffic engineer present who will
17 testify and give you that information.

18 THE PUBLIC: Sure.

19 We're now talking about not 96 spots, not 95
20 but 92 because we have three spots on Cherry Street that
21 are already being used. I'd like to also ask you about
22 the question of, are you familiar with the police
23 recommendation regarding -- regarding parking in the
24 area? What do police have to say in their
25 recommendation or non recommendation regarding this

1 project because of the issue of parking?

2 THE WITNESS: Do we have a police report? I
3 don't know -- I don't know.

4 THE PUBLIC: Well, I will save you time.
5 They recommend they do not and would not make a
6 recommendation based upon the already significant
7 problems regarding parking. So we will return to this
8 with your traffic person.

9 THE PUBLIC: My name is Patrick Muindi,
10 M-U-I-N-D-I, 125 Lincoln Avenue.

11 I love music, and sometimes there's music
12 that you have to get used to because it's strange. I'm
13 going to be asking you a question regarding the sewage.
14 The first time I moved into my apartment I heard a
15 strange noise coming from my sink, and I thought there
16 must be a ghost in the home. So Mr. Engineer, have you
17 ever listened to the music that comes from the sewage?

18 THE WITNESS: No.

19 THE PUBLIC: No. I'm going to play it for
20 you.

21 MR. McNAMARA: Sir, for the record, I have
22 to ask you, where did you --

23 THE PUBLIC: Okay. This is the point, sir.

24 MR. McNAMARA: Okay.

25 THE PUBLIC: The first time I moved in I

1 heard that noise, I did not know what it was trying to
2 tell me. So it's until after the rain, normal rain, I
3 went downstairs and found the switch in my basement. In
4 time I've come to appreciate that music and listen to it
5 because it's the one that want me to run to the basement
6 and take care of what needs to be taken care of. As an
7 engineer, I want to ask a question. The design of your
8 flood management, have you reviewed it everywhere in
9 Elizabeth?

10 THE WITNESS: Yes.

11 THE PUBLIC: And did you go visiting during
12 this flood?

13 THE WITNESS: I did speak with Mr. Engel
14 about some of his other sites and the systems are
15 functionally adequately.

16 THE PUBLIC: I've never seen those Norwood
17 Terrace turn into a rain garden. Never seen Lincoln
18 Avenue turn into a river, I've lived there for 25 years.
19 But this noise started before the real rainfall fell.
20 So for you to try and persuade me that your special
21 silence to my flood, I'm finding that pretty hard to
22 buy. Because the City of Elizabeth had designed a well
23 designed flood control, that's why we have retaining
24 walls toward the river. There are places where the
25 barrier, the above barrier over the wall was washed

1 over. I'd like to talk to the engineer that designed
 2 and approved from this City of Elizabeth. Did you
 3 calculate for that? Do you have the qualifications to
 4 calculate for that. So to you, the city, I say use the
 5 word flood management --
 6 THE WITNESS: I didn't say flood management.
 7 THE PUBLIC: No. No. No. I'm saying, means
 8 you are so competent that you can tell me at least five
 9 gallons, ten gallons because that's crucial. That
 10 50,000 gallons of water will be caught, released in a
 11 controlled manner. Sir, I find that so hard to believe.
 12 I've lived with this noise before we had Ida for over 20
 13 years.
 14 Number two, for you to propose what you are
 15 telling me is, I should go --
 16 CHAIRMAN CASTRO: Sir, sir.
 17 THE PUBLIC: -- before I see the outcome of
 18 the --
 19 CHAIRMAN CASTRO: Let me say something. We
 20 have a session where you can speak all you want. This
 21 sessions for you to ask questions of the witness.
 22 THE PUBLIC: I asked the question. I'm
 23 asking him.
 24 CHAIRMAN CASTRO: I'm telling everyone --
 25 let me speak first.

1 THE PUBLIC: Let me ask a question.
 2 CHAIRMAN CASTRO: No, let me speak first.
 3 THE PUBLIC: Okay.
 4 CHAIRMAN CASTRO: If anyone wants come to
 5 the podium to speak, there's going to be a session for
 6 the public where you will be able to speak.
 7 THE PUBLIC: Thank you, sir.
 8 CHAIRMAN CASTRO: Right now please feel free
 9 to ask questions, only questions to this witness.
 10 THE PUBLIC: Okay. I'll ask a further
 11 question and I'll sit down.
 12 Can you point us to the system that is right
 13 now functioning in Elizabeth?
 14 THE WITNESS: Can I point to a stormwater
 15 management system --
 16 THE PUBLIC: In Elizabeth.
 17 THE WITNESS: I would say any major
 18 development site is required to have one. Every major
 19 development site is required to have stormwater
 20 management installed.
 21 MR. SHAFKOWITZ: Talk about the Murray
 22 Street one.
 23 THE WITNESS: Murray Street has a similar
 24 type system installed. Underground pipe gallon system
 25 with outlet control structure.

1 THE PUBLIC: So where is the point you go
 2 and say, you can witness how it works?
 3 THE WITNESS: Well, I mean, most of them are
 4 underground so you can't see them. You can't see them
 5 once they're installed and buried.
 6 THE PUBLIC: Storm management the flood,
 7 should be away for you to --
 8 THE WITNESS: Well, there's maintenance
 9 requirements, there's access ports, there's manhole
 10 covers, there's inspections that the owner has to
 11 conduct on an annual basis. Reports that have to be
 12 submitted. That's all part of the requirements.
 13 THE PUBLIC: My final question, when are you
 14 anticipating to connect to the new sewage system in the
 15 city?
 16 THE WITNESS: I can't answer that. Once the
 17 city storm sewers -- when the city storm sewer is
 18 completed the connection will be made to the new city
 19 storm sewer. Prior to that the connection will be to
 20 the existing combined sewer system.
 21 THE PUBLIC: So I and the rest of the
 22 neighbors have to deal with the flood.
 23 Thank you, sir.
 24 CHAIRMAN CASTRO: Thank you.
 25 THE PUBLIC: Alan, A-L-A-N, Coen, C-O-E-N,

1 132 Hillside Road in Elizabeth.
 2 Sir, in your testimony, in preparation for
 3 the testimony and your report, did you consult the City
 4 of Elizabeth Master Plan and amendments thereto?
 5 MR. SHAFKOWITZ: Is that something you
 6 regularly do as a civil engineer or is that usually with
 7 the architect and planner?
 8 THE WITNESS: For the storm --
 9 THE PUBLIC: I just want this for the
 10 record.
 11 THE WITNESS: I've reviewed the City of
 12 Elizabeth Master Plan.
 13 THE PUBLIC: Sorry.
 14 THE WITNESS: I have reviewed the City of
 15 Elizabeth Master Plan.
 16 THE PUBLIC: In conjunction with your
 17 testimony tonight?
 18 THE WITNESS: I didn't testify as a planner
 19 though. I testified as an engineer.
 20 THE PUBLIC: Okay.
 21 Did you work in connection with the County
 22 of Union? They have a planning process as well.
 23 MR. SHAFKOWITZ: You can explain what the
 24 county requirements are. Are you the one responsible
 25 for the county road systems -- are you the one

1 responsible for county road and the outcome design of
2 the county road ingress and egress for the city?

3 THE PUBLIC: Counsel, your voice. Can you
4 speak louder.

5 THE WITNESS: So Morris Avenue actually is
6 NJ DOT jurisdiction and Cherry Street is under the City
7 of Elizabeth jurisdiction. We haven't submitted an
8 exemption request to Union County but --

9 MR. SHAFKOWITZ: Andy, if you could just
10 maybe explain what role Union County would regularly
11 play in a project like that if there was a county road?

12 THE PUBLIC: I have a letter addressed to
13 you, Counsel, of March 9, 2021 from the County of Union
14 and it states at the bottom of the letter, "Contact me
15 with questions regarding the above. You would like
16 assistance on the development review process associated
17 to the county planning board." Whatever the development
18 review project is, I don't know, I'm asking you the
19 question.

20 THE WITNESS: I don't know what you're
21 reading.

22 THE PUBLIC: I'm reading from the County of
23 Union letter. I would like to give it to you, if I may

24 MR. SHAFKOWITZ: If I may, Mr. Coen. I
25 think what he's referencing is with every application,

1 whether it's an exemption --

2 MR. McNAMARA: Counsel, you're talking to
3 everyone not just them. Please.

4 MR. SHAFKOWITZ: Sorry, I'm not trying to be
5 disrespectful in that regard.

6 If you can just maybe explain what role the
7 county would regularly have in the review of this
8 project, so we can understand why or why not they would
9 have any input into this?

10 THE PUBLIC: I don't know.

11 MR. SHAFKOWITZ: Well, that's what I'm
12 asking Anthony to answer for you.

13 THE PUBLIC: Thank you.

14 I do have the letter addressed to you from
15 the Union County Planner and I was wondering if --
16 that's what I wanted to ask you before, whether you were
17 cognisant of this letter?

18 MR. SHAFKOWITZ: Mr. Coen, as I understand
19 it when the property fronts on a county owned or county
20 operated road we have to submit our plans for their
21 review and ultimate approval based on any improvement on
22 the road frontage, sidewalks ingress, egress, traffic
23 lights, those types of things. This particular project,
24 I think why Anthony's a little confused, is that we have
25 a state road, Morris Avenue, and we have a local road,

1 Cherry Street. We don't have any county roads. So what
2 we're supposed to do is submit a plan to the county and
3 ask essentially for the county to exempt us from any
4 review because there is no county --

5 THE WITNESS: There's no --

6 MR. SHAFKOWITZ: I think we're waiting for
7 the county to grant the exemption.

8 THE PUBLIC: You'll properly submit that to
9 the board?

10 MR. SHAFKOWITZ: We already -- yes, of
11 course we will.

12 THE PUBLIC: Because I haven't seen it so
13 far. I may be mistaken, but is it not Orchard Street a
14 county road?

15 MR. SHAFKOWITZ: We just worry about the
16 property, the roads that our property fronts on. So our
17 property fronts on Morris and gaining access to Morris
18 and our property fronts Cherry and is gaining access to
19 Cherry. Not -- there's no other streets that we gain
20 access to.

21 THE PUBLIC: Well, this is, for the record,
22 looks like a fairly serious letter to you and as far as
23 I know it has not been responded to. And that was one
24 of the reasons for my asking for an adjournment, but I'm
25 going to drop that. Not drop that but I'm not going to

1 elaborate on that.

2 Now, you made a couple promises by you
3 saying, we will. Particularly with regards to the
4 connection between the old sewer and the new sewer and
5 so on. Do you have any idea how long it will take for
6 the city to, at least begin work, on the new sewer?

7 THE WITNESS: I do not.

8 THE PUBLIC: Do you have any idea of the
9 history of the city and sewer connections, how long it's
10 taken and how long the flood experience has been in this
11 City of Elizabeth?

12 THE WITNESS: I'm familiar with this
13 development in the City of Elizabeth.

14 THE PUBLIC: Because we are residents of the
15 city for 52 years almost and we've heard a lot. A lot.
16 So these things from the city and the conditions in the
17 city and our street in particular are very bad.

18 Now, you also made several promises -- well,
19 my question is with regard to the promises you made, are
20 you authorized to make promises for the applicant?

21 THE WITNESS: Yes. As the engineer, yes.

22 THE PUBLIC: You're not a partner?

23 THE WITNESS: A what?

24 THE PUBLIC: A partner. You have no
25 economic interest in this project.

1 THE WITNESS: I do not.
 2 THE PUBLIC: Thank you.
 3 Now, going back to the Master Plan for a
 4 moment. And I understand that the Master Plan is almost
 5 idealistic in nature, or can be almost idealistic in
 6 nature. But I recall -- I reviewed it quickly this
 7 afternoon and it did say in the Master Plan, and I don't
 8 have the citation for you, that parking for two cars per
 9 household would be preferable. And I will submit to the
 10 board the exact wording that I am referring to. Can you
 11 honestly say to the board realistically that people are
 12 not going to have two cars, that people are not going to
 13 be lazy and work and park where they're supposed to
 14 park. Can you honestly say that there will not be
 15 spillover and, I don't expect an answer from you. I'm
 16 raising that question if you chose to answer, I would
 17 appreciate it.
 18 MR. SHAFKOWITZ: Mr. Coen, we don't want to
 19 avoid answering that question and our traffic engineer
 20 will be happy to address that during his testimony and
 21 have you come back up and ask the question again.
 22 THE PUBLIC: There was no traffic report in
 23 today's -- I looked at the file this afternoon or this
 24 morning and there was no traffic report in the file.
 25 Will there be one furnished?

1 MR. SHAFKOWITZ: There was one submitted
 2 with the original application.
 3 THE PUBLIC: I didn't see it.
 4 THE PUBLIC: Thank you.
 5 CHAIRMAN CASTRO: Thank you, Mr. Coen.
 6 I'm going to call for a five-minute recess.
 7 (Whereupon, a short recess is taken.)
 8 THE PUBLIC: My name is Jack Barros,
 9 B-A-R-R-O-S, 252 Lincoln Avenue.
 10 Mr. Engineer, can you tell me what type of
 11 system, sewer system, you have on Morris and on Cherry
 12 Street? What type of sewer system do we have.
 13 THE WITNESS: There's a combined sewer system
 14 on Cherry Street. A ten-inch.
 15 THE PUBLIC: Ten-inch combined sewer system
 16 on Cherry Street. And on Morris Avenue?
 17 THE WITNESS: Morris Ave is also a ten-inch
 18 combined.
 19 THE PUBLIC: You're kidding me. Really,
 20 that's it. That's awful small, don't you think?
 21 Now, your management system, does it have
 22 any retainage abilities whatsoever built into the
 23 system?
 24 THE WITNESS: Retainage.
 25 THE PUBLIC: Retainage and disbursement.

1 THE WITNESS: Yes.
 2 THE PUBLIC: How much of it?
 3 THE WITNESS: 50,000 gallons.
 4 THE PUBLIC: 50,000. In total volume how
 5 much is retaining on the property?
 6 THE WITNESS: It's retained and slowly
 7 released in a controlled rate. The systems designed,
 8 per the city ordinance and the state stormwater
 9 management regulations. I stated that already.
 10 THE PUBLIC: You stated that already. So
 11 you have no retaining abilities whatsoever in the
 12 system.
 13 Do you know when the City of Elizabeth is
 14 intending on conducting separation of the storm and
 15 sanitary sewer in the area?
 16 THE WITNESS: I do not know the timing of the
 17 project.
 18 THE PUBLIC: So we don't have a project up,
 19 you're telling everybody here eventually, sometime in
 20 the future the City's going to come up and separate the
 21 storm and the sanitary sewer hook up, but you don't know
 22 when?
 23 THE WITNESS: We designed it to accommodate
 24 both the existing system and the improved system.
 25 THE PUBLIC: It's not an improved system.

1 Again, that systems an awfully small system and you only
 2 exacerbate it. You're telling us that yes and no, there
 3 was a pipe there, similar components to what you're
 4 proposing, but you're forgetting about the people that
 5 live in the building are also going to take showers,
 6 wash dishes, wash clothes, all that sewage will back
 7 into the sewer system. You're forgetting about that.
 8 Right?
 9 Another question is this, since you don't
 10 know for sure and you're banking on the city separating
 11 the sanitary runoff sewer, is it your, is the owners of
 12 this project willing to finance or even pay for the
 13 separation of the storm sanitary sewer in the area to
 14 accommodate their property?
 15 THE WITNESS: I can't answer that.
 16 THE PUBLIC: You can't answer that. Okay.
 17 And lastly, why should we citizens of
 18 Elizabeth subsidize a project with three parking spaces
 19 that are already used up by citizens of the neighborhood
 20 to allow you somehow to manage your numbers up on
 21 parking. Why should we do that?
 22 THE WITNESS: Our traffic expert will
 23 provide parking testimony shortly.
 24 THE PUBLIC: Okay. So you have no answer.
 25 So it's all maximize, maximize, maximize. Are you guys

1 willing to scale back this project until the sewer
2 system has necessary capacity to adequately service this
3 project? Are you willing to scale it back and at some
4 time in the future build it back up when the storm sewer
5 and sanitary are separated?

6 THE WITNESS: It is my opinion there's
7 adequate capacity to support this project with the
8 sanitary sewer based on the design prepared.

9 THE PUBLIC: It's adequate right now for the
10 number of occupants in the given area. You're going to
11 bring in a couple 100, perhaps many more, people. So
12 you're going to increase that volume by a factor of ten
13 or more.

14 THE WITNESS: We need a NJ DEP Treatment
15 Works approval permit for the sanitary sewer connection.
16 We will obtain that and design it such that it will be
17 adequate sewer capacity to support the project or we
18 can't obtain that permit.

19 THE PUBLIC: I'm sure it's adequate that
20 you're going to have treatment or whatever that you
21 have, but it's still tied into the ten-inch main, which
22 is awfully inadequate. And we know it's inadequate
23 because we saw what happened last week. We had, how
24 much water in that area, 10 feet, 12 feet above normal
25 water from this storm. You think that ten-inch pipe,

1 --

2 THE PUBLIC: I'm sorry.

3 MR. McNAMARA: No, please. This is for
4 asking questions of the engineer only.

5 As I said before -- as I've said before,
6 after we're done with all witnesses and all testimony,
7 the public will have another opportunity to speak for or
8 against an application and to give their reasons. We're
9 asking you just please keep what you want to say limited
10 to specific questions of this mans testimony. Please.

11 THE PUBLIC: Yes.

12 MR. McNAMARA: Thank you.

13 THE PUBLIC: My question is, why are you
14 trying to bring the property within ten feet of my
15 property line? Why can you not conform to what the
16 property limits are? The city has ordinances and limits
17 on what ever property lines are set. When you purchased
18 the property you understand as a purchaser what those
19 limits are. The question I have is, why does my
20 property have to be ten feet away when the requirement
21 by the city, as I understand it, is 19 feet?

22 THE WITNESS: Why do you we have to be ten
23 feet away when the requirement is 15 feet, is that the
24 question?

25 THE PUBLIC: I think it's 19.

1 ten-inch is adequate to accommodate the extra 400 people
2 or whatever you're going to put into this project. I
3 don't think so. I don't think this project -- you guys
4 need to look to scale back this project. It's way, way
5 too big for the area.

6 CHAIRMAN CASTRO: Thank you.

7 MR. McNAMARA: Stop, please. We're not
8 going to shout over people. Okay. Please. If you want
9 to come ask questions of the engineer this is the time.
10 Please come forward and go to the podium.

11 Let me also announce for the benefit of the
12 public, it is the policy of the board that no new
13 witness will be called after ten o'clock and all
14 testimony commentary will cease at 10:30. If we are not
15 finished by then this application will be carried to
16 October 14. Please.

17 THE PUBLIC: Good evening. My name is
18 Ascensaos Santos, S-A-N-T-O-S. I am the owner of -- I
19 am the neighbor of this project. I have a six family,
20 which is 536 Morris Avenue and the other property next
21 to it, which is a 23 unit known as, 530-532 Morris
22 Avenue.

23 As a neighbor I do not approve of this
24 project.

25 MR. McNAMARA: Ma'am, please. This is not

1 MR. McNAMARA: Is this regarding the minimum
2 side yard?

3 THE PUBLIC: The side yard, yes.

4 THE WITNESS: 19.3 feet is the requirement.

5 THE PUBLIC: You're asking for that space to
6 be half.

7 THE WITNESS: We're requesting a variance for
8 side yard set back.

9 THE PUBLIC: And my question is, why do you
10 need that? When you purchased that, I mean when you do
11 a plan on the property you base it upon the property
12 limits, so therefore, I mean I can understand a foot or
13 two, but you're cutting that side property line to half,
14 which means you're pretty much on very limited space
15 next to you while everybody else on that street has the
16 19 feet. Most of the properties have a larger -- if the
17 city requires 19 then why can't you keep to the 19 on my
18 side?

19 MR. SHAFKOWITZ: Mr. Kurus, I think Ms.
20 Santos is the owner of the property to the south.

21 THE WITNESS: So you're the property to the
22 south. Your side yard setbacks are 8.5 feet, 8.7 and
23 9.8 feet. So we're proposing a ten foot side yard four
24 foot, so that the total distance between this building
25 and your building, the aggregate would be approximately

1 20 feet, ten on our property, plus between eight and ten
2 feet on your property. So we're matching that side yard
3 on the south side.

4 THE PUBLIC: The city has requirements,
5 right. They say if you have -- you have to have limits.
6 So if you're saying everything's fine then why are you
7 asking for, you know, a cut back of that space? Why
8 can't you keep your building or your structure within
9 the 19 feet from my property line as the city has those
10 -- those are the setbacks, right?

11 THE WITNESS: Correct, that's why we're here.
12 We're here requesting the variance for one of them being
13 side yard setback. We do have a planner that's going to
14 get into more of the details and the justification for
15 the variances, that's not part of my testimony.

16 THE PUBLIC: My main thing is there's not --
17 you're not asking the board for one small thing, you're
18 asking for everything. Every neighbor, every street,
19 everything in there is -- you're cutting back --

20 CHAIRMAN CASTRO: Ms. Santos, the witness
21 has answered the question and indicated that there's
22 going to be someone else you can ask the question.

23 THE PUBLIC: I'm sorry. Thank you very
24 much.

25 MR. McNAMARA: Thank you.

1 bring the county in and therefore county approval is
2 also needed.

3 MR. McNAMARA: Ma'am, is there a question to
4 the engineer?

5 THE PUBLIC: The question is, has the
6 engineer been able to address the issues raised in this
7 letter?

8 MR. McNAMARA: Well, the letters addressed
9 to the attorney for the applicant, I think he's better
10 to answer.

11 THE PUBLIC: Yes, about this site plan --
12 the engineer was talking about the site plan.

13 MR. SHAFKOWITZ: Yeah, Ms. Coen, I think
14 it's probably the same question your husband had asked,
15 right.

16 THE PUBLIC: It's more detailed.

17 MR. SHAFKOWITZ: Yeah, so -- I'm sorry, I'll
18 look this way.

19 The application that was submitted, I think
20 that you might be referencing is for another application
21 related to this client for Newark Avenue, which I think
22 is on a county road. We, just because there's county
23 roads potentially in the vicinity doesn't mean that the
24 county has a review requirement. In fact what's
25 intended for this application, because it's not fronted

1 CHAIRMAN CASTRO: Thank you.

2 THE PUBLIC: Susan Coen, C-O-E-N. From 132
3 Hillside Road, Elizabeth.

4 I just wanted to clarify the business about
5 the County of Unions involvement in this. The letter is
6 dated March 9, 2021 and it's to David Shafkowitz,
7 Esquire. Applicant site, Grand at Morris, LLC. "Dear
8 Mr. Shafkowitz, the County of Union Bureau of Planning
9 and Land Use on behalf of Union County Planning Board
10 received a site plan application and associated request
11 for the above noted property. The above noted
12 development application was submitted with a review fee
13 -- excuse me." "Was submitted with a review fee check
14 in the amount of \$200, that is incorrect and enclosed
15 herein. Also the copies of the plans and documents were
16 not provided. The noted site is located on a county
17 road, which based on county land development standards
18 an application review fee schedule requires that the
19 site plan is \$500 plus \$10 per parking space. The
20 application is submitted incomplete due to the incorrect
21 fee and missing items." Then asks for a revised check
22 in the correct amount and copies of the plans. It is
23 true that Morris Avenue and Cherry Street, neither of
24 them are county roads, but there are four other sides to
25 that square and part of that is a county lane which did

1 on a county road, fronts on a state road and local road
2 it would just qualify for county exemption. So the
3 county will not be reviewing it because it has no impact
4 on their roads from our frontages and that's all they
5 measure. So I'm thinking what you might be referencing
6 is a application that was submitted for a different
7 project that does front on a county road and the items
8 were be submitted for that application.

9 THE PUBLIC: 538-546 -- 538-550. So sounds
10 pretty close to the same.

11 MR. McNAMARA: That application is for an
12 entity called, Grand at Morris, LLC on Morris Avenue and
13 Cherry Street. That's the one that's here. The one
14 that you're thinking about is Z-02-21, that's on Newark
15 Avenue and Pennsylvania Avenue, it's called, The Grand
16 at Penn.

17 THE PUBLIC: No, it's not. It's Grand at
18 Morris, LLC 538-550 Morris Avenue, Block 11. It matches
19 up.

20 MR. SHAFKOWITZ: Okay. Well, we appreciate
21 you pointing it out, but I think the explanations been
22 provided.

23 THE PUBLIC: I'm sure you will address the
24 county as well.

25 CHAIRMAN CASTRO: Thank you.

1 THE PUBLIC: Good evening. My name is
 2 Clarisa Gonzalez-Lenahan, C-L-A-R-I-S-A,
 3 G-O-N-Z-A-L-E-Z, L-E-N-A-H-A-N. I reside at 25 Wilson
 4 Terrace.
 5 My concern, as part of all the other
 6 concerns expressed by my fellow neighbors, is the
 7 parking situation in this town. You have identified and
 8 testified that there will be 2 handicapped parking
 9 spaces and that that's the maximum required -- minimum
 10 required by law. But if two spots are assigned for
 11 handicapped parking then that reduces the overall number
 12 of spots for the tenants of the building by two. You
 13 are also indicating that there are three spots that are
 14 on the street. But I turn on that street everyday when
 15 I drive to work, and the narrowness of that street is so
 16 much that if there were actually three cars parked
 17 there, where now there are cutouts, I don't see how the
 18 traffic turning left off of Lincoln onto Cherry and the
 19 oncoming traffic from Cherry that turns left onto
 20 Lincoln could possibly do that with three cars parked
 21 there.
 22 Also, just because there are three spots
 23 there, doesn't mean those spots are for public that are
 24 assigned to your development. So doesn't make sense to
 25 me. So could you explain to me how you're making sense

1 of that, which it doesn't make sense to me.
 2 CHAIRMAN CASTRO: Mrs. Lenahan -- Mr. Kurus,
 3 I believe you have a traffic witness that can testify to
 4 that specific question that Mrs. Lenahan is asking, am I
 5 right? So I think, Mrs. Lenahan, you may want to ask
 6 that question to the traffic expert that they're going
 7 to bring up.
 8 THE PUBLIC: I can certainly ask my question
 9 again.
 10 CHAIRMAN CASTRO: I think he would be more
 11 qualified to objectively answer your question.
 12 THE PUBLIC: Thank you. I'll ask it again.
 13 CHAIRMAN CASTRO: Thank you.
 14 THE PUBLIC: Good evening, Mr. Chairman,
 15 esteemed members of the board. I have a couple
 16 questions regarding --
 17 MR. McNAMARA: Sir, for the record we need
 18 your name and address.
 19 THE PUBLIC: Peter Lenahan, L-E-N-A-H-A-N.
 20 I reside at 25 Wilson Terrace.
 21 MR. McNAMARA: Thank you.
 22 THE PUBLIC: Sorry about that, sir.
 23 You mentioned the water management system.
 24 Is there a system on this property?
 25 THE WITNESS: Proposed, no.

1 THE PUBLIC: So how are you going to retain
 2 50,000 gallons of water?
 3 THE WITNESS: We have a below grade pipe
 4 system.
 5 THE PUBLIC: The sewer?
 6 THE WITNESS: No. No. Proposed. It's our
 7 own underground stormwater retention system.
 8 THE PUBLIC: Most --
 9 MR. McNAMARA: Mr. Kurus, would you show --
 10 THE WITNESS: That's the proposed stormwater
 11 detention system.
 12 THE PUBLIC: That's the storm piping?
 13 THE WITNESS: Correct.
 14 THE PUBLIC: Storm piping. Okay.
 15 The ten-inch storm system that you're
 16 proposing here, is that going to be, you're going to
 17 meter that into the sewer storm system for the city?
 18 THE WITNESS: We're not proposing any
 19 metering.
 20 THE PUBLIC: Okay. You said it is going to
 21 be restricted.
 22 THE WITNESS: It's going to be restricted in
 23 that it's going to be controlled with an outlet control
 24 structure. For the interim condition we're proposing an
 25 eight-inch pipe connection out to the ten-inch and that

1 would be a larger pipe once the storm infrastructure is
 2 constructed within Cherry Street.
 3 THE PUBLIC: Okay. And that's going to be
 4 able to contain that 50,000 gallons of water?
 5 THE WITNESS: Yeah. Our system stores the
 6 water, retains it on-site and it discharges at a slower
 7 reduced rate to a smaller outlet.
 8 THE PUBLIC: Okay.
 9 What is the diameter of that piping?
 10 THE WITNESS: The detention pipe is 36
 11 inches.
 12 THE PUBLIC: Okay.
 13 THE WITNESS: The outlet pipe for the interim
 14 condition is eight-inches. So, it's --
 15 THE PUBLIC: And that's going to feed into a
 16 ten-inch sewer line?
 17 THE WITNESS: Correct.
 18 THE PUBLIC: Okay.
 19 The ten-inch sewer line is on the state side
 20 -- is it on the county side or the state side?
 21 THE WITNESS: It's within Cherry Street.
 22 THE PUBLIC: So you're going to tap into the
 23 city, Elizabeth city municipal lot?
 24 THE WITNESS: Ultimately it will be
 25 connected into a separated storm sewer system.

1 THE PUBLIC: Is that eventually --
 2 THE WITNESS: Ultimately.
 3 THE PUBLIC: Ultimately.
 4 THE WITNESS: I received plans from the city
 5 engineer, it's designed -- the direction was to bring
 6 the storm drain connection out to the future storm sewer
 7 within Cherry Street.
 8 THE PUBLIC: Okay. Let me move on to
 9 another question.
 10 If you scale back the project to three
 11 stories, and you eliminate the fourth floor, how many
 12 apartments would you lose?
 13 THE PUBLIC: I believe the architect will
 14 provide more testimony on the units and the floor plan.
 15 That would have no impact on stormwater management.
 16 THE PUBLIC: I know. This is another
 17 question.
 18 So if we eliminate and scale back and we
 19 eliminate the fourth floor would that not solve most of
 20 the variance issues?
 21 THE PUBLIC: I don't think so.
 22 THE PUBLIC: Okay.
 23 So do we have the exact number of apartments
 24 that were on the fourth floor?
 25 THE WITNESS: The architects going to give

1 more detailed testimony on the floor plans, the number
 2 of apartments per floor. That testimony is coming.
 3 THE PUBLIC: That's coming. Okay. Thank
 4 you kindly.
 5 CHAIRMAN CASTRO: Thank you, Mr. Lenahan.
 6 THE PUBLIC: Hi. My name is Jennifer Foy, I
 7 live at 506 Cherry Street. Directly across from this
 8 project.
 9 My question is, earlier in your testimony
 10 you cited that a structure of this size is comparable to
 11 the properties that are within the vicinity. I notice
 12 in your picture that it only points towards the south
 13 where there are appropriate buildings of a higher scale.
 14 But what's missing from that image is the other three
 15 views, which are predominately two story and one story
 16 structures. So my question to you is, within a block
 17 radius or two block radius, what percentage of
 18 structures are actually even comparable to this scale,
 19 size wise, height wise of this?
 20 THE WITNESS: I don't have the calculation on
 21 the percentage of buildings. We do have a planner who's
 22 going to get into the surrounding area and how the
 23 buildings going fit and how it's going to work with the
 24 surrounding area.
 25 THE PUBLIC: Thank you very much.

1 I know from my mom's apartment she won't see
 2 the sun. It'll probably be twice that of her house.
 3 CHAIRMAN CASTRO: Thank you.
 4 MR. McNAMARA: Is there anyone else who
 5 wishes to come up and ask any questions of the engineer.
 6 Please come forward. Is there anybody else here?
 7 Is there any expert who has been retained by
 8 any resident in engineering who wishes to ask any
 9 questions? Come on up, sir.
 10 THE PUBLIC: Good evening everybody. My
 11 name is Mario Ulloa, U-L-L-O-A. I live at 154 Lincoln
 12 Avenue.
 13 So my son goes to school -- goes to school
 14 right there, so that school that's, I think is 900
 15 children go to the school. That's a big institution
 16 that's coming in, almost 200 children more. I think you
 17 make a school for that. My son goes to that school, one
 18 teacher covered 27 children, one teacher.
 19 MR. McNAMARA: Sir. Sir. Two things. One,
 20 the question needs to be focused I think toward his
 21 testimony. There will be a planner who will testify who
 22 can answer certain questions. But I will advise you, as
 23 I've advised the board in the past, impact on school
 24 enrollment can not be a determining factor in this
 25 boards decision making. That is settled case law here

1 in the state of New Jersey. So that, if there's an
 2 issue as to how many additional school children may or
 3 may not be added, this board cannot have that as a
 4 determining factor in its decision making. I know some
 5 people think that sounds odd but there are court rulings
 6 to that effect that have directed boards that say, look,
 7 it's up to the city as part of it's master planning and
 8 other process to design schools and anticipate school
 9 enrollment. So you can keep going, we're not going to
 10 say you can't speak your mind, but I just want that on
 11 record for the benefit of the board and public, because
 12 quite often people do raise issues about impact on
 13 schools and school aged children that can be potentially
 14 coming from a new development. So please continue, sir.
 15 Thank you.
 16 THE PUBLIC: As to parking. That
 17 institution has a lot of cars on street, so parking, so
 18 that's how you plan for, I think maybe amount of cars.
 19 So I want know how you do it?
 20 CHAIRMAN CASTRO: I think that's going also
 21 be for the traffic engineer.
 22 MR. SHAFKOWITZ: That is correct. We'll
 23 have the traffic expert address those questions.
 24 THE PUBLIC: Okay.
 25 MR. McNAMARA: Just so you're aware, the

1 experts he has are here and they're listening to all the
2 questions that are being raised. So it's up to them to
3 make sure that when it's their turn they're ready to
4 respond.

5 THE PUBLIC: Thank you.

6 MR. McNAMARA: You're welcome, sir. Thank
7 you.

8 CHAIRMAN CASTRO: Thank you.

9 THE PUBLIC: David Burd, B-U-R-D. I live at
10 134 Lincoln Avenue. I have a couple questions.

11 One is, is the project designed to separate
12 the sanitary sewer and storm sewer? I didn't get that,
13 or are they together.

14 THE WITNESS: The proposed connection on the
15 project are designed to be separate sanitary connection
16 and separate storm connection.

17 THE PUBLIC: And it looks -- probably better
18 to have this underground pipes and not to have to see
19 any of that. I imagine -- it's a little hard for me to
20 imagine how the small opening, small openings, I think
21 you said four inch or one inch on the bottom of that?

22 THE WITNESS: Six inches.

23 THE PUBLIC: Six inches. And then the next
24 one is bigger?

25 THE WITNESS: 12 inches in the middle.

1 THE PUBLIC: And then there's an overflow?

2 THE WITNESS: There's a leader here.

3 THE PUBLIC: What's that? A leader.

4 THE WITNESS: Small interior concrete wall
5 within the structure.

6 THE PUBLIC: So if the pipes fill up at some
7 point it goes over the wall?

8 THE WITNESS: It goes over the interior wall
9 within the underground structure, correct.

10 THE PUBLIC: And where does the water go
11 then?

12 THE WITNESS: It all goes out the pipe.

13 THE PUBLIC: Out to the --

14 THE WITNESS: To the city system.

15 THE PUBLIC: The city system.

16 Was there any calculation done where eight
17 inches of rain in four hours would, how much is that
18 equivalent to? Those pipes, that system you have
19 underneath the building, would it fill it up?

20 THE WITNESS: That system is designed to
21 handle what the DEP classifies as a 100-year storm,
22 designed storm criteria. What we had exceeded that.

23 THE PUBLIC: Okay.

24 My last question. A lot of variances, they
25 are, most of them don't pertain to your testimony, but

1 they all add up to one thing, which is fitting more
2 apartments in the same space. If there were less
3 apartments, instead of 60, let's say 30 or 40, would
4 that require less -- well, less of a burden to the city
5 sewer system than this number of apartments?

6 THE WITNESS: My testimony is that the city
7 sewer system can accommodate the sanitary sewer
8 generated by the project. So I don't -- I don't see any
9 adverse impact with respect to sewage from the project.

10 THE PUBLIC: Thank you.

11 MR. McNAMARA: Mr. Kurus, if I could, just
12 for clarification. If you go over to the -- you're
13 done, sir. Thank you. I'm questioning him.

14 The proposed underground stormwater system
15 you illustrated there, there is no sanitary sewer
16 flowing into that system from this project, correct?

17 THE WITNESS: Correct.

18 MR. McNAMARA: And that's run by separate
19 lines designed completely separate and apart and remain
20 separate throughout the construction of those two sets
21 of drainage lines for stormwater and the lines for
22 sanitary sewer?

23 THE WITNESS: That's correct. There's a
24 separate sanitary sewer connection for the property.

25 MR. McNAMARA: And there are separate

1 sanitary sewer lines coming out of the building that
2 eventually go to Cherry Street?

3 THE WITNESS: Correct.

4 MR. McNAMARA: Thank you.

5 Is there any other member of the public who
6 wishes to come forward at this time and ask any
7 questions of the engineer?

8 Please come, sir. Thank you.

9 THE PUBLIC: My name is James Harrington. I
10 live at 127 Lincoln Avenue.

11 Question, what kind of homes will these be,
12 like assisted living or low cost rents?

13 MR. McNAMARA: The architect would be the
14 right witness to ask that question, sir. I believe he
15 will be the next witness called at the next hearing.

16 If you can answer it, Mr. Kurus, please do.

17 THE WITNESS: They're market rate
18 apartments. But, again, the architect will give you
19 more detailed testimony on the actual units and the
20 floor plans.

21 THE PUBLIC: Okay.

22 Under parking now. Underground parking.

23 Would they be required to use the parking lot or

24 mandatory, I hate to use mandatory, required? I know

25 some people wouldn't want to pay the extra money to park

1 underneath, they would park on the street, like in front
2 of my house.

3 MR. SHAFKOWITZ: I believe Mr. Harrington,
4 it is the intent of this project not to have anybody
5 park in front of anybody's house. But the owner does or
6 the landlord will have the opportunity to assign parking
7 to the units. So one of the things that can be done as
8 part of the process is that they can assign one-bedroom
9 units, or for example, all units a parking space. And
10 if they reach a point where somebody comes with a two
11 bedroom and has two cars and there's not two parking
12 spots available, they can move on to the next applicant
13 and not set it up where it's purposely going to
14 overflow. But there are other factors and other
15 considerations that our traffic engineer will talk about
16 as it relates to parking and all the statistics that I
17 believe the residents are looking forward to hearing
18 about why we believe this will work. So we'll be happy
19 to present all that when our traffic engineer is
20 testifying.

21 THE PUBLIC: They will be allowed to visit
22 relatives and spend a week?

23 MR. SHAFKOWITZ: Right. And I don't want to
24 spoil the surprise, so to speak, but our traffic
25 engineer will explain why it will all work. Why parking

1 will be more than sufficient and will not impact the
2 neighborhood.

3 THE PUBLIC: Okay. Thank you.

4 MR. McNAMARA: Thank you, sir.

5 I thought I saw a couple other people with
6 their hands up. Is there anyone else who wishes to come
7 forward at this time and ask any questions of just this
8 witness. Please come forward now.

9 Please come forward, sir. Thank you.

10 THE PUBLIC: Hi. My name is Wilson Guzman.

11 I live at 150 Lincoln Avenue for three years and the way
12 I see that it you're connecting the sewer system and the
13 storm system to the combined system?

14 THE WITNESS: Correct.

15 THE PUBLIC: Right. Okay.

16 Like I said, I have -- I've lived there for
17 only three years, but not the hurricane but before that
18 I had a lot of water. The water was coming down from
19 the manhole. I got pictures. Like I have no water and
20 the water was up to the manhole, the cap. The top of
21 it. So all that waters going to run to Cherry, right.
22 And then into your system. I mean into the cities
23 system and then you have two connections, the storm
24 sewer and the sewer connects to the drainage pipe. Now,
25 right now we have a problem, so imagine after you guys,

1 not saying that, probably cities going to do it, so
2 that's still going to be built even if the cities not
3 going to change the system.

4 THE WITNESS: So the proposal is, yes, to --
5 we have it designed to accommodate the interim
6 connection to the ten-inch combined sewer. The proposed
7 stormwater management design reduces the peak rate of
8 runoff to the city system by providing the on-site
9 detention and on-site stormwater management system where
10 currently there exists no on-site stormwater management
11 system. So the runoff and the water from this project
12 post development condition will be reduced and less than
13 the peak grade runoff from the existing condition. So
14 there would be no increase and no adverse impact with
15 respect to the storm drainage.

16 THE PUBLIC: Well, you're going to have
17 water impact. Right now we have problems, imagine after
18 everybody coming.

19 THE WITNESS: It's --

20 THE PUBLIC: I guess it's not a problem with
21 your company, it's the town. You got to come to the
22 town.

23 THE WITNESS: Again --

24 THE PUBLIC: Because the way it is right
25 now, is impossible. All right.

1 CHAIRMAN CASTRO: You asked a question. Are
2 you done?

3 THE PUBLIC: Yeah, I'm done. Thank you.

4 MR. McNAMARA: Is there anybody else who
5 wishes to come forward and ask a question of this
6 witness for engineering testimony? Please come forward.
7 Is there anybody else wishing to ask this witness any
8 questions regarding his testimony?

9 Mr. Chairman, no further residents have
10 identified themselves as wanting to come forward at this
11 time.

12 CHAIRMAN CASTRO: Thank you. Thank you, Mr.
13 McNamara.

14 Mr. Shafkowitz, do you have any other
15 witnesses?

16 MR. SHAFKOWITZ: Yes, Mr. Chairman. Our
17 next witness would be our architect, Ivano Marulanda,
18 but I see that it's 10:18.

19 CHAIRMAN CASTRO: What time is it?

20 MR. McNAMARA: 10:18, sir.

21 CHAIRMAN CASTRO: We'll hear Mr. Marulanda
22 until 10:30.

23 MR. SHAFKOWITZ: Okay. Thank you.
24 Ivano.

25 COMMISSIONER SOSA: Mr. Chairman.

1 CHAIRMAN CASTRO: Commissioner Sosa.
 2 COMMISSIONER SOSA: I believe we should
 3 carry this over to the next meeting.
 4 CHAIRMAN CASTRO: We will be doing that
 5 Commissioner Sosa, but let's begin with the testimony of
 6 Mr. Ivano at least so we can move on. They have an army
 7 of witnesses.
 8 MR. McNAMARA: Just for the benefit of the
 9 public that is here. This hearing will continue on
 10 Thursday, October 14. Start time is 7:30 here in city
 11 council chambers. There will be no mailing done to
 12 notify you of that hearing.
 13 Sir, do you solemnly swear the testimony
 14 you're about to present to the zoning board of
 15 adjustment concerning this application shall be the
 16 truth the whole truth nothing but the truth.
 17 THE WITNESS: I do.
 18 MR. McNAMARA: For the record, state your
 19 name and spell your last name. Provide your business
 20 affiliation and credentials.
 21 THE WITNESS: Good evening. My name is Ivano
 22 Marulanda, M-A-R-U-L-A-N-D-A. I graduated from
 23 Universidad de Valle in Columbia. I've been working at
 24 James Guerrero for 20 years. I'm a licensed architect
 25 in New Jersey. My license is current and I have

1 testified before this board before.
 2 CHAIRMAN CASTRO: His credentials are
 3 accepted.
 4 Sir, what is your last name?
 5 THE WITNESS: Marulanda, M-A-R-U-L-A-N-D-A.
 6 CHAIRMAN CASTRO: Thank you.
 7 I V A N O M A R U L A N D A, having been
 8 duly sworn under oath testifies as follows:
 9 **Q.** Ivano, you're familiar with this property that's
 10 the subject of this application?
 11 **A. That's correct.**
 12 **Q.** And your firm was commissioned by the applicant
 13 to prepare plans, architectural drawings with regard to
 14 this application?
 15 **A. That's correct.**
 16 **Q.** And I believe some of those plans are in front of
 17 the board tonight?
 18 **A. That's correct.**
 19 **Q.** Why don't you take the opportunity to mark some
 20 of the boards you're going to reference if they weren't
 21 already identified and put into the plan set?
 22 **A. Right. Most of what I have here have been**
 23 **provided to the board. I do have some renderings.**
 24 MR. McNAMARA: We'll need to mark these.
 25 We're up to Exhibit A-6. So let's mark each one and

1 identify it for the record.
 2 THE WITNESS: A-6, that would be the view
 3 from Morris Avenue.
 4 MR. McNAMARA: That would be A-7.
 5 THE WITNESS: A-7 provides the side --
 6 renderings of side views with views from the Cherry side
 7 and from the terrace.
 8 **Q.** And Ivano, the plans that you had, that were
 9 included in the plan set, let's mark those also and
 10 identify them?
 11 **A. Okay. This was submitted to the board so I have**
 12 **--**
 13 MR. McNAMARA: So the renderings that were
 14 submitted in the application package will be marked
 15 Exhibit A-8. The side view with the four pictures on it
 16 will be A-7. And the front view will be A-6.
 17 THE WITNESS: Okay.
 18 MR. McNAMARA: Thank you, sir. Please
 19 continue.
 20 **Q.** Now Ivano, if we can start by describing what is
 21 being proposed, can you maybe discuss with the board,
 22 advise the board what type of design criteria you looked
 23 at as you designed this project?
 24 **A. Right. We wanted to provide an apartment**
 25 **building for this area. We looked around at the area,**

1 **around it actually has a lot of buildings three stories**
 2 **all way to six stories around and with different**
 3 **roofing. Some that we saw had hip roofs, so we looked**
 4 **at all this to come up with our design. Again, for this**
 5 **area I think it's an important corridor that's going**
 6 **into Elizabeth, so I thought this was a nice improvement**
 7 **for the site.**
 8 **Q.** Why don't you explain to the board what is being
 9 proposed for this site?
 10 **A. Sure. So what we said is it's a four story**
 11 **building, 61 units -- 61 units. 49 are two-bedroom**
 12 **apartments and 12 are one-bedroom apartments. I can**
 13 **start going over the zoning chart.**
 14 **So as we said it's a residential use. We also**
 15 **meet the size of the lot. We are asking for variances**
 16 **for the front yard four foot on Morris Avenue.**
 17 **Prevailing is 50 feet, we're asking for four feet. Now,**
 18 **this only happens on a small section of the building.**
 19 **Most of the buildings set back further, even the**
 20 **building on the top section is set back further. I'll**
 21 **show you on the floor plan renderings all of this.**
 22 **Q.** If you can, I don't mean to interrupt. You
 23 mentioned prevailing setback. I know that's going to be
 24 an issue on some of the other setback relief that we're
 25 requesting. Can you explain what that is?

1 **A. Right. So the way we try to look at prevailing**
 2 **is we have to look at the lots that are on the same**
 3 **block and front, as long as they're in the same zone.**
 4 **So for Morris you have a few lots. We have 22 lots we**
 5 **looked at to come up with 15 feet prevailing. The other**
 6 **one we have is the setback for Cherry Street. Cherry**
 7 **prevailing is 139.2 feet. Now, the issue with Cherry,**
 8 **there is only three lots in the same zone. One of them**
 9 **is half a building, the other one is actually the bank**
 10 **that was 139 feet back from Cherry. 7-Eleven is around**
 11 **30 feet. So those are the only properties we compared**
 12 **it to, to look for prevailing. By actuality Cherry**
 13 **Street buildings actually closer to the street than**
 14 **three-and-a-half or 139, this is only because that zone,**
 15 **but as you know in that area it's actually similar**
 16 **setbacks.**

17 **Q.** So is it safe to say that the idea behind
 18 prevailing setback --

19 **CHAIRMAN CASTRO:** Excuse me. You want to
 20 speak, please do it outside. Please.

21 **Q.** The question, I want to get a better
 22 understanding of the concept of prevailing setback
 23 because essentially the township or the cities zoning
 24 ordinance doesn't set a particular number of setback,
 25 they ask you to look at a number of different factors

1 setbacks on Cherry Street. Are we generally consistent
 2 with the zoning?

3 **A. Right. Generally consistent. We're actually**
 4 **very close to what the neighbor to the right side, if**
 5 **you're looking at Cherry, the building front of it,**
 6 **we're closer to that setback than actually 7-Eleven is.**
 7 **That's the other side, but the buildings further away**
 8 **from there, closer to the property line.**

9 **Q.** And the property, those properties along Cherry
 10 Street and Morris are consistent with what we're
 11 proposing?

12 **A. That's correct.**

13 **Q.** And I noticed the ordinance also doesn't allow,
 14 for purposes of determining this number, to look across
 15 the street, let's say at Morris Avenue. And I
 16 understand from the testimony of Mr. Kurus the property
 17 across the street on Morris also find they have a closer
 18 setback as well?

19 **A. That is correct. Yes.**

20 **Q.** And does that play into the theory whether or not
 21 the setbacks we're proposing here are consistent?

22 **A. Right. We looked at it and we thought the**
 23 **benefit on Cherry side was adequate. Also it is not all**
 24 **floors, we actually s set back a further and then above**
 25 **the building set back. Just like you have a four story**

1 and the prevailing setbacks to me is an average of the
 2 properties along that street in the same zone and what
 3 the average setback maybe. Is that correct?

4 **A. That's correct. You have to meet 65 percent of**
 5 **that average setback.**

6 **Q.** So even though prevailing is 15, there are
 7 properties along, let's say Morris Avenue, that are
 8 closer to 15?

9 **A. That's correct.**

10 **Q.** And there are properties along Morris Avenue that
 11 are more than 15?

12 **A. That's correct.**

13 **Q.** So we come up with an average and say 15 seems to
 14 be prevailing but doesn't necessarily mean somethings
 15 smaller inconsistent with the zoning?

16 **A. Right. And that shows even more with Cherry**
 17 **where we have three properties to look into. But we**
 18 **have to look at all the properties on Cherry, you**
 19 **probably see you have much closer setbacks.**

20 **Q.** So if we're looking at prevailing, even though
 21 they might be outside the zone along Cherry, there are
 22 properties that are as close or is as close to the
 23 setback?

24 **A. That's correct.**

25 **Q.** So could you offer an opinion in regard to

1 **building nine feet to the property line, no. It's only**
 2 **a portion of nine foot. We have to ask for a variance**
 3 **where the minimum dimension is but actually the**
 4 **buildings further back than most of the area.**

5 **Q.** So what you described to the board is that our
 6 first floor space incorporates our parking area, the
 7 parking deck?

8 **A. That's correct.**

9 **Q.** That's the parking that's enclosed?

10 **A. Yes.**

11 **Q.** It sets the minimum or maximum number of relief
 12 that we need?

13 **A. That's correct.**

14 **Q.** And the parking variance, because the concern for
 15 the neighborhood is intended to provide as much parking
 16 as possible?

17 **A. Right. Try to provide as much parking as**
 18 **possible, covered and safety inside for the residential.**

19 **Q.** And was one of the goals of this project, I know
 20 our traffic engineer will talk about it further, was to
 21 get to a 1.5 parking space per unit ratio?

22 **A. That's correct. We are providing 92 spaces on**
 23 **site. With 61 apartments that was at least 1.5 per**
 24 **apartment.**

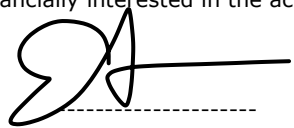
25 **Q.** I appreciate that.

1 Maybe just take this opportunity, I know we want
 2 to get into the beautiful design you guys prepared, but
 3 you're talking about the building stepping back in
 4 further toward the setbacks, because one of the things
 5 that we're concerned about is height. We don't want to
 6 block, I guess somebody mentioned somebody's sun or
 7 shadows and things. Why don't you explain set back a
 8 bit in detail, how the building is set back as it goes
 9 up also set back on the street?

10 **A. Right. Okay. So I can go into it a bit on the**
 11 **plans. This is sheet G1301. So it shows the first**
 12 **floor plan and for example, this is more towards Cherry**
 13 **Street. This here is an apartment, that's the first**
 14 **floor, that apartment is four feet away from the**
 15 **property line on Morris Avenue, but the gym on this side**
 16 **is actually ten feet away from the property line.**
 17 **On the Cherry side we have at this corner nine**
 18 **foot three, that's the minimum but that's sloping down.**
 19 **We have more floor area here, about ten feet on this**
 20 **area. And if you go up to the second floor, this is the**
 21 **property line right here, this is again Morris Avenue,**
 22 **this is Cherry, this is the apartment, this is an**
 23 **internal terrace space that we have there and you will**
 24 **see that the language here is where the first floor is.**
 25 **This is where the four-foot is but actually the back**

1 **sets back for ten feet here. We have 12 feet here and**
 2 **actually that's the balcony that's up to eight feet, so**
 3 **you have 18 feet here. So again, Morris Avenue, the**
 4 **whole buildings not four feet away from the property**
 5 **line. It's actually sort of a dynamic elevation that**
 6 **gives you more of a set back there. The basis is more**
 7 **consistent to that above and starts staggering and**
 8 **stepping back. Same thing happens on Cherry Street. So**
 9 **we have nine foot at this corner but the building also**
 10 **keeps stepping back and terraces and I think Cherry we**
 11 **go up to 21 feet with the setback on that side.**
 12 **Q.** I appreciate you giving us that picture of the
 13 property.
 14 I believe we have just ran -- I don't know if you
 15 want to go further, Mr. Chairman.
 16 CHAIRMAN CASTRO: We're going to continue
 17 Mr. Marulanda's testimony in October.
 18 COMMISSIONER SOSA: Mr. Chairman, can I ask
 19 something.
 20 CHAIRMAN CASTRO: Commissioner Sosa.
 21 COMMISSIONER SOSA: I am going to suggest,
 22 Counsel, that you do have a community meeting. Like a
 23 majority of these questions from residents are simple
 24 questions that they can ask you. It's not fair for us
 25 to be here when you got applications here because we got

1 to take the time to properly notify them and create a
 2 community meeting. So I recommend before you guys come
 3 back you do a Zoom meeting. I don't want to come back
 4 to this again, saying that you guys didn't speak to
 5 them.
 6 MR. SHAFKOWITZ: Thank you, Mr. Sosa. We'll
 7 consider that.
 8 COMMISSIONER SOSA: Thank you.
 9 CHAIRMAN CASTRO: Thank you.
 10 MR. McNAMARA: Mr. Chairman, there being no
 11 further business before the board this evening a motion
 12 to close this hearing and carry to the October 14
 13 meeting of the board would be in order.
 14 MS. WHITEHEAD: I'm sorry, before we close,
 15 can we just have a motion for the minutes from the last
 16 meeting, please.
 17 MR. McNAMARA: Well yeah, we'll do that
 18 next.
 19 (Hearing concludes at 10:35 PM.)
 20
 21
 22
 23
 24
 25

1 C E R T I F I C A T E
 2 I, ERIC S. FISHMAN, a Shorthand Reporter
 3 and Notary Public of the State of New Jersey do hereby
 4 certify that the foregoing is a true and accurate
 5 transcript of the testimony as taken stenographically
 6 (VIA ZOOM) by and before me at the time, place and on
 7 the date hereinbefore set forth, to the best of my
 8 ability.
 9 I DO FURTHER CERTIFY that I am neither a
 10 relative nor employee nor attorney nor counsel of any of
 11 the parties to the action; and that I am neither a
 12 relative nor employee of such attorney or counsel; and
 13 that I am not financially interested in the action.
 14 
 15
 16
 17 ERIC S. FISHMAN, S.R.
 18
 19
 20
 21 Dated: 9/23/2021
 22
 23
 24
 25

\$	19038 [1] - 2:8	7:7, 16:3 58 [1] - 9:18	91:2, 91:16 A-7 [4] - 3:10, 91:4, 91:5, 91:16 A-8 [2] - 3:11, 91:15 abilities [2] - 62:22, 63:11 ability [1] - 100:8 able [6] - 12:3, 12:6, 45:3, 54:6, 71:6, 76:4 absolutely [2] - 27:19, 36:7 accept [1] - 40:19 accepted [1] - 90:3 accepts [1] - 14:22 access [12] - 9:8, 9:10, 9:12, 16:19, 16:25, 20:23, 21:6, 55:9, 59:17, 59:18, 59:20 accessible [1] - 22:5 accessory [2] - 8:9, 23:15 accommodate [5] - 63:23, 64:14, 66:1, 83:7, 87:5 accordance [1] - 21:21 according [2] - 15:1, 37:3 accuracy [1] - 4:6 accurate [2] - 50:13, 100:4 acknowledge [1] - 30:25 acre [5] - 7:24, 17:17, 37:17, 37:19, 37:20 acres [6] - 16:9, 17:14, 17:16, 28:23, 28:24, 29:1 action [2] - 100:11, 100:13 active [1] - 14:20 acts [1] - 8:3 actual [1] - 84:19 actuality [1] - 93:12 ADA [6] - 21:24, 21:25, 22:1, 22:3, 22:5, 22:7 add [1] - 83:1 added [1] - 80:3 adding [1] - 17:16 addition [3] - 19:7, 19:10, 21:12 additional [9] - 16:24, 17:23, 21:12, 27:6, 30:6, 40:19, 41:3, 80:2 additionally [1] - 10:7	address [10] - 14:13, 32:8, 44:19, 46:9, 48:25, 61:20, 71:6, 72:23, 74:18, 80:23 addressed [4] - 10:21, 57:12, 58:14, 71:8 adequate [10] - 38:2, 40:19, 50:4, 50:12, 65:7, 65:9, 65:17, 65:19, 66:1, 95:23 adequately [3] - 5:14, 52:15, 65:2 adjacent [7] - 21:20, 23:11, 23:13, 23:23, 25:12, 25:13, 34:9 adjoining [2] - 22:13, 28:5 adjourned [1] - 5:12 adjournment [2] - 5:8, 59:24 ADJUSTMENT [1] - 1:1 Adjustment [1] - 14:6 adjustment [1] - 89:15 administrative [1] - 29:23 adverse [7] - 25:12, 26:5, 27:22, 28:1, 35:8, 83:9, 87:14 advise [2] - 79:22, 91:22 advised [1] - 79:23 aerial [2] - 23:7, 23:17 affiliation [2] - 14:11, 89:20 affirm [2] - 14:4, 36:13 afforded [1] - 13:25 AFONSO [1] - 1:12 afternoon [2] - 61:7, 61:23 aged [1] - 80:13 AGENCY [1] - 1:23 aggregate [1] - 68:25 agree [1] - 32:3 ahead [2] - 32:1, 46:20 Alan [1] - 55:25 ALAN [1] - 55:25 alleviate [2] - 35:18, 35:20 alleviated [1] - 35:24 allow [3] - 9:11, 64:20, 95:13 allowed [2] - 8:24, 85:21
\$10 [1] - 70:19 \$200 [1] - 70:14 \$500 [1] - 70:19	2 2 [3] - 22:4, 38:11, 73:8 20 [6] - 14:16, 26:1, 26:17, 53:12, 69:1, 89:24 200 [1] - 79:16 2020 [1] - 16:15 2021 [4] - 1:2, 18:17, 57:13, 70:6 21 [1] - 98:11 22 [1] - 93:4 23 [1] - 66:21 24 [1] - 21:20 25 [5] - 25:25, 26:17, 52:18, 73:3, 74:20 252 [1] - 62:9 27 [1] - 79:18 285-5331 [1] - 1:25	6 6 [1] - 38:12 60 [1] - 83:3 605-9391 [1] - 1:25 61 [4] - 9:2, 20:3, 92:11, 96:23 65 [1] - 94:4 61 [3] - 45:19, 45:20, 92:11		
0		7		
0.93 [2] - 17:14, 28:24 07071 [1] - 2:4 07960 [1] - 1:24		7,176 [2] - 25:1, 29:7 7-Eleven [3] - 16:5, 93:10, 95:6 713 [1] - 2:7 732 [1] - 1:25 790 [1] - 2:4 7:30 [2] - 1:2, 89:10		
1	3	8		
1,000 [1] - 24:25 1.05 [1] - 28:23 1.17 [2] - 16:9, 17:17 1.5 [3] - 11:13, 96:21, 96:23 1.8 [1] - 22:7 10 [3] - 23:15, 24:2, 65:24 100 [4] - 36:7, 39:14, 41:7, 65:11 100-year [6] - 26:1, 34:18, 34:19, 34:22, 35:6, 82:21 10:18 [2] - 88:18, 88:20 10:30 [2] - 66:14, 88:22 10:35 [1] - 99:19 11 [1] - 72:18 1100 [1] - 2:3 118 [2] - 45:5, 48:10 12 [7] - 9:5, 18:17, 20:4, 65:24, 81:25, 92:12, 98:1 120 [1] - 45:18 125 [1] - 51:10 127 [1] - 84:10 132 [2] - 56:1, 70:2 134 [1] - 81:10 139 [2] - 93:10, 93:14 139.2 [1] - 93:7 14 [3] - 66:16, 89:10, 99:12 14.9 [1] - 23:14 1440 [1] - 1:24 15 [7] - 47:7, 67:23, 93:5, 94:6, 94:8, 94:11, 94:13 15-foot [1] - 47:25 150 [1] - 86:11 154 [1] - 79:11 18 [2] - 21:19, 98:3 19 [6] - 67:21, 67:25, 68:16, 68:17, 69:9 19.3 [1] - 68:4	3 [2] - 47:2, 47:3 30 [2] - 83:3, 93:11 34 [1] - 14:13 36 [5] - 24:23, 25:1, 25:17, 33:21, 76:10	8.5 [2] - 23:11, 68:22 8.7 [2] - 23:11, 68:22 80 [1] - 7:15 89 [1] - 1:23		
	4	9		
	4 [4] - 1:24, 5:5, 47:1, 47:2 40 [2] - 10:1, 83:3 400 [1] - 66:1 42 [1] - 26:13 49 [3] - 9:4, 20:4, 92:11	9 [5] - 1:2, 5:5, 21:18, 57:13, 70:6 9.25 [2] - 20:13, 47:15 9.8 [2] - 23:12, 68:23 90 [1] - 8:17 900 [1] - 79:14 92 [5] - 21:10, 22:6, 38:18, 50:20, 96:22 93 [2] - 10:11, 17:16 95 [6] - 9:5, 11:13, 21:13, 38:13, 38:17, 38:19, 45:19, 50:19 96 [2] - 38:14, 50:19 973 [1] - 1:25		
	5	A		
	5 [2] - 3:7, 31:23 50 [3] - 25:24, 26:17, 92:17 50,000 [9] - 29:8, 33:6, 33:15, 33:21, 53:10, 63:3, 63:4, 75:2, 76:4 50,926 [1] - 16:8 506 [1] - 78:7 51,000 [1] - 7:23 52 [2] - 5:6, 60:15 530-532 [1] - 66:21 536 [1] - 66:20 538-546 [1] - 72:9 538-550 [6] - 1:5, 5:3, 7:7, 16:3, 72:9, 72:18 539-553 [4] - 1:5, 5:3,	A-1 [2] - 15:16, 18:14 a-1 [1] - 3:4 A-2 [2] - 22:15, 22:22 a-2 [1] - 3:5 A-3 [2] - 24:13, 24:16 a-3 [1] - 3:6 A-4 [2] - 3:7, 31:24 A-5 [2] - 3:8, 31:25 A-6 [4] - 3:9, 90:25,		

<p>almost [4] - 60:15, 61:4, 61:5, 79:16</p> <p>amendments [1] - 56:4</p> <p>amenities [1] - 21:16</p> <p>amount [6] - 25:19, 45:22, 46:18, 70:14, 70:22, 80:18</p> <p>analysis [2] - 43:5, 43:6</p> <p>Andy [3] - 13:8, 15:3, 57:9</p> <p>announce [1] - 66:11</p> <p>annual [1] - 55:11</p> <p>answer [21] - 6:8, 12:24, 42:15, 46:5, 46:7, 46:16, 46:19, 48:17, 49:4, 49:6, 55:16, 58:12, 61:15, 61:16, 64:15, 64:16, 64:24, 71:10, 74:11, 79:22, 84:16</p> <p>answered [1] - 69:21</p> <p>answering [1] - 61:19</p> <p>anthony [1] - 36:20</p> <p>Anthony [5] - 11:4, 14:12, 28:15, 29:13, 58:12</p> <p>ANTHONY [1] - 1:17</p> <p>Anthony's [1] - 58:24</p> <p>anticipate [2] - 11:16, 80:8</p> <p>anticipating [1] - 55:14</p> <p>ANTONIO [1] - 1:11</p> <p>apart [1] - 83:19</p> <p>apartment [19] - 7:12, 7:15, 9:4, 16:7, 20:8, 33:1, 47:10, 47:14, 47:21, 48:23, 50:11, 51:14, 79:1, 91:24, 96:24, 97:13, 97:14, 97:22</p> <p>apartments [14] - 20:4, 45:20, 50:7, 50:10, 77:12, 77:23, 78:2, 83:2, 83:3, 83:5, 84:18, 92:12, 96:23</p> <p>appeared [1] - 14:17</p> <p>Appearing [2] - 2:5, 2:8</p> <p>applicable [4] - 30:1, 30:17, 30:22, 31:10</p> <p>applicant [21] - 5:11, 7:4, 7:8, 7:15, 7:18, 9:18, 9:22, 10:15, 23:25, 29:18, 31:15, 31:17, 32:7, 37:8,</p>	<p>37:11, 44:5, 60:20, 70:7, 71:9, 85:12, 90:12</p> <p>Applicant [1] - 2:8</p> <p>applicants [7] - 6:13, 9:4, 9:15, 13:10, 13:13, 19:8, 43:4</p> <p>APPLICATION [1] - 3:11</p> <p>application [32] - 5:1, 5:2, 5:8, 8:16, 11:3, 14:2, 14:6, 15:19, 15:22, 15:24, 30:20, 36:15, 37:12, 40:13, 57:25, 62:2, 66:15, 67:8, 70:10, 70:12, 70:18, 70:20, 71:19, 71:20, 71:25, 72:6, 72:8, 72:11, 89:15, 90:10, 90:14, 91:14</p> <p>applications [1] - 98:25</p> <p>appreciate [5] - 52:4, 61:17, 72:20, 96:25, 98:12</p> <p>appropriate [2] - 10:4, 78:13</p> <p>approval [7] - 30:18, 30:20, 39:23, 41:2, 58:21, 65:15, 71:1</p> <p>approve [3] - 40:13, 42:11, 66:23</p> <p>approved [3] - 39:23, 41:15, 53:2</p> <p>arborists [1] - 31:21</p> <p>architect [14] - 11:6, 13:19, 19:24, 21:17, 44:22, 46:9, 46:15, 48:3, 56:7, 77:13, 84:13, 84:18, 88:17, 89:24</p> <p>architects [1] - 77:25</p> <p>architectural [4] - 12:18, 20:5, 38:15, 90:13</p> <p>architecture [1] - 6:1</p> <p>area [44] - 7:13, 7:17, 8:3, 8:4, 8:8, 8:10, 9:14, 9:21, 9:23, 9:25, 10:6, 11:16, 15:4, 18:4, 19:13, 19:20, 19:21, 19:22, 20:11, 20:21, 21:11, 25:3, 25:14, 35:1, 36:3, 37:18, 38:18, 39:9, 50:24, 63:15, 64:13, 65:10, 65:24, 66:5, 78:22, 78:24, 91:25, 92:5, 93:15, 96:4,</p>	<p>96:6, 97:19, 97:20</p> <p>argue [1] - 10:12</p> <p>argument [1] - 6:13</p> <p>army [1] - 89:6</p> <p>Ascensaos [1] - 66:18</p> <p>asphalt [1] - 18:4</p> <p>assign [2] - 85:6, 85:8</p> <p>assigned [2] - 73:10, 73:24</p> <p>assistance [1] - 57:16</p> <p>assisted [1] - 84:12</p> <p>associated [3] - 8:14, 57:16, 70:10</p> <p>Associates [1] - 14:13</p> <p>assuming [1] - 45:14</p> <p>assurance [1] - 49:1</p> <p>assure [1] - 49:23</p> <p>AT [1] - 1:5</p> <p>attention [1] - 33:13</p> <p>attorney [3] - 71:9, 100:10, 100:12</p> <p>August [2] - 18:17, 31:23</p> <p>AUGUST [1] - 3:7</p> <p>authority [1] - 28:12</p> <p>authorized [1] - 60:20</p> <p>available [3] - 6:15, 44:13, 85:12</p> <p>Ave [4] - 21:3, 21:5, 31:1, 62:17</p> <p>AVENUE [3] - 1:5, 1:24, 3:9</p> <p>Avenue [54] - 2:3, 5:3, 7:7, 8:5, 8:15, 8:22, 9:14, 14:14, 16:3, 16:4, 16:10, 16:21, 16:22, 20:7, 20:11, 20:25, 21:8, 23:14, 23:19, 34:10, 45:5, 47:9, 47:12, 47:23, 48:10, 48:14, 48:25, 51:10, 52:18, 57:5, 58:25, 62:9, 62:16, 66:20, 66:22, 70:23, 71:21, 72:12, 72:15, 72:18, 79:12, 81:10, 84:10, 86:11, 91:3, 92:16, 94:7, 94:10, 95:15, 97:15, 97:21, 98:3</p> <p>average [4] - 94:1, 94:3, 94:5, 94:13</p> <p>avoid [1] - 61:19</p> <p>aware [3] - 8:19, 26:9, 80:25</p>	<p>awful [1] - 62:20</p> <p>awfully [2] - 64:1, 65:22</p>	<p style="text-align: center;">B</p> <p>B-U-R-D [1] - 81:9</p> <p>background [1] - 7:22</p> <p>bad [1] - 60:17</p> <p>baffled [1] - 34:3</p> <p>balcony [1] - 98:2</p> <p>bank [14] - 8:9, 8:21, 16:17, 17:4, 17:12, 18:4, 23:3, 23:13, 29:3, 29:5, 35:10, 35:11, 93:9</p> <p>banking [1] - 64:10</p> <p>barrier [2] - 52:25</p> <p>Barros [1] - 62:8</p> <p>BARROS [1] - 62:9</p> <p>base [1] - 68:11</p> <p>based [9] - 4:5, 11:2, 17:12, 27:20, 31:16, 51:6, 58:21, 65:8, 70:17</p> <p>basement [2] - 52:3, 52:5</p> <p>basis [6] - 40:10, 44:3, 49:24, 50:12, 55:11, 98:6</p> <p>bay [1] - 8:10</p> <p>bays [1] - 16:19</p> <p>beautiful [1] - 97:2</p> <p>bedroom [11] - 5:6, 9:4, 9:5, 20:4, 50:7, 85:8, 85:11, 92:11, 92:12</p> <p>begin [2] - 60:6, 89:5</p> <p>behalf [4] - 2:5, 2:8, 7:4, 70:9</p> <p>behind [3] - 22:2, 25:5, 93:17</p> <p>below [6] - 20:23, 25:2, 33:22, 33:24, 75:3</p> <p>benefit [11] - 6:16, 10:24, 18:24, 26:22, 36:3, 36:6, 36:7, 66:11, 80:11, 89:8, 95:23</p> <p>benefits [2] - 12:12, 48:6</p> <p>best [2] - 27:16, 100:7</p> <p>BETHLEHEM [1] - 2:7</p> <p>Betsy [1] - 45:4</p> <p>Betsy's [1] - 48:9</p> <p>better [6] - 44:6,</p>	<p>46:16, 49:18, 71:9, 81:17, 93:21</p> <p>between [3] - 60:4, 68:24, 69:1</p> <p>big [3] - 33:11, 66:5, 79:15</p> <p>bigger [1] - 81:24</p> <p>bit [4] - 10:13, 33:4, 97:8, 97:10</p> <p>block [4] - 78:16, 78:17, 93:3, 97:6</p> <p>Block [1] - 72:18</p> <p>board [41] - 7:1, 7:9, 7:22, 9:2, 10:8, 11:22, 12:17, 13:12, 14:1, 14:18, 14:22, 15:14, 18:24, 22:14, 28:18, 33:13, 36:14, 38:16, 41:16, 42:10, 57:17, 59:9, 61:10, 61:11, 66:12, 69:17, 74:15, 79:23, 80:3, 80:11, 89:14, 90:1, 90:17, 90:23, 91:11, 91:21, 91:22, 92:8, 96:5, 99:11, 99:13</p> <p>BOARD [2] - 1:1, 1:10</p> <p>Board [4] - 1:16, 2:5, 14:5, 70:9</p> <p>boards [6] - 8:19, 9:16, 14:17, 79:25, 80:6, 90:20</p> <p>bottom [2] - 57:14, 81:21</p> <p>bound [1] - 16:4</p> <p>box [1] - 33:24</p> <p>Box [1] - 2:4</p> <p>branch [1] - 8:21</p> <p>brand [1] - 30:15</p> <p>brick [1] - 16:17</p> <p>brief [1] - 29:21</p> <p>briefly [1] - 19:23</p> <p>bring [5] - 65:11, 67:14, 71:1, 74:7, 77:5</p> <p>broached [1] - 49:21</p> <p>Brook [1] - 2:3</p> <p>brought [1] - 33:13</p> <p>build [3] - 5:4, 7:20, 65:4</p> <p>builder [1] - 7:18</p> <p>building [45] - 5:5, 7:12, 7:15, 7:20, 8:9, 8:21, 9:18, 11:7, 16:7, 16:17, 17:15, 19:6, 19:23, 20:3, 20:6, 20:22, 21:15, 22:11, 23:12, 23:13, 25:15, 28:4, 39:12, 45:23,</p>
--	--	---	---	--	--

<p>46:10, 48:23, 64:5, 68:24, 68:25, 69:8, 73:12, 82:19, 84:1, 91:25, 92:11, 92:18, 92:20, 93:9, 95:5, 95:25, 96:1, 97:3, 97:8, 98:9</p> <p>buildings [14] - 7:12, 10:4, 22:13, 23:11, 24:3, 78:13, 78:21, 78:23, 92:1, 92:19, 93:13, 95:7, 96:4, 98:4</p> <p>built [6] - 7:15, 7:16, 23:19, 43:13, 62:22, 87:2</p> <p>bulk [1] - 9:23</p> <p>Burd [1] - 81:9</p> <p>burden [1] - 83:4</p> <p>Bureau [1] - 70:8</p> <p>buried [2] - 33:22, 55:5</p> <p>business [6] - 6:17, 14:11, 14:13, 70:4, 89:19, 99:11</p> <p>buy [1] - 52:22</p> <p>BY [2] - 2:3, 2:7</p>	<p>5:1, 6:22, 11:24, 12:2, 12:14, 13:1, 13:5, 14:19, 14:22, 32:8, 32:14, 32:23, 33:2, 33:10, 35:9, 35:14, 36:6, 36:9, 37:5, 38:9, 38:20, 38:25, 41:10, 42:1, 42:4, 42:25, 44:4, 44:8, 44:14, 49:17, 53:16, 53:19, 53:24, 54:2, 54:4, 54:8, 55:24, 62:5, 66:6, 69:20, 70:1, 72:25, 74:2, 74:10, 74:13, 78:5, 79:3, 80:20, 81:8, 88:1, 88:12, 88:19, 88:21, 89:1, 89:4, 90:2, 90:6, 93:19, 98:16, 98:20, 99:9</p> <p>caught [1] - 53:10</p> <p>cease [1] - 66:14</p> <p>center [3] - 23:1, 47:13, 47:22</p> <p>central [2] - 49:12, 49:14</p> <p>centrally [1] - 21:4</p> <p>certain [4] - 9:15, 9:23, 34:4, 79:22</p> <p>certainly [1] - 74:8</p> <p>certify [1] - 100:4</p> <p>CERTIFY [1] - 100:9</p> <p>Chairman [4] - 1:11, 1:13, 7:6, 99:10</p> <p>CHAIRMAN [61] - 5:1, 6:22, 11:24, 12:2, 12:14, 13:1, 13:5, 14:19, 14:22, 32:8, 32:14, 32:23, 33:2, 33:10, 35:9, 35:14, 36:6, 36:9, 37:5, 38:9, 38:20, 38:25, 41:10, 42:1, 42:4, 42:25, 44:4, 44:8, 44:14, 49:17, 53:16, 53:19, 53:24, 54:2, 54:4, 54:8, 55:24, 62:5, 66:6, 69:20, 70:1, 72:25, 74:2, 74:10, 74:13, 78:5, 79:3, 80:20, 81:8, 88:1, 88:12, 88:19, 88:21, 89:1, 89:4, 90:2, 90:6, 93:19, 98:16, 98:20, 99:9</p> <p>chairman [17] - 5:7, 6:25, 11:22, 12:1, 13:4, 15:2, 32:13, 38:23, 41:11, 42:3, 44:12, 74:14, 88:9,</p>	<p>88:16, 88:25, 98:15, 98:18</p> <p>chambers [1] - 89:11</p> <p>change [2] - 17:7, 87:3</p> <p>changed [1] - 27:1</p> <p>changing [1] - 10:20</p> <p>chart [5] - 45:8, 45:9, 45:15, 47:2, 92:13</p> <p>check [2] - 70:13, 70:21</p> <p>Cherry [81] - 5:3, 7:7, 7:8, 8:6, 8:7, 8:15, 8:23, 8:25, 9:9, 9:10, 9:11, 11:1, 16:3, 16:4, 16:11, 16:18, 16:24, 19:9, 20:12, 21:1, 21:5, 21:9, 23:16, 26:11, 26:13, 28:9, 28:13, 30:11, 30:15, 31:11, 34:10, 39:22, 40:1, 40:9, 41:15, 41:19, 43:14, 43:24, 45:21, 47:15, 47:17, 47:18, 47:19, 48:14, 48:24, 50:20, 57:6, 59:1, 59:18, 59:19, 62:11, 62:14, 62:16, 70:23, 72:13, 73:18, 73:19, 76:2, 76:21, 77:7, 78:7, 84:2, 86:21, 91:6, 93:6, 93:7, 93:10, 93:12, 94:16, 94:18, 94:21, 95:1, 95:5, 95:9, 95:23, 97:12, 97:17, 97:22, 98:8, 98:10</p> <p>cherry [1] - 93:6</p> <p>CHERRY [2] - 1:5, 3:10</p> <p>children [5] - 79:15, 79:16, 79:18, 80:2, 80:13</p> <p>chose [1] - 61:16</p> <p>Christine [1] - 11:19</p> <p>circles [1] - 19:9</p> <p>citation [1] - 61:8</p> <p>cite [1] - 28:3</p> <p>cited [1] - 78:10</p> <p>cities [8] - 7:17, 26:21, 35:7, 41:21, 86:22, 87:1, 87:2, 93:23</p> <p>citizens [2] - 64:17, 64:19</p> <p>CITY [1] - 1:1</p> <p>City [19] - 6:15, 14:5, 16:11, 25:9, 26:8, 29:24, 30:2, 30:9, 31:12, 31:24, 52:22,</p>	<p>53:2, 56:3, 56:11, 56:14, 57:6, 60:11, 60:13, 63:13</p> <p>city [58] - 7:10, 11:16, 25:13, 26:3, 26:8, 26:16, 27:9, 27:15, 31:9, 31:16, 34:7, 34:12, 37:14, 37:23, 40:4, 40:7, 40:14, 40:23, 40:25, 41:18, 41:22, 42:7, 42:14, 42:15, 42:21, 43:11, 43:21, 44:1, 53:4, 55:15, 55:17, 55:18, 57:2, 60:6, 60:9, 60:15, 60:16, 60:17, 63:8, 64:10, 67:16, 67:21, 68:17, 69:4, 69:9, 75:17, 76:23, 77:4, 80:7, 82:14, 82:15, 83:4, 83:6, 87:8, 89:10</p> <p>city's [2] - 29:15, 43:3</p> <p>City's [2] - 30:10, 63:20</p> <p>civil [5] - 11:5, 13:16, 14:16, 48:16, 56:6</p> <p>clarification [1] - 83:12</p> <p>clarify [5] - 38:15, 39:1, 41:12, 42:17, 70:4</p> <p>Clarisa [1] - 73:2</p> <p>CLARISA [1] - 73:2</p> <p>classifies [1] - 82:21</p> <p>client [1] - 71:21</p> <p>close [8] - 17:19, 17:22, 72:10, 94:22, 95:4, 99:12, 99:14</p> <p>closer [7] - 45:2, 93:13, 94:8, 94:19, 95:6, 95:8, 95:17</p> <p>closest [1] - 22:2</p> <p>clothes [1] - 64:6</p> <p>Coen [2] - 55:25, 70:2</p> <p>coen [5] - 57:24, 58:18, 61:18, 62:5, 71:13</p> <p>COEN [1] - 55:25</p> <p>Cofone [1] - 11:19</p> <p>cognisant [1] - 58:17</p> <p>color [1] - 18:21</p> <p>COLORIZED [1] - 3:4</p> <p>colorized [3] - 18:12, 18:18, 18:20</p> <p>Colorized [1] - 18:16</p> <p>Columbia [1] - 89:23</p> <p>combined [9] -</p>	<p>30:12, 43:20, 43:21, 55:20, 62:13, 62:15, 62:18, 86:13, 87:6</p> <p>coming [8] - 51:15, 78:2, 78:3, 79:16, 80:14, 84:1, 86:18, 87:18</p> <p>comment [2] - 30:8, 42:6</p> <p>commentary [1] - 66:14</p> <p>comments [3] - 30:5, 31:17, 38:11</p> <p>commercial [2] - 8:4, 8:11</p> <p>commissioned [1] - 90:12</p> <p>commissioner [4] - 12:2, 38:25, 42:4, 98:20</p> <p>Commissioner [2] - 89:1, 89:5</p> <p>COMMISSIONER [25] - 12:3, 12:6, 12:21, 12:25, 38:23, 39:1, 39:7, 39:13, 39:21, 39:25, 40:3, 40:12, 40:21, 41:1, 41:5, 41:8, 42:3, 42:5, 42:10, 42:17, 88:25, 89:2, 98:18, 98:21, 99:8</p> <p>commissioner's [1] - 44:9</p> <p>commissioners [4] - 11:24, 32:15, 38:21, 42:1</p> <p>community [8] - 7:19, 10:24, 11:18, 12:4, 12:7, 12:10, 98:22, 99:2</p> <p>company [1] - 87:21</p> <p>comparable [2] - 78:10, 78:18</p> <p>compared [1] - 93:11</p> <p>compartmentalize [1] - 46:1</p> <p>competent [1] - 53:8</p> <p>complete [1] - 5:19</p> <p>completed [2] - 7:14, 55:18</p> <p>completely [1] - 83:19</p> <p>completion [1] - 26:14</p> <p>compliance [3] - 37:14, 37:22, 38:1</p> <p>comply [16] - 25:7, 27:3, 27:8, 29:18, 29:19, 30:1, 30:4,</p>
C				
<p>C-1 [9] - 3:5, 5:6, 7:25, 15:7, 16:9, 17:18, 22:25, 45:15</p> <p>C-2 [1] - 18:18</p> <p>C-O-E-N [1] - 70:2</p> <p>C1.00 [1] - 15:23</p> <p>C3.00 [1] - 18:17</p> <p>C4.00 [1] - 24:17</p> <p>calculate [2] - 53:3, 53:4</p> <p>calculation [3] - 27:25, 78:20, 82:16</p> <p>calculations [2] - 30:6, 42:20</p> <p>cannot [2] - 5:9, 80:3</p> <p>CANO [1] - 1:12</p> <p>cap [1] - 86:20</p> <p>capacity [3] - 65:2, 65:7, 65:17</p> <p>care [2] - 52:6</p> <p>carried [1] - 66:15</p> <p>carry [2] - 89:3, 99:12</p> <p>cars [9] - 50:8, 50:11, 61:8, 61:12, 73:16, 73:20, 80:17, 80:18, 85:11</p> <p>case [4] - 34:10, 37:19, 40:15, 79:25</p> <p>CASTRO [62] - 1:11,</p>				

<p>30:16, 30:19, 31:1, 31:11, 31:13, 31:15, 31:17, 32:7, 48:1</p> <p>complying [1] - 43:10</p> <p>component [1] - 24:9</p> <p>components [1] - 64:3</p> <p>comprised [2] - 24:22, 33:20</p> <p>conceivably [1] - 6:6</p> <p>concept [1] - 93:22</p> <p>concern [2] - 73:5, 96:14</p> <p>concerned [1] - 97:5</p> <p>concerning [3] - 14:6, 36:14, 89:15</p> <p>concerns [2] - 33:12, 73:6</p> <p>concludes [1] - 99:19</p> <p>conclusion [2] - 27:24, 38:7</p> <p>concrete [4] - 17:15, 33:24, 33:25, 82:4</p> <p>condition [5] - 18:7, 75:24, 76:14, 87:12, 87:13</p> <p>conditions [2] - 16:2, 60:16</p> <p>conduct [3] - 12:3, 12:6, 55:11</p> <p>conducted [2] - 4:5, 5:18</p> <p>conducting [1] - 63:14</p> <p>conform [1] - 67:15</p> <p>conforming [3] - 45:12, 45:17, 46:3</p> <p>confused [1] - 58:24</p> <p>conjunction [1] - 56:16</p> <p>connect [6] - 40:10, 41:15, 41:22, 42:21, 43:14, 55:14</p> <p>connected [2] - 25:17, 76:25</p> <p>connecting [1] - 86:12</p> <p>connection [26] - 26:7, 26:19, 28:8, 30:9, 30:12, 30:14, 41:14, 41:15, 41:20, 42:14, 43:3, 43:12, 43:17, 44:2, 55:18, 55:19, 56:21, 60:4, 65:15, 75:25, 77:6, 81:14, 81:15, 81:16, 83:24, 87:6</p>	<p>connections [5] - 28:4, 28:5, 28:10, 60:9, 86:23</p> <p>connects [1] - 86:24</p> <p>consider [2] - 10:9, 99:7</p> <p>consideration [1] - 9:16</p> <p>considerations [1] - 85:15</p> <p>considered [2] - 37:16, 45:11</p> <p>consist [1] - 19:22</p> <p>consistent [9] - 9:21, 10:11, 37:24, 37:25, 95:1, 95:3, 95:10, 95:21, 98:7</p> <p>consisting [2] - 19:6, 24:22</p> <p>consists [1] - 33:19</p> <p>consolidated [3] - 21:3, 21:6, 31:13</p> <p>consolidation [1] - 31:14</p> <p>construct [1] - 24:21</p> <p>constructed [1] - 76:2</p> <p>construction [2] - 18:4, 83:20</p> <p>consult [1] - 56:3</p> <p>consultant [2] - 49:21, 49:23</p> <p>CONSULTANTS [1] - 3:7</p> <p>Consultants [3] - 31:23, 36:21, 45:7</p> <p>Contact [1] - 57:14</p> <p>contain [4] - 8:19, 8:20, 21:15, 76:4</p> <p>contained [5] - 8:17, 16:16, 16:19, 17:14, 18:3</p> <p>continue [5] - 6:22, 80:14, 89:9, 91:19, 98:16</p> <p>continuity [1] - 24:5</p> <p>control [14] - 25:18, 25:21, 26:3, 27:11, 30:3, 33:23, 34:14, 34:24, 34:25, 35:2, 52:23, 54:25, 75:23</p> <p>controlled [7] - 26:4, 27:15, 33:23, 34:6, 53:11, 63:7, 75:23</p> <p>controls [1] - 25:19</p> <p>converted [1] - 29:8</p> <p>conveyance [3] - 25:13, 26:10, 26:13</p> <p>coordinate [1] - 30:9</p> <p>coordinated [1] -</p>	<p>31:9</p> <p>coordination [1] - 28:11</p> <p>copies [3] - 41:18, 70:15, 70:22</p> <p>copy [1] - 31:14</p> <p>corner [4] - 19:19, 47:16, 97:17, 98:9</p> <p>correct [35] - 24:1, 27:14, 27:24, 33:9, 35:13, 36:25, 40:2, 41:3, 42:9, 42:24, 45:15, 69:11, 70:22, 75:13, 76:17, 80:22, 82:9, 83:16, 83:17, 83:23, 84:3, 86:14, 90:11, 90:15, 90:18, 94:3, 94:4, 94:9, 94:12, 94:24, 95:12, 95:19, 96:8, 96:13, 96:22</p> <p>corridor [1] - 92:5</p> <p>cost [1] - 84:12</p> <p>council [1] - 89:11</p> <p>counsel [3] - 57:3, 100:10, 100:12</p> <p>Counsel [3] - 57:13, 58:2, 98:22</p> <p>counted [1] - 45:11</p> <p>county [31] - 31:2, 56:24, 56:25, 57:1, 57:2, 57:11, 57:17, 58:7, 58:19, 59:1, 59:2, 59:3, 59:4, 59:7, 59:14, 70:16, 70:17, 70:24, 70:25, 71:1, 71:22, 71:24, 72:1, 72:2, 72:3, 72:7, 72:24, 76:20</p> <p>County [9] - 56:21, 57:8, 57:10, 57:13, 57:22, 58:15, 70:5, 70:8, 70:9</p> <p>couple [5] - 60:2, 65:11, 74:15, 81:10, 86:5</p> <p>course [3] - 9:24, 35:10, 59:11</p> <p>court [1] - 80:5</p> <p>COURT [1] - 1:23</p> <p>cover [2] - 8:17, 28:21</p> <p>coverage [12] - 10:9, 10:10, 17:13, 17:17, 28:16, 28:22, 28:24, 29:1, 29:2, 29:10, 37:18, 46:24</p> <p>covered [7] - 20:21, 21:11, 23:15, 38:18, 79:18, 96:18</p>	<p>covers [1] - 55:10</p> <p>create [1] - 99:1</p> <p>creating [1] - 34:3</p> <p>credentials [3] - 14:23, 89:20, 90:2</p> <p>criteria [4] - 39:15, 42:21, 82:22, 91:22</p> <p>cross [1] - 17:7</p> <p>crucial [1] - 53:9</p> <p>cubic [2] - 25:1, 29:7</p> <p>curb [5] - 16:20, 16:24, 17:2, 21:6, 31:5</p> <p>curiosity [1] - 26:25</p> <p>current [2] - 25:3, 89:25</p> <p>cut [3] - 16:25, 17:2, 69:7</p> <p>cutouts [1] - 73:17</p> <p>cuts [2] - 16:20, 21:6</p> <p>cutting [2] - 68:13, 69:19</p>	<p>27:1, 27:10, 30:17, 35:3, 65:14, 82:21</p> <p>Department [1] - 26:9</p> <p>describe [4] - 11:6, 18:23, 19:3, 19:23</p> <p>described [3] - 21:17, 25:3, 96:5</p> <p>describing [1] - 91:20</p> <p>DESCRIPTION [1] - 3:3</p> <p>design [24] - 11:5, 12:18, 19:5, 25:14, 26:11, 27:9, 27:16, 27:20, 31:3, 33:19, 38:2, 41:14, 41:19, 41:25, 42:23, 52:7, 57:1, 65:8, 65:16, 80:8, 87:7, 91:22, 92:4, 97:2</p> <p>designed [28] - 10:4, 24:10, 25:5, 25:6, 25:21, 26:15, 34:5, 34:17, 34:21, 34:22, 35:5, 41:14, 42:13, 42:18, 42:19, 52:22, 52:23, 53:1, 63:7, 63:23, 77:5, 81:11, 81:15, 82:20, 82:22, 83:19, 87:5, 91:23</p> <p>designing [1] - 34:3</p> <p>desirable [1] - 19:15</p> <p>detail [8] - 10:2, 11:14, 11:20, 19:25, 21:17, 28:17, 28:21, 97:8</p> <p>detailed [3] - 71:16, 78:1, 84:19</p> <p>details [2] - 31:2, 69:14</p> <p>detention [5] - 24:22, 34:23, 75:11, 76:10, 87:9</p> <p>determining [3] - 79:24, 80:4, 95:14</p> <p>detriments [1] - 48:7</p> <p>developed [3] - 6:10, 7:10, 9:13</p> <p>developer [1] - 7:9</p> <p>Developer [1] - 30:8</p> <p>development [13] - 8:8, 30:1, 30:16, 54:18, 54:19, 57:16, 57:17, 60:13, 70:12, 70:17, 73:24, 80:14, 87:12</p> <p>diameter [1] - 76:9</p> <p>difference [1] - 18:20</p> <p>different [3] - 72:6,</p>
D				
		<p>damage [1] - 30:3</p> <p>Dan [2] - 29:25, 40:24</p> <p>data [2] - 50:9, 50:12</p> <p>date [2] - 32:9, 100:7</p> <p>Dated [1] - 100:21</p> <p>dated [2] - 18:17, 70:6</p> <p>DAVID [2] - 2:6, 2:7</p> <p>David [3] - 7:3, 70:6, 81:9</p> <p>de [1] - 89:23</p> <p>deal [1] - 55:22</p> <p>dear [1] - 70:7</p> <p>December [1] - 16:15</p> <p>decided [1] - 40:11</p> <p>decision [2] - 79:25, 80:4</p> <p>deck [1] - 96:7</p> <p>deed [1] - 31:14</p> <p>deep [1] - 21:19</p> <p>defer [1] - 48:4</p> <p>deferred [1] - 48:16</p> <p>definitely [1] - 35:22</p> <p>definition [2] - 33:3, 37:17</p> <p>demolished [1] - 35:11</p> <p>demolition [3] - 15:25, 16:1, 16:13</p> <p>density [2] - 24:23, 33:21</p> <p>deny [1] - 43:12</p> <p>DEP [8] - 18:5, 25:8,</p>	<p>79:24, 80:4, 95:14</p> <p>detriments [1] - 48:7</p> <p>developed [3] - 6:10, 7:10, 9:13</p> <p>developer [1] - 7:9</p> <p>Developer [1] - 30:8</p> <p>development [13] - 8:8, 30:1, 30:16, 54:18, 54:19, 57:16, 57:17, 60:13, 70:12, 70:17, 73:24, 80:14, 87:12</p> <p>diameter [1] - 76:9</p> <p>difference [1] - 18:20</p> <p>different [3] - 72:6,</p>	

<p>92:2, 93:25 dimension [1] - 96:3 dimensions [1] - 46:10 direct [1] - 13:11 directed [1] - 80:6 direction [4] - 16:13, 17:6, 41:24, 77:5 directly [1] - 78:7 disbursement [1] - 62:25 discharge [1] - 33:23 discharged [1] - 25:20 discharges [1] - 76:6 disconnect [1] - 43:20 discuss [6] - 10:13, 11:8, 11:11, 11:14, 15:4, 91:21 discussed [3] - 9:9, 11:12, 41:21 discussing [1] - 28:20 discussion [1] - 32:6 discussions [1] - 12:16 dishes [1] - 64:6 disrespectful [1] - 58:5 distance [1] - 68:24 distribution [1] - 27:23 district [3] - 7:25, 8:12 disturbing [1] - 37:20 disturbs [1] - 37:17 divert [1] - 9:12 Division [1] - 29:25 DO [1] - 100:9 document [1] - 45:6 documents [2] - 6:9, 70:15 dog [3] - 19:17, 19:20 done [11] - 5:23, 13:11, 13:13, 13:24, 67:6, 82:16, 83:13, 85:7, 88:2, 88:3, 89:11 DOT [3] - 16:11, 31:2, 57:6 dovetail [1] - 10:25 down [8] - 9:14, 25:15, 35:25, 39:5, 45:22, 54:11, 86:18, 97:18 downspout [1] - 39:5</p>	<p>downspouts [1] - 25:15 downstairs [1] - 52:3 downstream [1] - 35:1 drain [3] - 39:5, 41:23, 77:6 DRAINAGE [1] - 3:6 Drainage [1] - 24:16 drainage [14] - 24:21, 26:6, 26:21, 32:19, 33:8, 35:8, 35:12, 37:10, 39:22, 40:15, 41:19, 83:21, 86:24, 87:15 drawing [4] - 15:8, 18:19, 24:11, 24:17 drawings [1] - 90:13 drive [6] - 8:10, 16:18, 16:19, 17:3, 23:15, 73:15 drive-thru [5] - 8:10, 16:18, 16:19, 17:3, 23:15 driveway [9] - 8:25, 16:21, 16:25, 20:24, 20:25, 21:4, 21:6, 21:7, 21:20 driveways [1] - 21:3 drop [2] - 59:25 due [1] - 70:20 duly [4] - 5:10, 14:25, 37:3, 90:8 during [4] - 6:17, 9:24, 52:11, 61:20 dwelling [1] - 17:20 dwellings [1] - 8:1 dynamic [1] - 98:5</p>	<p>either [2] - 37:17, 42:19 elaborate [4] - 32:20, 33:4, 33:14, 60:1 electric [2] - 28:7, 28:10 electrical [1] - 20:17 elevation [1] - 98:5 eliminate [4] - 9:8, 77:11, 77:18, 77:19 ELIZABETH [2] - 1:1, 1:12 Elizabeth [22] - 7:10, 14:5, 16:11, 29:24, 30:2, 52:9, 52:22, 53:2, 54:13, 54:16, 56:1, 56:4, 56:12, 56:15, 57:7, 60:11, 60:13, 63:13, 64:18, 70:3, 76:23, 92:6 Elizabeth's [2] - 25:9, 31:12 Elizabethtown [1] - 30:24 employee [2] - 100:10, 100:12 enclosed [3] - 4:5, 70:14, 96:9 end [6] - 7:12, 19:11, 20:11, 20:13, 20:17, 47:21 engel [1] - 52:13 Engel [1] - 7:10 engineer [41] - 10:13, 11:5, 11:8, 11:11, 13:17, 14:15, 27:9, 31:10, 36:21, 39:15, 40:7, 40:22, 40:25, 41:18, 41:22, 44:21, 48:16, 49:16, 50:16, 51:16, 52:7, 53:1, 56:6, 56:19, 60:21, 61:19, 62:10, 66:9, 67:4, 71:4, 71:6, 71:12, 77:5, 79:5, 80:21, 84:7, 85:15, 85:19, 85:25, 96:20 Engineering [4] - 14:13, 26:8, 29:24, 31:24 engineering [8] - 6:1, 6:9, 14:16, 31:16, 39:15, 42:15, 79:8, 88:6 engineers [2] - 29:15, 31:8 enhance [2] - 10:5, 31:6 enrollment [2] - 79:24, 80:9</p>	<p>entire [2] - 13:24, 47:12 entity [1] - 72:12 entrances [2] - 8:22 environment [1] - 19:15 equivalent [1] - 82:18 ERIC [2] - 100:2, 100:17 especially [1] - 50:10 ESQ [2] - 2:3, 2:7 ESQS [2] - 2:2, 2:6 Esquire [1] - 70:7 essentially [2] - 59:3, 93:23 esteemed [1] - 74:15 evening [8] - 6:4, 6:25, 66:17, 73:1, 74:14, 79:10, 89:21, 99:11 events [1] - 34:20 eventually [4] - 46:15, 63:19, 77:1, 84:2 evergreen [1] - 19:12 everyday [1] - 73:14 everywhere [1] - 52:8 exacerbate [1] - 64:2 exact [2] - 61:10, 77:23 example [3] - 45:18, 85:9, 97:12 exceeded [1] - 82:22 exces [1] - 34:19 excuse [3] - 45:19, 70:13, 93:19 exempt [1] - 59:3 exemption [4] - 57:8, 58:1, 59:7, 72:2 EXHIBIT [1] - 3:3 exhibit [5] - 15:16, 15:20, 18:11, 23:8, 23:20 Exhibit [5] - 15:16, 31:24, 31:25, 90:25, 91:15 exhibits [1] - 45:2 exist [1] - 10:16 existed [2] - 16:14, 29:3 existing [35] - 16:2, 16:5, 16:20, 17:1, 17:8, 17:25, 18:7, 21:6, 22:12, 22:19, 23:3, 23:13, 24:3, 26:18, 26:19, 28:6, 28:9, 28:23, 29:5, 30:12, 31:3, 31:7,</p>	<p>31:13, 40:18, 42:18, 43:7, 43:15, 55:20, 63:24, 87:13 exists [3] - 10:12, 44:6, 87:10 exits [1] - 8:22 expect [2] - 11:10, 61:15 experience [1] - 60:10 expert [6] - 5:25, 13:19, 64:22, 74:6, 79:7, 80:23 experts [5] - 6:3, 9:10, 10:2, 10:22, 81:1 explain [12] - 10:2, 27:2, 28:18, 41:16, 56:23, 57:10, 58:6, 73:25, 85:25, 92:8, 92:25, 97:7 explanations [1] - 72:21 express [1] - 14:1 expressed [1] - 73:6 extent [2] - 31:10, 48:17 extra [2] - 66:1, 84:25</p>
F				
<p>fabricant [1] - 50:15 Fabricant [2] - 45:4, 48:10 facility [2] - 16:18, 17:4 fact [1] - 71:24 factor [3] - 65:12, 79:24, 80:4 factors [2] - 85:14, 93:25 fair [2] - 35:17, 98:24 fairly [1] - 59:22 FALCON [1] - 1:14 fall [1] - 37:20 falls [1] - 39:17 familiar [4] - 7:9, 50:22, 60:12, 90:9 family [4] - 7:10, 9:13, 17:21, 66:19 far [3] - 22:3, 59:13, 59:22 FAX [1] - 1:25 features [2] - 22:12 fee [3] - 70:13, 70:18, 70:21 feed [1] - 76:15 feedback [1] - 12:11 feet [51] - 7:24, 10:1,</p>				

16:8, 17:7, 17:11, 20:8, 20:13, 20:16, 23:11, 23:12, 23:14, 23:15, 24:4, 24:5, 24:25, 25:2, 29:7, 47:7, 47:12, 47:22, 65:24, 67:14, 67:20, 67:21, 67:23, 68:4, 68:16, 68:22, 68:23, 69:1, 69:2, 69:9, 92:17, 93:5, 93:7, 93:10, 93:11, 96:1, 97:14, 97:16, 97:19, 98:1, 98:2, 98:3, 98:4, 98:11

fell [1] - 52:19

fellow [1] - 73:6

fenced [1] - 19:21

FERNANDEZ [1] - 1:15

FERNANDO [2] - 1:14, 1:15

few [1] - 93:4

file [5] - 5:13, 6:14, 6:15, 61:23, 61:24

fill [2] - 82:6, 82:19

final [2] - 30:9, 55:13

finance [1] - 64:12

financially [1] - 100:13

fine [1] - 69:6

finish [2] - 5:20, 32:10

finished [1] - 66:15

firm [2] - 36:21, 90:12

first [14] - 5:1, 7:16, 13:8, 46:22, 49:23, 49:24, 51:14, 51:25, 53:25, 54:2, 96:6, 97:11, 97:13, 97:24

FISHMAN [3] - 1:23, 100:2, 100:17

fist [1] - 11:4

fit [1] - 78:23

fitness [3] - 20:11, 47:13, 47:22

fitting [1] - 83:1

five [3] - 20:16, 53:8, 62:6

five-minute [1] - 62:6

flash [1] - 36:4

flexibility [1] - 34:23

flood [11] - 30:2, 35:15, 52:8, 52:12, 52:21, 52:23, 53:5, 53:6, 55:6, 55:22, 60:10

flooding [5] - 35:20, 35:23, 36:4, 36:5

floods [1] - 33:11

floor [15] - 13:13, 77:11, 77:14, 77:19, 77:24, 78:1, 78:2, 84:20, 92:21, 96:6, 97:12, 97:14, 97:19, 97:20, 97:24

floors [2] - 21:15, 95:24

flow [7] - 25:22, 33:25, 34:1, 34:4, 34:11, 34:15, 34:16

flowing [1] - 83:16

flows [1] - 34:9

focused [2] - 41:13, 79:20

follow [3] - 42:5, 48:18, 50:6

follows [4] - 13:10, 15:1, 37:4, 90:8

foot [36] - 9:18, 20:7, 20:10, 20:12, 20:14, 20:18, 20:19, 21:19, 21:20, 23:16, 23:20, 24:2, 46:9, 47:6, 47:7, 47:8, 47:11, 47:13, 47:16, 47:18, 47:19, 47:20, 68:12, 68:23, 68:24, 92:16, 96:2, 97:18, 97:25, 98:9

foregoing [1] - 100:4

forgetting [2] - 64:4, 64:7

form [1] - 48:13

former [2] - 8:9, 8:20

forth [1] - 100:7

forward [11] - 44:25, 66:10, 79:6, 84:6, 85:17, 86:7, 86:8, 86:9, 88:5, 88:6, 88:10

foundation [2] - 19:5, 19:14

four [36] - 8:10, 9:20, 11:3, 16:19, 17:10, 20:2, 20:7, 20:8, 20:10, 20:12, 20:14, 20:19, 23:16, 23:20, 24:2, 46:9, 47:6, 47:7, 47:8, 47:11, 47:13, 47:17, 47:20, 68:23, 70:24, 81:21, 82:17, 91:15, 92:10, 92:16, 92:17, 95:25, 97:14, 97:25, 98:4

four-foot [1] - 97:25

fourth [3] - 77:11, 77:19, 77:24

Foy [1] - 78:6

free [2] - 54:8, 70:12

freedom [1] - 34:24

FROM [2] - 3:9, 3:10

front [13] - 23:19, 45:6, 47:4, 47:6, 47:15, 72:7, 85:1, 85:5, 90:16, 91:16, 92:16, 93:3, 95:5

frontage [2] - 47:12, 58:22

frontages [3] - 19:16, 31:6, 72:4

fronted [1] - 71:25

fronting [1] - 16:18

fronts [5] - 58:19, 59:16, 59:17, 59:18, 72:1

full [4] - 5:19, 8:24, 8:25, 26:22

functionally [1] - 52:15

functioning [1] - 54:13

furnished [1] - 61:25

FURTHER [1] - 100:9

future [3] - 63:20, 65:4, 77:6

G

G1301 [1] - 97:11

gain [1] - 59:19

gaining [2] - 59:17, 59:18

Gallerano [1] - 36:20

GALLERANO [6] - 1:17, 36:17, 36:20, 36:25, 43:2, 44:7

gallerano [6] - 32:9, 36:9, 36:11, 38:9, 42:25, 44:5

gallerano's [1] - 38:12

gallon [1] - 54:24

gallons [11] - 29:8, 33:6, 33:15, 33:21, 53:9, 53:10, 63:3, 75:2, 76:4

garden [1] - 52:17

Gas [1] - 30:25

gas [3] - 28:7, 28:10, 30:24

general [1] - 38:11

generally [4] - 20:13, 34:11, 95:1, 95:3

generated [1] - 83:8

gentleman [1] - 13:16

gentlemen [1] - 6:19

gently [1] - 17:5

GEORGE [1] - 1:11

ghost [1] - 51:16

given [2] - 45:17, 65:10

GLENSIDE [1] - 2:8

globally [1] - 35:23

goals [1] - 96:19

Goncalves [1] - 38:25

GONCALVES [13] - 1:11, 38:23, 39:1, 39:7, 39:13, 39:21, 39:25, 40:3, 40:12, 40:21, 41:1, 41:5, 41:8

Gonzalez [1] - 73:2

GONZALEZ [1] - 73:3

Gonzalez-Lenahan [1] - 73:2

grade [6] - 17:6, 20:23, 25:2, 33:24, 75:3, 87:13

graduated [1] - 89:22

GRAND [1] - 1:5

Grand [6] - 5:4, 7:4, 70:7, 72:12, 72:15, 72:17

grand [1] - 7:5

grant [2] - 44:2, 59:7

great [2] - 10:19, 10:24

greatest [1] - 27:10

green [3] - 19:9, 19:22

ground [4] - 20:22, 25:3, 33:22, 34:8

group [2] - 22:4, 50:10

guarantee [1] - 48:22

Guerrero [1] - 89:24

guess [4] - 19:19, 40:5, 87:20, 97:6

guys [6] - 64:25, 66:3, 86:25, 97:2, 99:2, 99:4

Guzman [1] - 86:10

gym [1] - 97:15

H

half [5] - 24:4, 68:6, 68:13, 93:9, 93:14

Hall [1] - 6:15

hand [2] - 14:3, 36:12

handicapped [2] - 73:8, 73:11

handle [2] - 28:21, 82:21

hands [1] - 86:6

happy [2] - 61:20, 85:18

Harbor [4] - 31:23, 36:21, 40:23, 45:7

HARBOR [1] - 3:7

hard [3] - 52:21, 53:11, 81:19

Harrington [2] - 84:9, 85:3

hate [1] - 84:24

HDPE [3] - 24:23, 25:1, 25:17

head [2] - 20:14, 47:16

heading [1] - 16:12

HEADQUARTERS [1] - 1:23

hear [4] - 5:2, 5:9, 44:4, 88:21

heard [6] - 6:6, 6:21, 44:21, 51:14, 52:1, 60:15

hearing [10] - 5:17, 6:5, 6:7, 13:24, 84:15, 85:17, 89:9, 89:12, 99:12, 99:19

hearings [1] - 5:18

height [6] - 9:17, 9:18, 9:20, 17:24, 78:19, 97:5

held [1] - 34:13

hereby [1] - 100:3

herein [1] - 70:15

hereinbefore [1] - 100:7

Hi [2] - 78:6, 86:10

high [3] - 7:12, 24:23, 33:21

higher [2] - 17:11, 78:13

highlight [1] - 32:5

Hillside [2] - 56:1, 70:3

hip [1] - 92:3

history [1] - 60:9

hits [1] - 34:8

hold [1] - 27:14

holds [1] - 26:2

hole [2] - 34:1, 34:2

HOLLENBECK [1] - 2:2

home [2] - 8:8, 51:16

homes [1] - 84:11

honestly [3] - 12:8, 61:11, 61:14

hook [1] - 63:21

HORTA [1] - 1:14

hours [2] - 6:17, 82:17

<p>house [3] - 79:2, 85:2, 85:5</p> <p>household [1] - 61:9</p> <p>hurricane [2] - 10:18, 86:17</p> <p>husband [1] - 71:14</p>	<p>66:1, 75:15, 75:25, 76:16, 76:19, 81:21, 87:6</p> <p>inches [6] - 76:11, 76:14, 81:22, 81:23, 81:25, 82:17</p> <p>included [2] - 31:7, 91:9</p> <p>includes [1] - 19:5</p> <p>including [1] - 14:18</p> <p>inclusion [1] - 36:1</p> <p>income [1] - 50:10</p> <p>incomplete [2] - 5:13, 70:20</p> <p>inconsistent [1] - 94:15</p> <p>incorporated [1] - 41:24</p> <p>incorporates [1] - 96:6</p> <p>incorrect [2] - 70:14, 70:20</p> <p>increase [5] - 28:25, 29:2, 29:10, 65:12, 87:14</p> <p>increases [1] - 37:18</p> <p>indicate [1] - 38:13</p> <p>indicated [4] - 7:23, 33:5, 38:14, 69:21</p> <p>indicating [1] - 73:13</p> <p>information [1] - 50:17</p> <p>infrastructure [3] - 28:6, 40:8, 76:1</p> <p>ingress [9] - 8:14, 16:22, 21:4, 21:8, 48:21, 49:1, 49:25, 57:2, 58:22</p> <p>ingress/egress [2] - 20:24, 21:2</p> <p>input [1] - 58:9</p> <p>inside [1] - 96:18</p> <p>inspected [2] - 6:16, 6:18</p> <p>inspections [1] - 55:10</p> <p>installed [6] - 29:12, 35:24, 43:24, 54:20, 54:24, 55:5</p> <p>instances [2] - 10:1, 50:9</p> <p>instead [2] - 34:12, 83:3</p> <p>institution [2] - 79:15, 80:17</p> <p>intend [1] - 11:4</p> <p>intended [2] - 71:25, 96:15</p> <p>intending [1] - 63:14</p> <p>intent [3] - 26:20,</p>	<p>27:12, 85:4</p> <p>intention [1] - 30:14</p> <p>interest [1] - 60:25</p> <p>interested [1] - 100:13</p> <p>interim [9] - 26:14, 26:19, 40:10, 42:13, 43:17, 44:2, 75:24, 76:13, 87:5</p> <p>interior [2] - 82:4, 82:8</p> <p>internal [1] - 97:23</p> <p>interrupt [2] - 46:5, 92:22</p> <p>involvement [1] - 70:5</p> <p>issue [5] - 49:5, 51:1, 80:2, 92:24, 93:7</p> <p>issues [6] - 12:20, 29:20, 36:4, 71:6, 77:20, 80:12</p> <p>it'll [1] - 79:2</p> <p>item [1] - 9:9</p> <p>items [7] - 29:22, 32:5, 45:11, 45:12, 45:16, 70:21, 72:7</p> <p>Ivano [8] - 11:5, 88:17, 88:24, 89:6, 89:21, 90:9, 91:8, 91:20</p>	<p>7:11, 66:21</p> <p>Kurus [6] - 11:5, 13:8, 14:12, 68:19, 83:11, 95:16</p> <p>kurus [13] - 11:23, 19:17, 32:1, 38:4, 38:22, 42:2, 45:1, 46:12, 46:22, 48:2, 74:2, 75:9, 84:16</p>	<p>89:25</p> <p>licensed [2] - 14:14, 89:24</p> <p>licenses [1] - 14:19</p> <p>life [1] - 48:14</p> <p>lights [1] - 58:23</p> <p>limitation [1] - 10:15</p> <p>limited [3] - 13:18, 67:9, 68:14</p> <p>limits [5] - 67:16, 67:19, 68:12, 69:5</p> <p>Lincoln [15] - 9:14, 21:8, 45:5, 48:10, 48:14, 48:25, 51:10, 52:17, 62:9, 73:18, 73:20, 79:11, 81:10, 84:10, 86:11</p> <p>line [17] - 17:9, 20:10, 20:14, 24:6, 39:8, 47:19, 67:15, 68:13, 69:9, 76:16, 76:19, 95:8, 96:1, 97:15, 97:16, 97:21, 98:5</p> <p>linear [1] - 24:25</p> <p>lines [5] - 67:17, 83:19, 83:21, 84:1</p> <p>list [3] - 45:13, 45:22, 46:23</p> <p>listen [1] - 52:4</p> <p>listened [1] - 51:17</p> <p>listening [1] - 81:1</p> <p>live [9] - 10:19, 10:20, 45:5, 64:5, 78:7, 79:11, 81:9, 84:10, 86:11</p> <p>lived [3] - 52:18, 53:12, 86:16</p> <p>living [1] - 84:12</p> <p>LLC [7] - 1:5, 5:4, 7:5, 70:7, 72:12, 72:18</p> <p>load [1] - 40:19</p> <p>lobby [2] - 22:2, 22:3</p> <p>local [2] - 58:25, 72:1</p> <p>locally [1] - 50:13</p> <p>located [8] - 7:6, 7:24, 8:2, 8:21, 16:9, 17:18, 21:4, 20:16</p> <p>locations [1] - 21:7</p> <p>look [14] - 15:14, 23:17, 43:6, 50:9, 66:4, 71:18, 80:6, 93:1, 93:2, 93:12, 93:25, 94:17, 94:18, 95:14</p> <p>looked [7] - 40:23, 61:23, 91:22, 91:25, 92:3, 93:5, 95:22</p> <p>looking [6] - 6:3,</p>
I			L	
<p>Ida [1] - 53:12</p> <p>idea [3] - 60:5, 60:8, 93:17</p> <p>idealistic [2] - 61:5</p> <p>identified [3] - 73:7, 88:10, 90:21</p> <p>identify [7] - 15:18, 18:14, 22:14, 22:23, 24:14, 91:1, 91:10</p> <p>illustrated [1] - 83:15</p> <p>image [1] - 78:14</p> <p>imagine [4] - 81:19, 81:20, 86:25, 87:17</p> <p>impact [13] - 25:12, 26:5, 27:22, 28:1, 35:8, 72:3, 77:15, 79:23, 80:12, 83:9, 86:1, 87:14, 87:17</p> <p>imperious [1] - 46:24</p> <p>impervious [13] - 10:9, 10:10, 10:14, 17:13, 17:17, 28:16, 28:22, 28:24, 28:25, 29:2, 29:10, 37:18, 39:9</p> <p>important [3] - 8:16, 33:14, 92:5</p> <p>importantly [3] - 9:7, 9:17, 11:9</p> <p>imposed [1] - 18:21</p> <p>impossible [1] - 87:25</p> <p>improve [2] - 10:5, 31:6</p> <p>improved [2] - 63:24, 63:25</p> <p>improvement [6] - 26:23, 29:11, 35:21, 35:22, 58:21, 92:6</p> <p>Improvement [1] - 21:21</p> <p>improvements [6] - 10:25, 18:22, 26:21, 31:5, 31:9, 40:9</p> <p>IN [1] - 3:11</p> <p>inadequate [2] - 65:22</p> <p>inch [19] - 24:23, 25:1, 25:17, 26:13, 33:21, 62:14, 62:15, 62:17, 65:21, 65:25,</p>			<p>L-E-N-A-H-A-N [2] - 73:3, 74:19</p> <p>ladies [1] - 6:19</p> <p>Land [1] - 70:9</p> <p>land [2] - 35:10, 70:17</p> <p>landlord [1] - 85:6</p> <p>landscaping [6] - 8:20, 18:20, 19:3, 19:4, 28:14</p> <p>lane [1] - 70:25</p> <p>language [1] - 97:24</p> <p>larger [3] - 19:9, 68:16, 76:1</p> <p>last [11] - 10:18, 14:10, 33:11, 34:18, 38:10, 46:17, 65:23, 82:24, 89:19, 90:4, 99:15</p> <p>lastly [2] - 29:14, 64:17</p> <p>latest [2] - 27:10, 31:2</p> <p>LAW [1] - 2:6</p> <p>law [4] - 15:1, 37:3, 73:10, 79:25</p> <p>lazy [1] - 61:13</p> <p>leader [4] - 34:2, 34:16, 82:2, 82:3</p> <p>least [4] - 53:8, 60:6, 89:6, 96:23</p> <p>leave [1] - 8:7</p> <p>left [2] - 73:18, 73:19</p> <p>Lenahan [2] - 73:2, 74:19</p> <p>lenahan [4] - 74:2, 74:4, 74:5, 78:5</p> <p>less [4] - 83:2, 83:4, 87:12</p> <p>letter [12] - 29:15, 29:17, 31:8, 38:12, 57:12, 57:14, 57:23, 58:14, 58:17, 59:22, 70:5, 71:7</p> <p>letters [1] - 71:8</p> <p>level [2] - 20:22, 25:3</p> <p>levels [1] - 20:22</p> <p>license [2] - 36:23,</p>	
	J			
	<p>Jack [1] - 62:8</p> <p>James [2] - 84:9, 89:24</p> <p>Jennifer [1] - 78:6</p> <p>Jersey [6] - 14:14, 14:15, 25:7, 80:1, 89:25, 100:3</p> <p>JERSEY [1] - 1:24</p> <p>JOE [1] - 1:13</p> <p>jurisdiction [4] - 16:10, 37:21, 57:6, 57:7</p> <p>justification [1] - 69:14</p>	K		
		<p>K-U-R-U-S [1] - 14:12</p> <p>keep [4] - 67:9, 68:17, 69:8, 80:9</p> <p>keeps [1] - 98:10</p> <p>keys [1] - 27:17</p> <p>kidding [1] - 62:19</p> <p>kind [2] - 49:1, 84:11</p> <p>kindly [1] - 78:4</p> <p>known [4] - 5:3, 7:9,</p>		

<p>40:12, 45:7, 85:17, 94:20, 95:5 looks [2] - 59:22, 81:17 LOOMIS [1] - 3:8 Loomis [3] - 29:25, 31:24, 40:25 lose [1] - 77:12 louder [1] - 57:4 love [1] - 51:11 low [3] - 33:25, 34:15, 84:12 luxury [1] - 7:12 Lyndhurst [2] - 2:4, 14:14</p>	<p>mans [1] - 67:10 March [3] - 27:4, 57:13, 70:6 Mario [1] - 79:11 mark [12] - 15:20, 18:11, 18:14, 22:15, 22:20, 22:22, 24:13, 31:23, 90:19, 90:24, 90:25, 91:9 marked [3] - 15:16, 22:17, 91:14 market [1] - 84:17 Marulanda [2] - 88:17, 89:22 marulanda [2] - 88:21, 90:5 Marulanda's [1] - 98:17 Marulunda [1] - 11:6 Master [6] - 56:4, 56:12, 56:15, 61:3, 61:4, 61:7 master [1] - 80:7 match [1] - 31:3 matches [1] - 72:18 matching [1] - 69:2 maximize [3] - 64:25 maximum [2] - 73:9, 96:11 McNamara [7] - 2:3, 5:10, 5:15, 6:12, 6:19, 13:9, 14:9, 15:9, 15:12, 15:15, 15:17, 18:13, 18:23, 19:2, 22:15, 22:20, 22:23, 23:1, 24:13, 24:19, 31:22, 36:11, 36:18, 36:23, 37:1, 44:12, 44:17, 45:25, 46:8, 46:19, 46:21, 48:8, 48:15, 48:20, 49:2, 49:7, 49:11, 51:21, 51:24, 66:7, 66:25, 67:3, 67:12, 68:1, 69:25, 71:3, 71:8, 72:11, 74:17, 74:21, 75:9, 79:4, 79:19, 80:25, 81:6, 83:11, 83:18, 83:25, 84:4, 84:13, 86:4, 88:4, 88:20, 89:8, 89:18, 90:24, 91:4, 91:13, 91:18, 91:18, 99:10, 99:17 mcNamara [3] - 37:5, 58:2, 88:13 mean [10] - 34:21, 46:5, 55:3, 68:10, 68:12, 71:23, 73:23, 86:22, 92:22, 94:14 meaning [1] - 39:22</p>	<p>means [3] - 21:8, 53:7, 68:14 measure [1] - 72:5 meet [6] - 26:15, 27:9, 38:7, 42:20, 92:15, 94:4 meeting [14] - 5:8, 5:10, 6:23, 12:4, 12:7, 12:18, 43:10, 43:15, 89:3, 98:22, 99:2, 99:3, 99:13, 99:16 meets [1] - 38:3 member [2] - 5:20, 84:5 MEMBERS [1] - 1:10 members [4] - 7:1, 13:12, 13:14, 74:15 mention [1] - 31:4 mentioned [5] - 28:15, 50:16, 74:23, 92:23, 97:6 mesh [1] - 26:20 met [2] - 27:17, 27:18 meter [1] - 75:17 metering [1] - 75:19 methodology [1] - 25:5 MICHELLE [1] - 1:12 mid [2] - 34:1, 34:16 middle [1] - 81:25 might [5] - 46:6, 46:10, 71:20, 72:5, 94:21 Mike [1] - 48:9 mind [1] - 80:10 minimum [16] - 20:7, 20:13, 20:16, 20:18, 21:19, 24:2, 47:4, 47:8, 47:14, 47:18, 68:1, 73:9, 96:3, 96:11, 97:18 minor [1] - 29:9 minute [1] - 62:6 minutes [1] - 99:15 missed [1] - 10:19 missing [2] - 70:21, 78:14 mistaken [1] - 59:13 mitigated [1] - 29:10 mix [1] - 19:13 mom's [1] - 79:1 moment [1] - 61:4 MONAE [1] - 1:16 money [1] - 84:25 morning [1] - 61:24 Morris [56] - 5:3, 5:4, 7:4, 7:5, 7:7, 8:5, 8:6, 8:15, 8:21, 8:22, 9:1, 9:8, 16:3, 16:4, 16:10,</p>	<p>16:21, 16:22, 20:7, 20:11, 20:25, 21:3, 21:4, 23:14, 23:19, 31:1, 34:10, 47:9, 47:12, 47:20, 47:23, 57:5, 58:25, 59:17, 62:11, 62:16, 62:17, 66:20, 66:21, 70:7, 70:23, 72:12, 72:18, 91:3, 92:16, 93:4, 94:7, 94:10, 95:10, 95:15, 95:17, 97:15, 97:21, 98:3 MORRIS [3] - 1:5, 1:5, 3:9 MORRISTOWN [1] - 1:24 most [16] - 7:13, 8:16, 9:12, 9:16, 11:8, 19:25, 27:10, 43:20, 55:3, 68:16, 75:8, 77:19, 82:25, 90:22, 92:19, 96:4 motion [2] - 99:11, 99:15 move [4] - 49:18, 77:8, 85:12, 89:6 moved [3] - 9:10, 51:14, 51:25 movement [2] - 8:24, 8:25 MR [121] - 3:8, 5:10, 5:15, 6:12, 6:19, 6:25, 12:1, 12:5, 12:8, 12:15, 12:23, 13:4, 13:8, 13:9, 14:9, 15:9, 15:12, 15:15, 15:17, 15:21, 18:13, 18:23, 19:2, 22:15, 22:18, 22:20, 22:22, 22:23, 23:1, 23:9, 24:13, 24:19, 31:19, 31:22, 32:4, 32:12, 36:11, 36:17, 36:18, 36:20, 36:23, 36:25, 37:1, 41:11, 43:2, 44:7, 44:12, 44:17, 45:25, 46:4, 46:8, 46:19, 46:21, 46:22, 48:2, 48:8, 48:15, 48:20, 49:2, 49:7, 49:11, 49:14, 50:15, 51:21, 51:24, 54:21, 56:5, 56:23, 57:9, 57:24, 58:2, 58:4, 58:11, 58:18, 59:6, 59:10, 59:15, 61:18, 62:1, 66:7, 66:25, 67:3, 67:12, 68:1, 68:19, 69:25, 71:3, 71:8,</p>	<p>71:13, 71:17, 72:11, 72:20, 74:17, 74:21, 75:9, 79:4, 79:19, 80:22, 80:25, 81:6, 83:11, 83:18, 83:25, 84:4, 84:13, 85:3, 85:23, 86:4, 88:4, 88:16, 88:20, 88:23, 89:8, 89:18, 90:24, 91:4, 91:13, 91:18, 99:6, 99:10, 99:17 MS [1] - 99:14 Muindi [1] - 51:9 MUINDI [1] - 51:10 multi [1] - 17:20 multifamily [10] - 5:5, 8:1, 8:2, 9:2, 16:6, 17:19, 17:23, 20:3, 23:11, 23:23 municipal [2] - 30:3, 76:23 Murray [3] - 7:14, 54:21, 54:23 music [4] - 51:11, 51:17, 52:4 must [2] - 25:10, 51:16</p>
M				
<p>M-A-R-U-L-A-N-D-A [2] - 89:22, 90:5 ma'am [2] - 66:25, 71:3 mailing [1] - 89:11 main [2] - 65:21, 69:16 maintenance [1] - 55:8 major [3] - 37:16, 54:17, 54:18 majority [2] - 39:12, 98:23 manage [2] - 35:5, 64:20 management [64] - 8:20, 10:17, 10:23, 18:1, 18:3, 18:5, 18:6, 18:8, 22:10, 24:9, 24:20, 25:4, 25:6, 25:8, 25:9, 25:22, 26:15, 26:23, 27:2, 27:7, 27:11, 27:21, 28:1, 28:20, 29:5, 29:7, 29:11, 32:19, 32:20, 32:22, 32:24, 32:25, 33:3, 33:4, 33:14, 33:18, 33:20, 34:8, 34:14, 35:4, 35:12, 36:2, 37:7, 37:10, 37:15, 37:21, 38:7, 39:2, 39:6, 39:19, 52:8, 53:5, 53:6, 54:15, 54:20, 55:6, 62:21, 63:9, 74:23, 77:15, 87:7, 87:9, 87:10 mandatory [2] - 84:24 manhole [3] - 55:9, 86:19, 86:20 manner [1] - 53:11</p>	<p>M</p>	<p>M</p>	<p>M</p>	<p>M</p>
N				
<p>N</p>	<p>N</p>	<p>N</p>	<p>N</p>	<p>N</p>

<p>86:2, 96:15 neighbors [3] - 33:12, 55:22, 73:6 never [2] - 52:16, 52:17 NEW [1] - 1:24 new [22] - 19:5, 19:8, 20:2, 24:21, 26:12, 27:4, 28:3, 28:4, 28:10, 30:15, 41:20, 41:21, 41:23, 42:8, 42:22, 43:18, 55:14, 55:18, 60:4, 60:6, 66:12, 80:14 New [6] - 14:14, 14:15, 25:7, 80:1, 89:25, 100:3 Newark [2] - 71:21, 72:14 next [10] - 6:7, 66:20, 68:15, 81:23, 84:15, 85:12, 88:17, 89:3, 99:18 nice [1] - 92:6 Nick [1] - 11:7 night [1] - 49:24 nine [5] - 24:4, 96:1, 96:2, 97:17, 98:9 NJ [8] - 2:4, 16:10, 18:5, 25:8, 27:10, 30:17, 57:6, 65:14 noise [4] - 51:15, 52:1, 52:19, 53:12 non [1] - 50:25 nonconforming [1] - 10:14 normal [2] - 52:2, 65:24 NORTH [1] - 1:23 north [12] - 16:6, 17:2, 17:8, 20:11, 20:13, 20:16, 21:1, 21:7, 34:11, 47:9, 47:13, 47:23 northerly [3] - 16:12, 16:23, 17:6 northern [1] - 19:11 northwest [1] - 47:16 Norwood [1] - 52:16 Notary [1] - 100:3 noted [7] - 7:6, 10:9, 27:8, 31:8, 70:11, 70:16 nothing [4] - 6:10, 14:7, 36:15, 89:16 notice [1] - 78:11 noticed [3] - 5:11, 6:15, 95:13 notify [2] - 89:12, 99:1</p>	<p>number [12] - 18:17, 22:3, 53:14, 65:10, 73:11, 77:23, 78:1, 83:5, 93:24, 93:25, 95:14, 96:11 numbers [1] - 64:20 numerous [1] - 14:17 NUNES [5] - 1:13, 42:3, 42:5, 42:10, 42:17 Nunes [1] - 42:4</p> <hr/> <p style="text-align: center;">O</p> <hr/> <p>o'clock [1] - 66:13 oath [3] - 15:1, 37:3, 90:8 object [1] - 43:3 objecting [1] - 49:7 objection [1] - 4:2 objectively [1] - 74:11 obligation [1] - 43:4 obtain [3] - 30:21, 65:16, 65:18 obtained [1] - 30:22 obviously [1] - 41:6 occasions [1] - 32:18 occupants [1] - 65:10 occurs [4] - 20:8, 20:17, 47:9, 47:20 October [5] - 6:7, 66:16, 89:10, 98:17, 99:12 odd [1] - 80:5 OF [3] - 1:1, 1:1, 2:6 off-street [1] - 21:10 offer [2] - 28:19, 94:25 office [1] - 31:15 OFFICES [1] - 2:6 often [1] - 80:12 old [2] - 42:21, 60:4 on-site [15] - 10:12, 10:16, 18:2, 18:7, 24:21, 25:4, 29:4, 29:6, 29:12, 30:10, 34:8, 76:6, 87:8, 87:9, 87:10 on-street [1] - 21:12 once [7] - 7:2, 13:11, 13:13, 34:7, 55:5, 55:16, 76:1 oncoming [1] - 73:19 one [61] - 5:6, 7:13, 9:3, 9:5, 9:8, 9:9, 9:11, 10:9, 12:9,</p>	<p>16:12, 16:16, 16:21, 20:4, 21:3, 21:7, 22:17, 29:1, 30:8, 31:4, 33:12, 34:20, 35:14, 37:17, 37:20, 42:22, 44:15, 44:18, 45:21, 48:12, 52:5, 54:18, 54:22, 56:24, 56:25, 59:23, 61:25, 62:1, 69:12, 69:17, 72:13, 78:15, 79:17, 79:18, 79:19, 81:11, 81:21, 81:24, 83:1, 85:7, 85:8, 90:25, 92:12, 93:6, 93:8, 93:9, 96:19, 97:4 one-bedroom [5] - 5:6, 9:5, 20:4, 85:8, 92:12 one-way [1] - 16:12 open [1] - 13:14 opening [1] - 81:20 openings [1] - 81:20 operated [1] - 58:20 opinion [5] - 27:20, 29:9, 50:3, 65:6, 94:25 opinions [2] - 14:1, 28:19 opportunity [14] - 5:17, 5:21, 5:24, 6:20, 13:20, 13:23, 13:25, 15:3, 29:14, 37:8, 67:7, 85:6, 90:19, 97:1 opposed [1] - 38:14 Orchard [1] - 59:13 order [11] - 13:10, 25:7, 25:11, 26:22, 34:6, 35:7, 35:23, 41:19, 42:21, 99:13 ordinance [10] - 25:10, 26:16, 30:3, 30:4, 37:14, 37:23, 43:10, 63:8, 93:24, 95:13 ordinances [2] - 31:1, 67:16 orifice [3] - 33:25, 34:1, 34:16 original [1] - 62:2 outcome [2] - 53:17, 57:1 outlet [12] - 25:18, 25:21, 26:2, 26:12, 33:23, 34:14, 34:17, 54:25, 75:23, 76:7, 76:13 outside [2] - 93:20, 94:21</p>	<p>outweigh [1] - 48:6 overall [6] - 10:5, 16:8, 22:5, 36:1, 36:4, 73:11 overcrowded [1] - 50:1 overflow [4] - 34:2, 34:16, 82:1, 85:14 oversized [1] - 17:2 own [4] - 35:2, 35:6, 75:7 owned [1] - 58:19 owner [6] - 7:5, 7:19, 55:10, 66:18, 68:20, 85:5 owners [1] - 64:11</p> <hr/> <p style="text-align: center;">P</p> <hr/> <p>P.E [1] - 1:17 P.O [1] - 2:4 P.P [1] - 1:17 PACKAGE [1] - 3:11 package [9] - 6:13, 15:18, 15:19, 15:20, 15:22, 18:19, 22:24, 24:18, 91:14 page [1] - 46:17 Page [5] - 38:12, 47:1, 47:2, 47:3 parcel [2] - 7:5, 22:13 Park [1] - 14:13 park [5] - 61:13, 61:14, 84:25, 85:1, 85:5 parked [2] - 73:16, 73:20 parking [72] - 8:14, 9:5, 11:11, 11:12, 11:13, 11:15, 17:1, 17:7, 17:12, 17:15, 20:20, 20:21, 20:23, 20:24, 21:10, 21:11, 21:13, 21:18, 21:19, 21:20, 21:22, 21:24, 21:25, 22:1, 22:5, 22:7, 25:3, 29:4, 38:13, 38:17, 38:18, 39:9, 45:18, 45:19, 47:14, 48:22, 48:24, 50:1, 50:2, 50:4, 50:23, 51:1, 51:7, 61:8, 64:18, 64:21, 64:23, 70:19, 73:7, 73:8, 73:11, 80:16, 80:17, 84:22, 84:23, 85:6, 85:9, 85:11, 85:16, 85:25, 96:6, 96:7, 96:9, 96:14,</p>	<p>96:15, 96:17, 96:21 part [14] - 6:14, 8:16, 15:18, 15:23, 17:25, 18:19, 24:17, 30:21, 55:12, 69:15, 70:25, 73:5, 80:7, 85:8 participate [2] - 5:14, 5:17 particular [20] - 7:18, 8:5, 8:11, 8:12, 8:13, 8:14, 8:18, 9:9, 11:9, 11:16, 12:9, 12:15, 12:17, 12:21, 12:23, 58:23, 60:17, 93:24 particularly [1] - 60:3 parties [2] - 4:2, 100:11 partner [3] - 48:9, 60:22, 60:24 past [2] - 14:16, 79:23 Patrick [1] - 51:9 PATRICK [1] - 2:3 paving [1] - 18:4 pay [2] - 64:12, 84:25 peak [4] - 25:23, 26:18, 87:7, 87:13 Penn [1] - 72:16 PENNSYLVANIA [1] - 2:8 Pennsylvania [1] - 72:15 people [14] - 6:4, 10:18, 13:2, 49:13, 61:11, 61:12, 64:4, 65:11, 66:1, 66:8, 80:5, 80:12, 84:25, 86:5 per [11] - 11:14, 12:19, 20:5, 33:15, 50:11, 61:8, 63:8, 70:19, 78:2, 96:21, 96:23 percent [13] - 8:17, 10:11, 22:4, 25:24, 25:25, 26:1, 26:17, 26:18, 36:8, 39:14, 41:7, 94:4 percentage [2] - 78:17, 78:21 perennial [2] - 19:7, 19:14 perfect [1] - 10:25 performed [1] - 16:15 perhaps [1] - 65:11 perimeter [1] - 18:25 permit [4] - 8:1, 44:2, 65:15, 65:18</p>
--	--	---	---	--

<p>permits [1] - 30:22</p> <p>permitted [2] - 40:10, 42:16</p> <p>person [2] - 7:1, 51:8</p> <p>perspective [1] - 12:19</p> <p>persuade [1] - 52:20</p> <p>pertain [1] - 82:25</p> <p>Peter [1] - 74:19</p> <p>petered [1] - 34:15</p> <p>photography [1] - 23:18</p> <p>pick [1] - 29:22</p> <p>picture [2] - 78:12, 98:12</p> <p>pictures [2] - 86:19, 91:15</p> <p>piece [2] - 36:1, 39:18</p> <p>PIKE [1] - 2:7</p> <p>pipe [13] - 25:1, 25:17, 33:22, 54:24, 64:3, 65:25, 75:3, 75:25, 76:1, 76:10, 76:13, 82:12, 86:24</p> <p>piped [1] - 39:6</p> <p>pipes [3] - 81:18, 82:6, 82:18</p> <p>pipng [4] - 24:23, 75:12, 75:14, 76:9</p> <p>place [3] - 39:11, 42:11, 100:6</p> <p>places [1] - 52:24</p> <p>plan [26] - 7:17, 15:25, 16:1, 16:13, 17:25, 18:12, 19:4, 19:21, 20:5, 20:9, 22:11, 22:19, 31:5, 37:13, 59:2, 68:11, 70:10, 70:19, 71:11, 71:12, 77:14, 80:18, 90:21, 91:9, 92:21, 97:12</p> <p>Plan [8] - 18:16, 24:16, 56:4, 56:12, 56:15, 61:3, 61:4, 61:7</p> <p>PLAN [2] - 3:4, 3:6</p> <p>Planner [1] - 58:15</p> <p>planner [12] - 11:20, 13:19, 17:21, 36:22, 46:15, 48:4, 48:16, 56:7, 56:18, 69:13, 78:21, 79:21</p> <p>planners [1] - 48:5</p> <p>planning [6] - 6:1, 40:17, 48:7, 56:22, 57:17, 80:7</p> <p>Planning [3] - 45:8, 70:8, 70:9</p>	<p>plans [16] - 9:2, 15:24, 20:5, 31:8, 38:13, 38:15, 58:20, 70:15, 70:22, 77:4, 78:1, 84:20, 90:13, 90:16, 91:8, 97:11</p> <p>plantings [6] - 18:24, 19:5, 19:7, 19:12, 19:14</p> <p>platform [2] - 4:3, 4:6</p> <p>play [3] - 51:19, 57:11, 95:20</p> <p>PLAZA [1] - 1:23</p> <p>plus [3] - 38:18, 69:1, 70:19</p> <p>PM [2] - 1:2, 99:19</p> <p>podium [5] - 13:14, 44:19, 44:25, 54:5, 66:10</p> <p>point [11] - 17:16, 24:4, 29:1, 38:11, 41:12, 51:23, 54:12, 54:14, 55:1, 82:7, 85:10</p> <p>pointed [1] - 38:4</p> <p>pointing [1] - 72:21</p> <p>points [4] - 9:8, 16:25, 29:23, 78:12</p> <p>police [3] - 50:22, 50:24, 51:2</p> <p>policy [1] - 66:12</p> <p>polyethylene [2] - 24:23, 33:22</p> <p>portion [2] - 22:1, 96:2</p> <p>ports [1] - 55:9</p> <p>pose [1] - 11:17</p> <p>position [1] - 37:9</p> <p>positive [1] - 40:13</p> <p>possible [3] - 6:5, 96:16, 96:18</p> <p>possibly [1] - 73:20</p> <p>post [1] - 87:12</p> <p>potentially [2] - 71:23, 80:13</p> <p>practicing [1] - 14:16</p> <p>pre [2] - 39:23, 40:22</p> <p>pre-approved [1] - 39:23</p> <p>pre-reviewed [1] - 40:22</p> <p>predated [1] - 18:5</p> <p>predominantly [1] - 8:2</p> <p>predominately [1] - 78:15</p> <p>preexisting [3] - 10:14, 17:13, 28:17</p> <p>preferable [1] - 61:9</p>	<p>preparation [1] - 56:2</p> <p>prepare [1] - 90:13</p> <p>prepared [3] - 27:25, 65:8, 97:2</p> <p>present [11] - 6:2, 9:19, 10:8, 11:4, 11:8, 14:5, 36:14, 49:16, 50:16, 85:19, 89:14</p> <p>presentation [2] - 45:13, 49:22</p> <p>presently [1] - 33:17</p> <p>pretty [5] - 37:23, 37:25, 52:21, 68:14, 72:10</p> <p>prevailing [12] - 92:17, 92:23, 93:1, 93:5, 93:7, 93:12, 93:18, 93:22, 94:1, 94:6, 94:14, 94:20</p> <p>prevention [1] - 30:2</p> <p>previously [4] - 16:14, 16:16, 17:3, 29:3</p> <p>problem [4] - 11:17, 35:18, 86:25, 87:20</p> <p>problems [2] - 51:7, 87:17</p> <p>proceeding [1] - 5:11</p> <p>process [4] - 56:22, 57:16, 80:8, 85:8</p> <p>professional [3] - 14:15, 36:21, 36:22</p> <p>profile [1] - 30:21</p> <p>project [53] - 9:7, 11:10, 20:2, 20:20, 21:14, 21:23, 24:10, 26:6, 26:20, 27:7, 28:2, 28:23, 30:19, 35:5, 35:25, 37:16, 37:17, 37:22, 39:12, 47:21, 50:5, 51:1, 57:11, 57:18, 58:8, 58:23, 60:25, 63:17, 63:18, 64:12, 64:18, 65:1, 65:3, 65:7, 65:17, 66:2, 66:3, 66:4, 66:19, 66:24, 72:7, 77:10, 78:8, 81:11, 81:15, 83:8, 83:9, 83:16, 85:4, 87:11, 91:23, 96:19</p> <p>projects [2] - 25:7, 30:13</p> <p>promises [4] - 60:2, 60:18, 60:19, 60:20</p> <p>properly [2] - 59:8, 99:1</p> <p>properties [16] -</p>	<p>7:11, 8:6, 17:10, 23:23, 25:12, 35:25, 68:16, 78:11, 93:11, 94:2, 94:7, 94:10, 94:17, 94:18, 94:22, 95:9</p> <p>property [71] - 7:6, 7:22, 7:23, 8:1, 8:5, 8:8, 8:11, 8:12, 8:13, 8:17, 15:4, 16:5, 16:8, 16:14, 17:9, 17:11, 17:18, 18:3, 18:25, 19:8, 19:18, 20:10, 20:14, 21:1, 23:6, 24:6, 25:11, 25:24, 28:24, 29:9, 29:15, 33:18, 35:6, 36:2, 39:18, 47:19, 58:19, 59:16, 59:17, 59:18, 63:5, 64:14, 66:20, 67:14, 67:15, 67:16, 67:17, 67:18, 67:20, 68:11, 68:13, 68:20, 68:21, 69:1, 69:2, 69:9, 70:11, 74:24, 83:24, 90:9, 95:8, 95:9, 95:16, 96:1, 97:15, 97:16, 97:21, 98:4, 98:13</p> <p>proposal [4] - 5:4, 9:15, 48:12, 87:4</p> <p>propose [3] - 10:23, 29:6, 53:14</p> <p>proposed [57] - 9:1, 9:21, 10:3, 10:10, 10:25, 11:3, 11:10, 12:11, 18:10, 18:21, 18:25, 19:3, 19:4, 19:6, 19:11, 19:13, 19:17, 19:20, 19:24, 20:10, 20:12, 21:11, 21:22, 21:25, 22:2, 22:6, 22:10, 24:25, 25:5, 25:15, 26:7, 27:21, 28:4, 28:8, 28:12, 28:18, 28:22, 30:1, 30:10, 30:16, 33:19, 35:18, 38:14, 43:13, 47:7, 50:4, 50:5, 74:25, 75:6, 75:10, 81:14, 83:14, 87:6, 91:21, 92:9</p> <p>proposes [2] - 9:7, 20:2</p> <p>proposing [24] - 9:4, 9:18, 10:15, 11:7, 11:12, 11:13, 19:7, 20:18, 20:21, 21:18, 23:25, 24:21, 28:10, 28:25, 37:9, 37:11,</p>	<p>44:6, 64:4, 68:23, 75:16, 75:18, 75:24, 95:11, 95:21</p> <p>provide [16] - 14:10, 18:21, 19:15, 21:8, 21:13, 27:6, 30:7, 38:3, 38:6, 48:5, 64:23, 77:14, 89:19, 91:24, 96:15, 96:17</p> <p>provided [9] - 17:3, 21:11, 22:7, 30:24, 31:14, 38:6, 70:16, 72:22, 90:23</p> <p>provides [2] - 25:1, 91:5</p> <p>providing [7] - 20:7, 20:9, 20:16, 24:2, 47:22, 87:8, 96:22</p> <p>provisions [1] - 49:25</p> <p>proximity [2] - 17:19, 17:22</p> <p>PUBLIC [144] - 5:7, 5:13, 6:8, 6:18, 45:4, 46:2, 46:17, 46:20, 47:2, 47:4, 47:24, 48:9, 48:18, 48:21, 49:5, 49:9, 49:12, 49:20, 50:6, 50:18, 51:4, 51:9, 51:19, 51:23, 51:25, 52:11, 52:16, 53:7, 53:17, 53:22, 54:1, 54:3, 54:7, 54:10, 54:16, 55:1, 55:6, 55:13, 55:21, 55:25, 56:9, 56:13, 56:16, 56:20, 57:3, 57:12, 57:22, 58:10, 58:13, 59:8, 59:12, 59:21, 60:8, 60:14, 60:22, 60:24, 61:2, 61:22, 62:3, 62:4, 62:8, 62:15, 62:19, 62:25, 63:2, 63:4, 63:10, 63:18, 63:25, 64:16, 64:24, 65:9, 65:19, 66:17, 67:2, 67:11, 67:13, 67:25, 68:3, 68:5, 68:9, 69:4, 69:16, 69:23, 70:2, 71:5, 71:11, 71:16, 72:9, 72:17, 72:23, 73:1, 74:8, 74:12, 74:14, 74:19, 74:22, 75:1, 75:5, 75:8, 75:12, 75:14, 75:20, 76:3, 76:8, 76:12, 76:15, 76:18, 76:22, 77:1, 77:3, 77:8, 77:13,</p>
---	--	---	--	--

<p>77:16, 77:21, 77:22, 78:3, 78:6, 78:25, 79:10, 80:16, 80:24, 81:5, 81:9, 81:17, 81:23, 82:1, 82:3, 82:6, 82:10, 82:13, 82:15, 82:23, 83:10, 84:9, 84:21, 85:21, 86:3, 86:10, 86:15, 87:16, 87:20, 87:24, 88:3</p> <p>Public [1] - 100:3</p> <p>public [21] - 5:16, 5:19, 5:21, 5:24, 6:14, 6:16, 13:2, 13:14, 13:25, 18:24, 33:4, 44:13, 44:15, 45:3, 54:6, 66:12, 67:7, 73:23, 80:11, 84:5, 89:9</p> <p>pull [1] - 24:11</p> <p>purchased [2] - 67:17, 68:10</p> <p>purchaser [1] - 67:18</p> <p>purposely [1] - 85:13</p> <p>purposes [1] - 95:14</p> <p>pursuant [1] - 7:17</p> <p>put [4] - 23:1, 45:2, 66:2, 90:21</p> <p>puzzle [1] - 36:1</p>	<p>quickly [1] - 61:6</p> <p>quite [1] - 80:12</p> <hr/> <p style="text-align: center;">R</p> <hr/> <p>radius [2] - 78:17</p> <p>rain [5] - 34:8, 52:2, 52:17, 82:17</p> <p>rainfall [2] - 34:20, 52:19</p> <p>rains [2] - 39:2, 39:9</p> <p>raise [4] - 14:3, 36:11, 49:20, 80:12</p> <p>raised [3] - 49:5, 71:6, 81:2</p> <p>raising [1] - 61:16</p> <p>ran [1] - 98:14</p> <p>range [2] - 9:25, 24:4</p> <p>ranging [1] - 17:23</p> <p>rate [9] - 25:23, 26:4, 26:18, 27:16, 34:6, 63:7, 76:7, 84:17, 87:7</p> <p>ratio [1] - 96:21</p> <p>RE [1] - 1:5</p> <p>reach [2] - 26:8, 85:10</p> <p>reached [1] - 41:17</p> <p>reading [2] - 57:21, 57:22</p> <p>reads [1] - 38:13</p> <p>ready [1] - 81:3</p> <p>real [1] - 52:19</p> <p>realistically [1] - 61:11</p> <p>realize [1] - 26:22</p> <p>really [4] - 6:8, 47:11, 47:20, 62:19</p> <p>reason [5] - 12:21, 43:11, 43:16, 43:17, 44:1</p> <p>reasons [3] - 35:15, 59:24, 67:8</p> <p>rebut [1] - 6:11</p> <p>rebuttal [2] - 5:25, 6:2</p> <p>receive [2] - 40:6, 41:17</p> <p>received [7] - 12:16, 31:17, 40:24, 41:18, 41:24, 70:10, 77:4</p> <p>recent [1] - 42:6</p> <p>recently [4] - 7:13, 7:14, 8:12, 27:1</p> <p>recess [2] - 62:6, 62:7</p> <p>recommend [2] - 51:5, 99:2</p> <p>recommendation [4] - 50:23, 50:25, 51:6</p>	<p>recommendations [1] - 29:19</p> <p>recommended [1] - 29:22</p> <p>record [15] - 6:14, 14:9, 18:13, 22:24, 24:14, 31:22, 36:18, 49:8, 51:21, 56:10, 59:21, 74:17, 80:11, 89:18, 91:1</p> <p>redevelopment [3] - 7:16, 7:17, 8:3</p> <p>reduce [4] - 25:23, 26:16, 26:17, 43:4</p> <p>reduced [6] - 26:4, 27:16, 34:6, 43:8, 76:7, 87:12</p> <p>reduces [2] - 73:11, 87:7</p> <p>reduction [6] - 25:22, 25:25, 26:1, 38:4, 38:6, 43:8</p> <p>reductions [2] - 43:10, 43:16</p> <p>refer [5] - 15:7, 24:12, 32:18, 33:5, 45:3</p> <p>reference [2] - 23:23, 90:20</p> <p>referencing [3] - 57:25, 71:20, 72:5</p> <p>referring [2] - 29:24, 61:10</p> <p>refers [1] - 45:15</p> <p>regard [8] - 12:11, 12:20, 27:23, 46:13, 58:5, 60:19, 90:13, 94:25</p> <p>regarding [15] - 6:9, 13:15, 37:9, 44:20, 44:22, 46:10, 50:23, 50:25, 51:7, 51:13, 57:15, 68:1, 74:16, 88:8</p> <p>regards [1] - 60:3</p> <p>regionally [1] - 50:14</p> <p>regularly [3] - 56:6, 57:10, 58:7</p> <p>regulates [1] - 25:19</p> <p>regulations [16] - 18:6, 25:8, 26:16, 27:4, 27:5, 27:7, 30:17, 35:4, 37:15, 37:22, 38:2, 38:3, 38:5, 38:8, 43:9, 63:9</p> <p>related [5] - 9:23, 15:4, 28:16, 40:7, 71:21</p> <p>relates [5] - 26:7, 36:10, 37:6, 38:11,</p>	<p>85:16</p> <p>relative [3] - 46:13, 100:10, 100:12</p> <p>relatively [1] - 10:11</p> <p>relatives [1] - 85:22</p> <p>release [3] - 27:15, 34:5, 35:7</p> <p>released [4] - 33:7, 33:16, 53:10, 63:7</p> <p>releases [2] - 26:3, 34:4</p> <p>relief [4] - 9:23, 28:16, 92:24, 96:11</p> <p>remain [1] - 83:19</p> <p>remaining [1] - 21:16</p> <p>remember [1] - 33:10</p> <p>RENDERING [1] - 3:10</p> <p>renderings [4] - 90:23, 91:6, 91:13, 92:21</p> <p>RENDERINGS [1] - 3:11</p> <p>rents [1] - 84:12</p> <p>repetitive [1] - 5:23</p> <p>report [15] - 27:25, 29:20, 29:25, 31:21, 31:23, 31:24, 32:3, 32:7, 32:9, 40:6, 40:24, 51:2, 56:3, 61:22, 61:24</p> <p>REPORT [2] - 3:7, 3:8</p> <p>Reporter [1] - 100:2</p> <p>REPORTING [1] - 1:23</p> <p>reports [1] - 55:11</p> <p>representatives [1] - 12:10</p> <p>reputation [1] - 7:19</p> <p>request [4] - 12:11, 41:6, 57:8, 70:10</p> <p>requesting [4] - 9:22, 68:7, 69:12, 92:25</p> <p>require [5] - 9:15, 11:12, 30:19, 38:5, 83:4</p> <p>required [15] - 22:4, 38:5, 41:4, 43:8, 45:14, 45:16, 45:17, 46:3, 48:1, 54:18, 54:19, 73:9, 73:10, 84:23, 84:24</p> <p>requirement [6] - 22:6, 45:18, 67:20, 67:23, 68:4, 71:24</p> <p>requirements [10] - 25:10, 25:23, 30:2, 30:18, 45:14, 49:3,</p>	<p>55:9, 55:12, 56:24, 69:4</p> <p>requires [6] - 18:6, 25:23, 32:6, 47:7, 68:17, 70:18</p> <p>requiring [1] - 47:25</p> <p>reside [2] - 73:3, 74:20</p> <p>resident [1] - 79:8</p> <p>Residential [1] - 21:21</p> <p>residential [11] - 5:5, 9:13, 16:6, 17:20, 17:21, 17:23, 20:3, 21:16, 22:4, 92:14, 96:18</p> <p>residents [4] - 60:14, 85:17, 88:9, 98:23</p> <p>respect [15] - 20:6, 20:15, 21:2, 21:18, 21:25, 23:3, 24:20, 26:6, 28:1, 28:3, 30:5, 35:8, 36:4, 83:9, 87:15</p> <p>respond [2] - 46:12, 81:4</p> <p>responded [1] - 59:23</p> <p>response [1] - 48:4</p> <p>responsible [2] - 56:24, 57:1</p> <p>rest [1] - 55:21</p> <p>restaurant [1] - 23:18</p> <p>restricted [2] - 75:21, 75:22</p> <p>restrictions [1] - 27:6</p> <p>result [2] - 26:6, 28:2</p> <p>retain [4] - 6:3, 27:12, 27:14, 75:1</p> <p>retainage [3] - 62:22, 62:24, 62:25</p> <p>retained [3] - 5:24, 63:6, 79:7</p> <p>retaining [4] - 17:8, 52:23, 63:5, 63:11</p> <p>retains [1] - 76:6</p> <p>retention [1] - 75:7</p> <p>return [1] - 51:7</p> <p>review [18] - 17:25, 18:1, 29:14, 29:15, 31:16, 37:8, 38:12, 41:4, 42:14, 57:16, 57:18, 58:7, 58:21, 59:4, 70:12, 70:13, 70:18, 71:24</p> <p>Review [1] - 45:9</p> <p>reviewed [7] - 37:13, 37:22, 40:22, 52:8,</p>
<p style="text-align: center;">Q</p> <hr/> <p>qualifications [2] - 36:19, 53:3</p> <p>qualified [1] - 74:11</p> <p>qualify [1] - 72:2</p> <p>quality [2] - 10:6, 48:14</p> <p>quarter [2] - 7:24, 37:19</p> <p>questioning [2] - 13:10, 83:13</p> <p>questions [46] - 5:21, 5:23, 11:23, 11:25, 13:5, 13:12, 13:15, 13:17, 13:18, 13:20, 13:23, 26:24, 31:20, 32:11, 32:13, 32:15, 32:17, 38:21, 42:2, 44:9, 44:16, 44:20, 44:21, 44:23, 46:1, 46:10, 48:11, 53:21, 54:9, 57:15, 66:9, 67:4, 67:10, 74:16, 79:5, 79:9, 79:22, 80:23, 81:2, 81:10, 84:7, 86:7, 88:8, 98:23, 98:24</p>				

<p>56:11, 56:14, 61:6 reviewing [1] - 72:3 reviews [1] - 10:10 revised [1] - 70:21 RICARDO [1] - 1:13 right-hand [1] - 36:12 river [2] - 52:18, 52:24 Road [2] - 56:1, 70:3 road [16] - 16:11, 56:25, 57:1, 57:2, 57:11, 58:20, 58:22, 58:25, 59:14, 70:17, 71:22, 72:1, 72:7 roads [5] - 59:1, 59:16, 70:24, 71:23, 72:4 roadway [1] - 16:12 roadways [1] - 28:5 role [2] - 57:10, 58:6 roof [7] - 18:4, 25:14, 39:2, 39:4, 39:5, 39:12 roofing [1] - 92:3 roofs [1] - 92:3 room [3] - 13:21, 13:22, 20:17 rules [3] - 37:23, 37:24, 38:1 rulings [1] - 80:5 run [5] - 19:17, 19:20, 52:5, 83:18, 86:21 runoff [13] - 25:11, 25:24, 26:17, 26:18, 38:4, 38:5, 39:4, 43:4, 64:11, 87:8, 87:11, 87:13 rush [1] - 34:6 rushes [1] - 34:9 rushing [1] - 34:12</p>	<p>69:20 satisfy [2] - 25:22, 41:6 save [1] - 51:4 saw [3] - 65:23, 86:5, 92:3 scale [7] - 65:1, 65:3, 66:4, 77:10, 77:18, 78:13, 78:18 SCARINCI [1] - 2:2 schedule [1] - 70:18 school [10] - 79:13, 79:14, 79:15, 79:17, 79:23, 80:2, 80:8, 80:13 schools [2] - 80:8, 80:13 scoured [1] - 12:10 screen [2] - 19:12 screening [1] - 19:10 se [1] - 12:19 second [4] - 13:25, 39:8, 40:13, 97:20 secondary [2] - 20:25, 34:2 Secretary [1] - 1:16 section [2] - 92:18, 92:20 see [16] - 7:1, 9:24, 32:10, 44:1, 53:17, 55:4, 62:3, 73:17, 79:1, 81:18, 83:8, 86:12, 88:18, 94:19, 97:24 seeking [1] - 11:21 seem [1] - 23:24 sense [3] - 73:24, 73:25, 74:1 separate [12] - 8:9, 43:22, 49:2, 63:20, 81:11, 81:15, 81:16, 83:18, 83:19, 83:20, 83:24, 83:25 separated [2] - 65:5, 76:25 separately [1] - 44:23 separating [1] - 64:10 separation [2] - 63:14, 64:13 SEPTEMBER [1] - 1:2 series [2] - 25:17, 48:11 serious [1] - 59:22 service [2] - 30:24, 65:2 session [2] - 53:20, 54:5</p>	<p>sessions [1] - 53:21 set [18] - 15:8, 22:19, 24:12, 67:17, 68:8, 85:13, 90:21, 91:9, 92:19, 92:20, 93:24, 95:24, 95:25, 97:7, 97:8, 97:9, 98:6, 100:7 setback [18] - 47:4, 47:11, 47:18, 47:19, 47:20, 69:13, 92:23, 92:24, 93:6, 93:18, 93:22, 93:24, 94:3, 94:5, 94:23, 95:6, 95:18, 98:11 setbacks [17] - 9:23, 9:24, 10:3, 10:5, 20:6, 22:10, 22:13, 23:10, 23:24, 68:22, 69:10, 93:16, 94:1, 94:19, 95:1, 95:21, 97:4 sets [3] - 83:20, 96:11, 98:1 settled [1] - 79:25 several [3] - 7:11, 32:18, 60:18 sewage [5] - 51:13, 51:17, 55:14, 64:6, 83:9 sewer [60] - 28:7, 28:9, 30:11, 30:12, 30:15, 30:18, 30:21, 33:8, 33:16, 39:22, 42:8, 42:11, 42:18, 43:13, 43:18, 43:19, 43:20, 43:21, 43:23, 43:25, 55:17, 55:19, 55:20, 60:4, 60:6, 60:9, 62:11, 62:12, 62:13, 62:15, 63:15, 63:21, 64:7, 64:11, 64:13, 65:1, 65:4, 65:8, 65:15, 65:17, 75:5, 75:17, 76:16, 76:19, 76:25, 77:6, 81:12, 83:5, 83:7, 83:15, 83:22, 83:24, 84:1, 86:12, 86:24, 87:6 sewers [1] - 55:17 shadows [1] - 97:7 SHAFKOWITZ [46] - 2:6, 2:7, 6:25, 12:5, 12:8, 12:15, 12:23, 13:4, 13:8, 15:15, 15:21, 22:18, 22:22, 23:9, 31:19, 32:4, 32:12, 41:11, 46:4, 46:22, 48:2, 49:14, 50:15, 54:21, 56:5,</p>	<p>56:23, 57:9, 57:24, 58:4, 58:11, 58:18, 59:6, 59:10, 59:15, 61:18, 62:1, 68:19, 71:13, 71:17, 72:20, 80:22, 85:3, 85:23, 88:16, 88:23, 99:6 shafkowitz [5] - 6:24, 11:25, 13:6, 49:17, 88:14 Shafkowitz [3] - 7:3, 70:6, 70:8 shall [11] - 14:6, 30:1, 30:16, 30:22, 31:1, 31:3, 31:11, 31:13, 31:14, 36:15, 89:15 shape [1] - 48:13 SHEET [1] - 3:5 sheet [13] - 15:7, 15:18, 15:23, 16:16, 18:17, 18:18, 22:24, 22:25, 23:8, 24:11, 24:14, 34:8, 97:11 Sheet [1] - 24:16 shifting [1] - 21:7 short [1] - 62:7 Shorthand [1] - 100:2 shortly [1] - 64:23 shout [1] - 66:8 show [4] - 9:20, 23:10, 75:9, 92:21 showers [1] - 64:5 shown [7] - 9:1, 16:13, 16:16, 19:10, 19:21, 28:12, 31:4 shows [2] - 94:16, 97:11 shrubs [2] - 19:6, 19:14 SIDE [1] - 3:10 side [47] - 13:21, 13:22, 16:4, 16:5, 16:23, 17:2, 20:9, 20:12, 20:15, 20:16, 20:18, 21:1, 21:5, 23:10, 24:1, 24:2, 45:23, 47:10, 47:13, 47:14, 47:23, 49:18, 68:2, 68:3, 68:8, 68:13, 68:18, 68:22, 68:23, 69:2, 69:3, 69:13, 76:19, 76:20, 91:5, 91:6, 91:15, 95:4, 95:7, 95:23, 97:15, 97:17, 98:11 sides [1] - 70:24 sidewalk [1] - 31:5 sidewalks [2] -</p>	<p>17:15, 58:22 significant [2] - 26:9, 51:6 silence [1] - 52:21 silent [1] - 13:2 SILVA [1] - 1:12 similar [5] - 17:19, 23:24, 54:23, 64:3, 93:15 similarly [1] - 21:5 simple [1] - 98:23 single [3] - 8:8, 9:5, 9:13 sink [1] - 51:15 sit [2] - 17:10, 54:11 SITE [1] - 3:4 Site [2] - 18:16, 21:21 site [67] - 10:11, 10:12, 10:16, 10:23, 11:5, 15:24, 16:1, 16:2, 16:4, 16:9, 16:13, 16:16, 16:20, 17:5, 17:13, 17:14, 17:17, 17:25, 18:2, 18:3, 18:5, 18:7, 18:12, 18:22, 19:20, 19:24, 20:5, 24:21, 25:4, 25:20, 27:13, 27:14, 27:21, 28:17, 29:4, 29:6, 29:12, 30:10, 30:17, 31:1, 31:5, 31:7, 31:11, 32:25, 34:8, 34:11, 34:13, 35:3, 35:5, 35:22, 38:13, 54:18, 54:19, 70:7, 70:10, 70:16, 70:19, 71:11, 71:12, 76:6, 87:8, 87:9, 87:10, 92:7, 92:9, 96:23 sites [1] - 52:14 situation [2] - 11:9, 73:7 six [5] - 17:24, 66:19, 81:22, 81:23, 92:2 size [4] - 16:8, 78:10, 78:19, 92:15 slight [1] - 28:25 sloping [2] - 17:5, 97:18 slower [1] - 76:6 slowly [4] - 33:7, 33:16, 35:6, 63:6 small [9] - 33:25, 36:1, 62:20, 64:1, 69:17, 81:20, 82:4, 92:18 smaller [2] - 76:7, 94:15</p>
S				
<p>S-A-N-T-O-S [1] - 66:18 S.R [1] - 100:17 safe [1] - 93:17 safety [1] - 96:18 sanitary [20] - 28:7, 28:8, 28:9, 30:18, 30:21, 43:22, 63:15, 63:21, 64:11, 64:13, 65:5, 65:8, 65:15, 81:12, 81:15, 83:7, 83:15, 83:22, 83:24, 84:1 Santos [1] - 66:18 santos [2] - 68:20,</p>				

<p>SMITH [1] - 1:16 solemnly [1] - 89:13 solution [1] - 36:3 solve [2] - 12:20, 77:19 someone [2] - 40:22, 69:22 sometime [1] - 63:19 sometimes [1] - 51:11 son [2] - 79:13, 79:17 soon [1] - 6:5 sorry [13] - 5:8, 7:8, 12:5, 12:13, 23:9, 41:11, 56:13, 58:4, 67:2, 69:23, 71:17, 74:22, 99:14 sort [1] - 98:5 Sosa [4] - 12:2, 89:1, 89:5, 98:20 sosa [1] - 99:6 SOSA [11] - 1:13, 12:1, 12:3, 12:6, 12:21, 12:25, 88:25, 89:2, 98:18, 98:21, 99:8 sounds [2] - 72:9, 80:5 south [22] - 16:7, 17:1, 17:8, 17:10, 17:21, 20:9, 20:15, 20:18, 20:19, 23:12, 23:13, 24:1, 24:3, 24:5, 34:11, 47:10, 47:17, 68:20, 68:22, 69:3, 78:12 southeast [1] - 23:24 southerly [4] - 17:6, 17:9, 24:5, 47:14 southern [1] - 47:21 southwesterly [1] - 19:19 space [13] - 8:4, 19:22, 45:22, 46:18, 68:5, 68:14, 69:7, 70:19, 83:2, 85:9, 96:6, 96:21, 97:23 spaces [18] - 9:6, 21:10, 21:13, 21:14, 21:22, 22:2, 22:3, 22:6, 22:7, 38:13, 38:14, 38:18, 45:19, 64:18, 73:9, 96:22 special [1] - 52:20 specific [5] - 33:11, 35:18, 48:7, 67:10, 74:4 specifically [5] - 8:3, 13:15, 24:1, 25:21,</p>	<p>34:5 SPEEDWELL [1] - 1:24 spell [2] - 14:10, 89:19 spend [2] - 46:24, 85:22 spillover [3] - 48:24, 50:1, 61:15 spoil [1] - 85:24 spots [11] - 11:13, 11:14, 45:19, 50:19, 50:20, 73:10, 73:12, 73:13, 73:22, 73:23, 85:12 square [3] - 7:23, 16:8, 70:25 staff [1] - 12:16 staggering [1] - 98:7 stalls [2] - 21:19, 22:1 stand [1] - 15:13 standards [5] - 27:1, 27:10, 31:2, 31:12, 70:17 Standards [1] - 21:22 start [6] - 11:23, 13:21, 46:23, 89:10, 91:20, 92:13 started [1] - 52:19 starting [1] - 16:1 starts [1] - 98:7 state [13] - 7:11, 14:10, 14:15, 14:17, 27:4, 36:18, 58:25, 63:8, 72:1, 76:19, 76:20, 80:1, 89:18 State [1] - 100:3 states [2] - 26:15, 57:14 statewide [5] - 37:15, 37:21, 37:23, 37:24, 38:5 statistics [1] - 85:16 stay [1] - 13:2 stays [1] - 37:24 stellar [1] - 7:19 stenographically [1] - 100:5 stepping [3] - 97:3, 98:8, 98:10 still [5] - 14:20, 36:23, 40:14, 65:21, 87:2 stop [1] - 66:7 stopped [1] - 8:13 storage [5] - 24:24, 25:2, 25:16, 29:7, 29:9</p>	<p>store [1] - 25:10 stores [1] - 76:5 stories [6] - 9:3, 17:24, 77:11, 92:1, 92:2 storing [1] - 33:6 storm [50] - 24:22, 25:25, 26:1, 26:21, 27:15, 30:10, 30:15, 33:11, 34:17, 34:18, 34:19, 34:22, 35:6, 37:15, 41:19, 41:23, 43:12, 43:13, 43:19, 43:22, 43:23, 43:25, 55:6, 55:17, 55:19, 56:8, 63:14, 63:21, 64:13, 65:4, 65:25, 75:12, 75:14, 75:15, 75:17, 76:1, 76:25, 77:6, 81:12, 81:16, 82:21, 82:22, 86:13, 86:23, 87:15 stormwater [75] - 8:19, 10:16, 10:22, 18:1, 18:2, 18:5, 18:6, 18:8, 22:9, 24:8, 24:20, 25:2, 25:4, 25:5, 25:8, 25:9, 25:13, 25:22, 26:4, 26:10, 26:13, 26:15, 26:23, 26:24, 27:1, 27:4, 27:7, 27:11, 27:13, 27:21, 27:23, 28:1, 28:19, 29:5, 29:6, 29:11, 30:3, 30:6, 30:10, 32:18, 32:19, 32:22, 32:24, 32:25, 33:7, 33:15, 33:18, 33:20, 34:7, 34:13, 35:2, 35:4, 35:12, 36:2, 37:7, 37:10, 37:21, 38:2, 38:7, 39:2, 39:6, 39:19, 40:8, 43:9, 54:14, 54:19, 63:8, 75:7, 75:10, 77:15, 83:14, 83:21, 87:7, 87:9, 87:10 story [9] - 5:5, 9:3, 9:20, 16:17, 20:3, 78:15, 92:10, 95:25 strange [2] - 51:12, 51:15 street [25] - 9:11, 19:7, 19:8, 19:15, 21:10, 21:12, 23:18, 31:6, 35:25, 38:19, 45:5, 45:21, 60:17, 68:15, 69:18, 73:14, 73:15, 80:17, 85:1,</p>	<p>93:13, 94:2, 95:15, 95:17, 97:9 Street [63] - 5:3, 7:8, 7:14, 8:6, 8:7, 8:15, 8:23, 11:1, 16:3, 16:5, 16:11, 16:12, 16:18, 16:24, 19:9, 20:12, 21:1, 21:5, 21:9, 23:16, 26:11, 26:13, 28:9, 28:13, 30:11, 30:15, 31:11, 34:10, 39:22, 40:1, 40:9, 41:19, 43:14, 43:24, 45:21, 47:15, 47:17, 47:18, 47:19, 48:14, 48:24, 50:20, 54:22, 54:23, 57:6, 59:1, 59:13, 62:12, 62:14, 62:16, 70:23, 72:13, 76:2, 76:21, 77:7, 78:7, 84:2, 93:6, 93:13, 95:1, 95:10, 97:13, 98:8 STREET [2] - 1:5, 3:10 streets [3] - 34:9, 50:1, 59:19 streetscape [2] - 31:3, 31:7 stringent [1] - 27:10 structure [21] - 7:16, 8:10, 9:3, 9:20, 23:5, 23:12, 25:18, 25:21, 26:3, 33:23, 33:24, 34:4, 34:15, 34:17, 54:25, 69:8, 75:24, 78:10, 82:5, 82:9 structures [4] - 17:20, 17:23, 78:16, 78:18 subject [7] - 17:11, 28:11, 39:23, 40:14, 41:2, 42:14, 90:10 submission [1] - 22:24 submit [5] - 30:20, 58:20, 59:2, 59:8, 61:9 submittal [1] - 15:18 submitted [15] - 15:8, 15:24, 18:19, 24:17, 55:12, 57:7, 62:1, 70:12, 70:13, 70:20, 71:19, 72:6, 72:8, 91:11, 91:14 subsequent [1] - 5:18 subsides [1] - 64:18 substantial [3] - 29:2, 29:6, 29:11</p>	<p>sufficient [2] - 11:15, 86:1 suggest [2] - 50:13, 98:21 suggesting [1] - 50:11 suitable [2] - 28:21, 46:11 SUITE [1] - 1:24 suited [2] - 46:6, 48:3 sum [1] - 11:20 summarize [1] - 24:24 summary [4] - 19:13, 20:2, 26:2, 29:21 sun [2] - 79:2, 97:6 super [1] - 18:21 supply [2] - 22:5, 50:4 support [2] - 65:7, 65:17 supposed [2] - 59:2, 61:13 surface [1] - 10:15 surprise [1] - 85:24 surrounding [6] - 8:6, 15:4, 35:1, 36:3, 78:22, 78:24 surrounds [1] - 23:5 survey [2] - 16:15, 22:11 Susan [1] - 70:2 swear [3] - 14:4, 36:13, 89:13 switch [1] - 52:3 sworn [4] - 4:3, 15:1, 37:3, 90:8 system [102] - 18:8, 24:21, 24:24, 25:1, 25:4, 25:6, 25:13, 25:16, 25:20, 26:2, 26:4, 26:8, 26:10, 26:12, 26:13, 26:14, 26:19, 27:12, 27:15, 27:21, 28:20, 29:5, 29:7, 30:10, 32:19, 33:8, 33:16, 33:18, 33:19, 33:20, 34:7, 34:13, 34:14, 34:23, 35:1, 35:5, 35:7, 35:12, 36:2, 37:7, 37:10, 37:11, 39:6, 39:20, 40:18, 40:19, 41:15, 41:19, 41:20, 41:21, 42:8, 43:5, 43:7, 43:15, 43:25, 44:1, 54:12, 54:15, 54:24, 55:14, 55:20, 62:11, 62:12, 62:13,</p>
---	---	---	--	--

<p>62:15, 62:21, 62:23, 63:12, 63:24, 63:25, 64:1, 64:7, 65:2, 74:23, 74:24, 75:4, 75:7, 75:11, 75:15, 75:17, 76:5, 76:25, 82:14, 82:15, 82:18, 82:20, 83:5, 83:7, 83:14, 83:16, 86:12, 86:13, 86:22, 86:23, 87:3, 87:8, 87:9, 87:11</p> <p>systems [6] - 24:25, 35:24, 52:14, 56:25, 63:7, 64:1</p>	<p>terraces [1] - 98:10</p> <p>testified [5] - 46:13, 47:8, 56:19, 73:8, 90:1</p> <p>testifies [3] - 15:1, 37:3, 90:8</p> <p>testify [9] - 10:22, 44:22, 46:16, 49:3, 49:16, 50:17, 56:18, 74:3, 79:21</p> <p>testifying [2] - 37:7, 85:20</p> <p>testimony [36] - 6:2, 9:19, 9:25, 13:11, 13:16, 13:18, 14:4, 15:5, 36:13, 44:20, 48:6, 48:7, 56:2, 56:3, 56:17, 61:20, 64:23, 66:14, 67:6, 67:10, 69:15, 77:14, 78:1, 78:2, 78:9, 79:21, 82:25, 83:6, 84:19, 88:6, 88:8, 89:5, 89:13, 95:16, 98:17, 100:5</p>	<p>59:12, 59:21, 60:7, 60:8, 60:12, 60:14, 60:21, 60:22, 60:23, 60:24, 61:1, 61:2, 61:22, 62:3, 62:4, 62:8, 62:13, 62:15, 62:17, 62:19, 62:24, 62:25, 63:1, 63:2, 63:3, 63:4, 63:6, 63:10, 63:16, 63:18, 63:23, 63:25, 64:15, 64:16, 64:22, 64:24, 65:6, 65:9, 65:14, 65:19, 66:17, 67:2, 67:11, 67:13, 67:22, 67:25, 68:3, 68:4, 68:5, 68:7, 68:9, 68:21, 69:4, 69:11, 69:16, 69:23, 70:2, 71:5, 71:11, 71:16, 72:9, 72:17, 72:23, 73:1, 74:8, 74:12, 74:14, 74:19, 74:22, 74:25, 75:1, 75:3, 75:5, 75:6, 75:8, 75:10, 75:12, 75:13, 75:14, 75:18, 75:20, 75:22, 76:3, 76:5, 76:8, 76:10, 76:12, 76:13, 76:15, 76:17, 76:18, 76:21, 76:22, 76:24, 77:1, 77:2, 77:3, 77:4, 77:8, 77:13, 77:16, 77:21, 77:22, 77:25, 78:3, 78:6, 78:20, 78:25, 79:10, 80:16, 80:24, 81:5, 81:9, 81:14, 81:17, 81:22, 81:23, 81:25, 82:1, 82:2, 82:3, 82:4, 82:6, 82:8, 82:10, 82:12, 82:13, 82:14, 82:15, 82:20, 82:23, 83:6, 83:10, 83:17, 83:23, 84:3, 84:9, 84:17, 84:21, 85:21, 86:3, 86:10, 86:14, 86:15, 87:4, 87:16, 87:19, 87:20, 87:23, 87:24, 88:3, 89:17, 89:21, 90:5, 91:2, 91:5, 91:17</p>	<p>72:14</p> <p>three [21] - 9:3, 17:7, 17:24, 21:12, 38:18, 45:20, 50:20, 64:18, 73:13, 73:16, 73:20, 73:22, 77:10, 78:14, 86:11, 86:17, 92:1, 93:8, 93:14, 94:17, 97:18</p> <p>three-and-a-half [1] - 93:14</p> <p>throughout [3] - 7:13, 14:17, 83:20</p> <p>THURSDAY [1] - 1:2</p> <p>Thursday [1] - 89:10</p> <p>tie [7] - 26:12, 26:21, 40:17, 42:7, 43:18, 43:24, 43:25</p> <p>tied [1] - 65:21</p> <p>timing [3] - 30:13, 40:8, 63:16</p> <p>today [3] - 5:2, 10:12, 10:16</p> <p>today's [2] - 41:2, 61:23</p> <p>together [2] - 25:17, 81:13</p> <p>tonight [10] - 5:18, 9:1, 9:19, 10:2, 11:3, 11:8, 11:20, 49:16, 56:17, 90:17</p> <p>top [2] - 86:20, 92:20</p> <p>topic [1] - 22:9</p> <p>topography [1] - 17:5</p> <p>total [7] - 21:10, 21:13, 38:17, 38:19, 63:4, 68:24</p> <p>totally [1] - 39:16</p> <p>toward [3] - 52:24, 79:20, 97:4</p> <p>towards [3] - 8:7, 78:12, 97:12</p> <p>town [4] - 31:10, 73:7, 87:21, 87:22</p> <p>township [2] - 12:16, 93:23</p> <p>traffic [28] - 6:1, 6:9, 9:12, 11:7, 11:9, 11:11, 13:19, 44:22, 49:3, 49:15, 49:21, 50:16, 51:8, 58:22, 61:19, 61:22, 61:24, 64:22, 73:18, 73:19, 74:3, 74:6, 80:21, 80:23, 85:15, 85:19, 85:24, 96:20</p> <p>transcript [2] - 4:5, 100:5</p> <p>transformer [2] -</p>	<p>19:11, 19:13</p> <p>transitional [1] - 8:4</p> <p>treatment [1] - 65:20</p> <p>Treatment [3] - 30:18, 30:19, 65:14</p> <p>trees [2] - 19:8</p> <p>triangle [1] - 8:7</p> <p>true [2] - 70:23, 100:4</p> <p>truth [9] - 14:7, 36:15, 36:16, 89:16</p> <p>try [5] - 43:22, 45:25, 52:20, 93:1, 96:17</p> <p>trying [4] - 40:16, 52:1, 58:4, 67:14</p> <p>turn [6] - 9:12, 15:9, 52:17, 52:18, 73:14, 81:3</p> <p>turning [1] - 73:18</p> <p>turns [1] - 73:19</p> <p>TWA [1] - 30:22</p> <p>twice [1] - 79:2</p> <p>two [40] - 5:6, 8:21, 8:22, 9:4, 9:8, 10:7, 16:20, 16:24, 17:10, 20:4, 21:3, 21:6, 21:25, 22:7, 23:23, 25:24, 27:17, 29:1, 30:13, 34:17, 45:10, 50:7, 50:8, 50:9, 50:11, 53:14, 61:8, 61:12, 68:13, 73:10, 73:12, 78:15, 78:17, 79:19, 83:20, 85:10, 85:11, 86:23, 92:11</p> <p>two-bedroom [5] - 5:6, 9:4, 20:4, 50:7, 92:11</p> <p>tying [1] - 40:1</p> <p>type [9] - 7:20, 19:3, 19:12, 25:7, 25:16, 54:24, 62:10, 62:12, 91:22</p> <p>types [2] - 18:24, 58:23</p> <p>typically [1] - 25:6</p>
T				
<p>table [1] - 49:19</p> <p>tabulations [1] - 30:6</p> <p>TALIA [1] - 1:16</p> <p>tandem [1] - 21:22</p> <p>tank [1] - 33:6</p> <p>tap [1] - 76:22</p> <p>tasked [1] - 35:3</p> <p>tax [1] - 31:13</p> <p>teacher [2] - 79:18</p> <p>technical [1] - 24:9</p> <p>telephone [1] - 28:7</p> <p>temporary [2] - 30:11, 43:12</p> <p>ten [34] - 20:10, 20:14, 20:18, 25:25, 34:18, 45:9, 47:12, 47:16, 47:19, 47:22, 53:9, 62:14, 62:15, 62:17, 65:12, 65:21, 65:25, 66:1, 66:13, 67:14, 67:20, 67:22, 68:23, 69:1, 75:15, 75:25, 76:16, 76:19, 87:6, 97:16, 97:19, 98:1</p> <p>ten-foot [3] - 20:10, 20:14, 20:18</p> <p>ten-inch [11] - 62:14, 62:15, 62:17, 65:21, 65:25, 66:1, 75:15, 75:25, 76:16, 76:19, 87:6</p> <p>ten-year [2] - 25:25, 34:18</p> <p>tenants [2] - 48:22, 73:12</p> <p>terms [2] - 12:17, 46:23</p> <p>terrace [2] - 91:7, 97:23</p> <p>Terrace [3] - 52:17, 73:4, 74:20</p>	<p>THE [262] - 5:7, 5:13, 6:8, 6:18, 14:8, 14:12, 14:21, 14:24, 15:11, 22:16, 22:25, 23:7, 24:15, 32:22, 32:24, 33:9, 33:17, 35:13, 35:19, 36:7, 37:13, 38:17, 39:4, 39:11, 39:19, 39:24, 40:2, 40:6, 40:20, 40:24, 41:3, 41:7, 41:17, 42:9, 42:13, 42:23, 45:4, 46:2, 46:17, 46:20, 47:1, 47:2, 47:3, 47:4, 47:6, 47:24, 48:5, 48:9, 48:18, 48:21, 49:5, 49:9, 49:12, 49:20, 50:3, 50:6, 50:18, 51:2, 51:4, 51:9, 51:18, 51:19, 51:23, 51:25, 52:10, 52:11, 52:13, 52:16, 53:6, 53:7, 53:17, 53:22, 54:1, 54:3, 54:7, 54:10, 54:14, 54:16, 54:17, 54:23, 55:1, 55:3, 55:6, 55:8, 55:13, 55:16, 55:21, 55:25, 56:8, 56:9, 56:11, 56:13, 56:14, 56:16, 56:18, 56:20, 57:3, 57:5, 57:12, 57:20, 57:22, 58:10, 58:13, 59:5, 59:8,</p>	<p>71:1</p> <p>thereon [1] - 22:14</p> <p>thereto [1] - 56:4</p> <p>thinking [2] - 72:5,</p>	<p>three [21] - 9:3, 17:7, 17:24, 21:12, 38:18, 45:20, 50:20, 64:18, 73:13, 73:16, 73:20, 73:22, 77:10, 78:14, 86:11, 86:17, 92:1, 93:8, 93:14, 94:17, 97:18</p> <p>three-and-a-half [1] - 93:14</p> <p>throughout [3] - 7:13, 14:17, 83:20</p> <p>THURSDAY [1] - 1:2</p> <p>Thursday [1] - 89:10</p> <p>tie [7] - 26:12, 26:21, 40:17, 42:7, 43:18, 43:24, 43:25</p> <p>tied [1] - 65:21</p> <p>timing [3] - 30:13, 40:8, 63:16</p> <p>today [3] - 5:2, 10:12, 10:16</p> <p>today's [2] - 41:2, 61:23</p> <p>together [2] - 25:17, 81:13</p> <p>tonight [10] - 5:18, 9:1, 9:19, 10:2, 11:3, 11:8, 11:20, 49:16, 56:17, 90:17</p> <p>top [2] - 86:20, 92:20</p> <p>topic [1] - 22:9</p> <p>topography [1] - 17:5</p> <p>total [7] - 21:10, 21:13, 38:17, 38:19, 63:4, 68:24</p> <p>totally [1] - 39:16</p> <p>toward [3] - 52:24, 79:20, 97:4</p> <p>towards [3] - 8:7, 78:12, 97:12</p> <p>town [4] - 31:10, 73:7, 87:21, 87:22</p> <p>township [2] - 12:16, 93:23</p> <p>traffic [28] - 6:1, 6:9, 9:12, 11:7, 11:9, 11:11, 13:19, 44:22, 49:3, 49:15, 49:21, 50:16, 51:8, 58:22, 61:19, 61:22, 61:24, 64:22, 73:18, 73:19, 74:3, 74:6, 80:21, 80:23, 85:15, 85:19, 85:24, 96:20</p> <p>transcript [2] - 4:5, 100:5</p> <p>transformer [2] -</p>	<p>turning [1] - 73:18</p> <p>turns [1] - 73:19</p> <p>TWA [1] - 30:22</p> <p>twice [1] - 79:2</p> <p>two [40] - 5:6, 8:21, 8:22, 9:4, 9:8, 10:7, 16:20, 16:24, 17:10, 20:4, 21:3, 21:6, 21:25, 22:7, 23:23, 25:24, 27:17, 29:1, 30:13, 34:17, 45:10, 50:7, 50:8, 50:9, 50:11, 53:14, 61:8, 61:12, 68:13, 73:10, 73:12, 78:15, 78:17, 79:19, 83:20, 85:10, 85:11, 86:23, 92:11</p> <p>two-bedroom [5] - 5:6, 9:4, 20:4, 50:7, 92:11</p> <p>tying [1] - 40:1</p> <p>type [9] - 7:20, 19:3, 19:12, 25:7, 25:16, 54:24, 62:10, 62:12, 91:22</p> <p>types [2] - 18:24, 58:23</p> <p>typically [1] - 25:6</p>
U				
<p>U-L-L-O-A [1] - 79:11</p> <p>Ulloa [1] - 79:11</p> <p>ultimate [2] - 26:20, 58:21</p> <p>ultimately [6] - 26:12, 30:14, 43:25, 76:24, 77:2, 77:3</p> <p>under [9] - 15:1, 16:10, 37:3, 37:16, 37:20, 43:8, 57:6, 84:22, 90:8</p>				

<p>underground ^[10] - 24:22, 25:16, 39:6, 54:24, 55:4, 75:7, 81:18, 82:9, 83:14, 84:22</p> <p>underline ^[1] - 32:20</p> <p>underneath ^[2] - 82:19, 85:1</p> <p>undertaken ^[1] - 26:11</p> <p>unfortunately ^[1] - 10:17</p> <p>Union ^[8] - 56:22, 57:8, 57:10, 57:13, 57:23, 58:15, 70:8, 70:9</p> <p>Unions ^[1] - 70:5</p> <p>unit ^[6] - 7:15, 9:2, 11:14, 50:9, 66:21, 96:21</p> <p>units ^[13] - 9:5, 20:4, 21:16, 50:8, 77:14, 84:19, 85:7, 85:9, 92:11</p> <p>Universidad ^[1] - 89:23</p> <p>up ^[41] - 11:20, 17:16, 23:1, 23:19, 24:11, 35:6, 35:25, 42:5, 42:20, 44:18, 45:2, 48:8, 48:19, 50:6, 61:21, 63:18, 63:20, 63:21, 64:19, 64:20, 65:4, 72:19, 74:7, 79:5, 79:9, 80:7, 81:2, 82:6, 82:19, 83:1, 85:13, 86:6, 86:20, 90:25, 92:4, 93:5, 94:13, 97:9, 97:20, 98:2, 98:11</p> <p>upcoming ^[2] - 42:8, 42:19</p> <p>upgrade ^[2] - 26:9, 26:10</p> <p>upper ^[2] - 20:22, 21:15</p> <p>uses ^[4] - 8:25, 9:1, 9:13, 9:21</p> <p>utilities ^[1] - 28:3</p> <p>UTILITY ^[1] - 3:6</p> <p>utility ^[4] - 28:3, 28:4, 28:6, 28:11</p> <p>Utility ^[1] - 24:16</p>	<p>11:13, 28:16, 46:18, 46:23, 47:25, 68:7, 69:12, 77:20, 96:2, 96:14</p> <p>variances ^[9] - 9:16, 10:8, 11:20, 45:10, 45:13, 46:14, 69:15, 82:24, 92:15</p> <p>variety ^[2] - 9:25, 19:6</p> <p>vault ^[1] - 25:16</p> <p>Verderese ^[1] - 11:7</p> <p>version ^[1] - 18:18</p> <p>VIA ^[1] - 100:6</p> <p>via ^[1] - 4:3</p> <p>Vice ^[1] - 1:13</p> <p>vicinity ^[2] - 71:23, 78:11</p> <p>VIEW ^[2] - 3:9, 3:10</p> <p>view ^[3] - 91:2, 91:15, 91:16</p> <p>views ^[3] - 78:15, 91:6</p> <p>visit ^[1] - 85:21</p> <p>visiting ^[1] - 52:11</p> <p>visual ^[2] - 18:21, 19:15</p> <p>voice ^[1] - 57:3</p> <p>volume ^[2] - 63:4, 65:12</p>	<p>west ^[1] - 16:5</p> <p>whatsoever ^[3] - 11:17, 62:22, 63:11</p> <p>WHITEHEAD ^[2] - 1:16, 99:14</p> <p>whole ^[5] - 10:24, 14:7, 36:15, 89:16, 98:4</p> <p>wide ^[2] - 9:25, 21:20</p> <p>willing ^[3] - 64:12, 65:1, 65:3</p> <p>Wilson ^[3] - 73:3, 74:20, 86:10</p> <p>wise ^[3] - 50:2, 78:19</p> <p>wishes ^[6] - 44:15, 79:5, 79:8, 84:6, 86:6, 88:5</p> <p>wishing ^[1] - 88:7</p> <p>WITNESS ^[118] - 14:8, 14:12, 14:21, 14:24, 15:11, 22:16, 22:25, 23:7, 24:15, 32:22, 32:24, 33:9, 33:17, 35:13, 35:19, 36:7, 37:13, 38:17, 39:4, 39:11, 39:19, 39:24, 40:2, 40:6, 40:20, 40:24, 41:3, 41:7, 41:17, 42:9, 42:13, 42:23, 47:1, 47:3, 47:6, 48:5, 50:3, 51:2, 51:18, 52:10, 52:13, 53:6, 54:14, 54:17, 54:23, 55:3, 55:8, 55:16, 56:8, 56:11, 56:14, 56:18, 57:5, 57:20, 59:5, 60:7, 60:12, 60:21, 60:23, 61:1, 62:13, 62:17, 62:24, 63:1, 63:3, 63:6, 63:16, 63:23, 64:15, 64:22, 65:6, 65:14, 67:22, 68:4, 68:7, 68:21, 69:11, 74:25, 75:3, 75:6, 75:10, 75:13, 75:18, 75:22, 76:5, 76:10, 76:13, 76:17, 76:21, 76:24, 77:2, 77:4, 77:25, 78:20, 81:14, 81:22, 81:25, 82:2, 82:4, 82:8, 82:12, 82:14, 82:20, 83:6, 83:17, 83:23, 84:3, 84:17, 86:14, 87:4, 87:19, 87:23, 89:17, 89:21, 90:5, 91:2, 91:5, 91:17</p> <p>witness ^[27] - 4:3, 5:22, 5:25, 11:4, 13:8,</p>	<p>13:11, 13:13, 19:2, 32:10, 32:16, 37:6, 44:10, 44:13, 44:16, 49:3, 53:21, 54:9, 55:2, 66:13, 69:20, 74:3, 84:14, 84:15, 86:8, 88:6, 88:7, 88:17</p> <p>witnesses ^[8] - 11:3, 13:7, 13:16, 44:11, 46:6, 67:6, 88:15, 89:7</p> <p>wondering ^[1] - 58:15</p> <p>word ^[2] - 32:20, 53:5</p> <p>wording ^[1] - 61:10</p> <p>works ^[2] - 41:16, 55:2</p> <p>Works ^[3] - 30:18, 30:19, 65:15</p> <p>world ^[1] - 10:20</p> <p>worry ^[1] - 59:15</p> <p>worst ^[1] - 34:20</p> <p>worth ^[1] - 33:21</p>
<p>V</p> <p>valid ^[1] - 36:24</p> <p>Valle ^[1] - 89:23</p> <p>Valley ^[1] - 2:3</p> <p>variance ^[11] - 9:17,</p>	<p>W</p> <p>waiting ^[1] - 59:6</p> <p>waivers ^[1] - 45:10</p> <p>wall ^[7] - 33:25, 34:1, 34:3, 52:25, 82:4, 82:7, 82:8</p> <p>walls ^[2] - 17:8, 52:24</p> <p>wants ^[3] - 41:22, 42:7, 54:4</p> <p>wash ^[2] - 64:6</p> <p>washed ^[1] - 52:25</p> <p>water ^[28] - 25:14, 25:19, 26:2, 28:6, 28:10, 34:4, 34:6, 34:12, 34:15, 37:9, 37:15, 39:3, 39:10, 39:17, 53:10, 65:24, 65:25, 74:23, 75:2, 76:4, 76:6, 82:10, 86:18, 86:19, 86:20, 87:11, 87:17</p> <p>waters ^[1] - 86:21</p> <p>week ^[5] - 10:18, 33:11, 34:19, 65:23, 85:22</p> <p>welcome ^[1] - 81:6</p> <p>well-known ^[1] - 7:9</p>	<p>Y</p> <p>yard ^[16] - 20:16, 20:19, 23:10, 23:20, 24:2, 47:4, 47:6, 47:15, 68:2, 68:3, 68:8, 68:22, 68:23, 69:2, 69:13, 92:16</p> <p>yards ^[1] - 20:15</p> <p>year ^[4] - 25:24, 25:25, 34:17, 34:18</p> <p>years ^[7] - 14:16, 52:18, 53:13, 60:15, 86:11, 86:17, 89:24</p>	<p>Z</p> <p>Z-02-21 ^[1] - 72:14</p> <p>Z-03-21 ^[2] - 1:5, 5:2</p> <p>zero ^[1] - 10:1</p> <p>zone ^[11] - 5:6, 7:25, 16:9, 17:18, 45:15, 93:3, 93:8, 93:14, 94:2, 94:21</p> <p>Zoning ^[2] - 14:5, 45:8</p> <p>zoning ^[5] - 89:14, 92:13, 93:23, 94:15, 95:2</p> <p>Zoom ^[1] - 99:3</p> <p>ZOOM ^[3] - 4:3, 4:6, 100:6</p>