

**In The Matter Of:**  
*Linden Development, LLC (Medical Building)*

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*October 13, 2020*

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*M. Virginia Guinta*  
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*Rocky Hill, New Jersey 08553*  
*(609) 477-9342*

<p style="text-align: right;">Page 1</p> <p>1 CITY OF LINDEN  2 PLANNING BOARD  3 CASE NO: SP-1132-20  4  5 IN THE MATTER OF:  6 LINDEN DEVELOPMENT, LLC  7 (MEDICAL BUILDING)  8 1016 W. EDGAR ROAD  9 (HELD VIA RINGCENTRAL VIDEO  10 CONFERENCE)  11  12  13  14  15  16  17  18  19  20  21  22  23  24  25</p>	<p style="text-align: right;">Page 3</p> <p style="text-align: center;">I N D E X</p> <p>1  2  3 WITNESS: PAGE  4 Brad Kern, RA 20  5 Robert Curley, PE 26  6 Keenan Hughes, AICP, PP, LEED, AD 50  7  8 PUBLIC SPEAKER:  9 NONE  10  11  12  13  14  15  16  17  18  19  20  21  22  23  24  25</p>																								
<p style="text-align: center;">OCTOBER 13, 2020</p> <p>B O A R D M E M B E R S P R E S E N T:</p> <p>CHAIRMAN JOSEPH LAPLACA  VICE CHAIRMAN ARMAND FIORLETTI  NICHOLAS PANTINA  FELIPE CABEZAS  CURTIS HUMPHREY  NOYO EDEM  MICHAEL ANDERSON  FRANK DELLA FEMINA  FRANK HETEM  BARRY JAVICK, COUNCILMAN</p> <p>ANTHONY D. RINALDO, BOARD ATTORNEY  LEE KLEIN, PE, BOARD ENGINEER  DOROTHY KOTOWSKI, RECORDING SECRETARY  PAUL RICCI, BOARD PLANNER</p> <p style="text-align: center;">M. VIRGINIA GUINTA  CERTIFIED COURT REPORTERS  PO BOX 184  ROCKY HILL, NEW JERSEY 08553  Mvg2946619@aol.com</p>	<p style="text-align: right;">Page 4</p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 30%;">EXHIBITS FOR ID.</th> <th style="width: 40%;">DESCRIPTION</th> <th style="width: 30%;">PAGE</th> </tr> </thead> <tbody> <tr> <td>3 A-1</td> <td>perspective rendering of the building</td> <td>21</td> </tr> <tr> <td>4 A-2</td> <td>comparison exhibit</td> <td>27</td> </tr> <tr> <td>5 A-3</td> <td>proposed rendering of our site</td> <td>30</td> </tr> <tr> <td>6 A-4</td> <td>southernmost driveway off of Route 1</td> <td>45</td> </tr> <tr> <td>7</td> <td>and 9</td> <td></td> </tr> <tr> <td>11</td> <td>EXHIBITS FOR EV.</td> <td></td> </tr> <tr> <td>13</td> <td>None</td> <td></td> </tr> </tbody> </table> <p style="text-align: center;">M. VIRGINIA GUINTA  CERTIFIED COURT REPORTERS  PO BOX 184  ROCKY HILL, NEW JERSEY 08553  Mvg2946619@aol.com  (609) 477-9342</p>	EXHIBITS FOR ID.	DESCRIPTION	PAGE	3 A-1	perspective rendering of the building	21	4 A-2	comparison exhibit	27	5 A-3	proposed rendering of our site	30	6 A-4	southernmost driveway off of Route 1	45	7	and 9		11	EXHIBITS FOR EV.		13	None	
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<p style="text-align: right;">Page 2</p> <p>A P P E A R A N C E:</p> <p>FAEGRE, DRINKER, BIDDLE AND REATH, LLP  600 Campus Drive  Florham Park, NJ 07932  BY: JOHN P. MICHALSKI, ESQ.</p> <p>MMA ARCHITECTS  3297 Route 66  Neptune, NJ 07753  BY: BRAD KERN</p> <p>MASER CONSULTING  331 Newman Springs Road  Suite 203  Red Bank, NJ 07701  BY: ROBERT CURLEY, PE</p> <p>PHILLIPS, PREISS, GRYGIEL, LEHENY,  HUGHES, LLC  33-41 Newark Street  Third Floor, Suite D  Hoboken, NJ 07030  BY: KEENAN HUGHES</p> <p style="text-align: center;">M. VIRGINIA GUINTA  CERTIFIED COURT REPORTERS  PO BOX 184  ROCKY HILL, NEW JERSEY 08553  Mvg2946619@aol.com  (609) 477-9342</p>	<p style="text-align: right;">Page 4</p> <p>1 EXHIBITS FOR ID. DESCRIPTION PAGE  2  3 A-1 perspective rendering of the building 21  4 A-2 comparison exhibit 27  5 A-3 proposed rendering of our site 30  6 A-4 southernmost driveway off of Route 1 45  7 and 9  8  9  10  11 EXHIBITS FOR EV.  12  13 None  14  15  16  17  18  19  20  21  22  23  24  25</p>																								

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1 MR. PANTINA: I know nobody is  
 2 going anywhere, but I have a question for,  
 3 I guess, John. From what we've talked  
 4 about to this point, about the amended plat  
 5 that we're gonna sign with the easement on  
 6 it.  
 7 MR. MICHALSKI: Right.  
 8 MR. PANTINA: Right, so what I have  
 9 in front of me as subdivision 756 control  
 10 points, dated 6/30/2020 that was filed with  
 11 this application, is that going to be the  
 12 final, or are we going to have to modify  
 13 that again also for the medical whatever?  
 14 MR. MICHALSKI: Well, I think the  
 15 plan you had was a compliance plan for the  
 16 prior approval, right, the prior  
 17 subdivision approval?  
 18 MR. PANTINA: Yeah, this showed the  
 19 easement that we're talking about.  
 20 MR. MICHALSKI: Right, so I think --  
 21 MR. PANTINA: So, this is gonna  
 22 work, correct?  
 23 MR. MICHALSKI: For the original  
 24 preliminary and final subdivision.  
 25 MR. PANTINA: For the original

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1 preliminary and final, right, but what I'm  
 2 asking you is that, is this potentially  
 3 going to change again?  
 4 MR. MICHALSKI: No, it's gonna change  
 5 by the amended subdivision approval you  
 6 just granted.  
 7 MR. PANTINA: Yeah, I know.  
 8 MR. FIORLETTI: That doesn't affect  
 9 the subdivision.  
 10 MR. PANTINA: No, the subdivision  
 11 is on here.  
 12 MR. FIORLETTI: Yeah, I know, the  
 13 medical building does not change --  
 14 MR. MICHALSKI: The medical building  
 15 is gonna have no impact on the subdivision.  
 16 MR. PANTINA: Has no impact on  
 17 here, right. So, what I'm saying is we can  
 18 sign this soon and file it?  
 19 MR. MICHALSKI: Well, you'll sign it  
 20 and hold on to it, we're only going to  
 21 submit for recording, the amended  
 22 subdivision plat that you just approved.  
 23 MR. PANTINA: Okay, we'll talk  
 24 about it. It's 8:06, come back in 5  
 25 minutes.

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1 (At which time a short break was  
 2 taken)  
 3 MR. PANTINA: It's a quarter after  
 4 8, hopefully everybody that's mic'd out can  
 5 hear me somewhere and they're coming back  
 6 online. We are going to move ahead with  
 7 the next application, and we're gonna chat  
 8 for a while.  
 9 The next application is site plan  
 10 1132-20, Linden Development, medical office  
 11 building. I just want to explain it to the  
 12 board, in case you do not see it, although  
 13 I sent you an e-mail today. So what  
 14 happened was, and John's gonna explain it  
 15 better, but these plans were made available  
 16 early on, in which case you had them to  
 17 review, we have a professional report  
 18 within the last weekend, or within the last  
 19 couple of days, Lee Klein and, Lee Klein  
 20 and Robert Curley have come up with changes  
 21 in which case the driveway changed, the  
 22 driveway alignment changed, and the parking  
 23 lot changed. The building moved half a  
 24 foot somewhere along the line. What we are  
 25 concerned with before I give it over to the

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1 applicant is, earlier on between Jeff Coker  
 2 and John, you were saying that we did  
 3 receive FAA approval, explain that, please.  
 4 MR. MICHALSKI: Right, so Nick.  
 5 MR. PANTINA: Can you hear us  
 6 better now?  
 7 MR. MICHALSKI: I can hear you, can  
 8 you hear me?  
 9 MR. PANTINA: I can hear you, yeah.  
 10 MR. MICHALSKI: Okay, so here's the  
 11 deal. We had submitted a concept plan  
 12 where the building layout was different  
 13 than what you see early on to get that  
 14 moving with the FAA. That approval took  
 15 some time, we just got it last week. This  
 16 is why we need to move forward and get the  
 17 board's approval first, and we can make it,  
 18 obviously, a condition of your approval  
 19 that we get the FAA approval, but we need  
 20 to know what this layout is probably going  
 21 to look like so we can get that to the FAA,  
 22 because what actually goes to the FAA is  
 23 the coordinates of the building.  
 24 So, the FAA knew where the old  
 25 building, where the concept building was,

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1 and the four coordinates of the corners of  
 2 that building, and then they come in, they  
 3 review it, and they give an approval.  
 4 So, we're gonna need to send, once we  
 5 finalize this plan with the board, we need  
 6 to send those new coordinates to the FAA to  
 7 get the approval of this building. So,  
 8 it's important that we get the board  
 9 approval first so that we don't have to  
 10 keep going back and forth with the FAA  
 11 approval taking a long time.  
 12 MR. PANTINA: So, the building that  
 13 was submitted with the application, you  
 14 have a, I want to say preliminary, you have  
 15 a conceptual review by the FAA and they  
 16 kind of said okay?  
 17 MR. MICHALSKI: No, we had a building  
 18 that was submitted that they did say okay  
 19 to.  
 20 MR. PANTINA: But is that the  
 21 building that you submitted as part of this  
 22 application?  
 23 MR. MICHALSKI: No, because that  
 24 submission went to the FAA --  
 25 MR. PANTINA: Wait, wait, stop, so

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1 that building was the building that's shown  
 2 on the subdivision rendering, you can't see  
 3 that, but because you're rendering that  
 4 Brad sent over 3 sheets that's a perfect  
 5 square, that's kind of sitting in the  
 6 northwest quadrant of that site.  
 7 MR. MICHALSKI: That's correct, and  
 8 that building though, just so you know, is  
 9 located closer to the RPZ line than this  
 10 building.  
 11 MR. PANTINA: Right, I'm trying to  
 12 be fair on all of this and we're just, I  
 13 don't want to have any side bars, I don't  
 14 want to have any executive sessions, I  
 15 don't want to shut this mic off, I just  
 16 want to move forward or get some  
 17 clarification.  
 18 So, what you have, what you submitted  
 19 to the FAA was part of the original amended  
 20 site plan which is really, for the most  
 21 part, nowhere near what I'm looking at in  
 22 front of me, nor what was changed the last  
 23 72 hours?  
 24 MR. MICHALSKI: Correct, but we don't  
 25 anticipate any issues with the FAA

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1 approving that because the building is  
 2 actually further away than the building  
 3 that you reviewed. We have a consultant,  
 4 also, our engineer has weighed in, and we  
 5 don't anticipate an issue with the FAA  
 6 approving whatever building layout you  
 7 finally approved.  
 8 MR. PANTINA: What about the  
 9 parking area?  
 10 MR. MICHALSKI: The parking area is  
 11 bigger. The parking area is not an issue,  
 12 I mean, the parking area before went to  
 13 that area, the FAA only looked at the  
 14 coordinates of the building, the height of  
 15 the building, where it was from sea level,  
 16 or whatever the actual measurements are.  
 17 The parking, we don't anticipate that the  
 18 new parking layout is gonna create any  
 19 issue with the FAA approval, and mind you,  
 20 you condition your approval on the FAA  
 21 approval, that's all on our shoulders  
 22 right, because if we don't get the FAA  
 23 approval for this building, then your  
 24 approval means nothing.  
 25 MR. PANTINA: And considering the

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1 word condition that we typically have done,  
 2 not on FAA stuff, but in the past on other  
 3 matters, but we do have an ordinance on  
 4 file, it's part of our code, and it's up to  
 5 this board to do whatever they want to do,  
 6 but is the wording in those ordinances  
 7 doesn't really say anything about  
 8 conditioning, it says the court shall not  
 9 make any approvals until the FAA makes a  
 10 decision on it.  
 11 MR. MICHALSKI: Hold on.  
 12 MR. PANTINA: I have that in front  
 13 of me, I can quote it verbatim if you want  
 14 it, it's 31:46.2 I think, hold on. It's 46  
 15 -- 31:46.2 with an airport runway  
 16 protection zone regulation, yada, yada,  
 17 yada, the interpretation of the runway  
 18 protection zone shall be made by the city  
 19 engineer in cooperation with officials of  
 20 the FAA. Any proposed development within  
 21 the runway protection zone shall be  
 22 coordinated with the FAA, and no approval  
 23 for development shall be given without  
 24 approval of the Federal Aviation  
 25 Association.

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1 MR. MICHALSKI: If you condition your  
 2 approval on the FAA approval, you're doing  
 3 just that, because the FAA is gonna have to  
 4 grant an approval. If your approval means  
 5 nothing if you condition upon the FAA  
 6 approval --  
 7 MR. COKER: John, hold on a second,  
 8 this is Jeff with Cypress. Nick, go back  
 9 to what you just said. You said anything  
 10 inside the RPZ zone, we are outside the RPZ  
 11 zone.  
 12 MR. PANTINA: No, the parking lot  
 13 is in the RPZ zone.  
 14 MR. COKER: That's not gonna get  
 15 disapproved because parking is across the  
 16 street. That's what has been done forever.  
 17 You got the school buses that were over  
 18 there, the parking lot, all that stuff  
 19 across the street that is in the RPZ zone,  
 20 this building is outside the RPZ, it's 17  
 21 feet outside of it. The FAA doesn't have  
 22 any approval over it, period.  
 23 MR. MICHALSKI: But, even if you  
 24 disagree with what Jeff said, right, if  
 25 you're conditioning your approval on the

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1 FAA approval, you're doing exactly what  
 2 this ordinance is saying, that you need to  
 3 coordinate with them to see if they're  
 4 gonna approve it. Your approval will mean  
 5 nothing if the FAA doesn't approve this  
 6 building.  
 7 MR. PANTINA: I understand that and  
 8 I meet with the FAA on a regular basis, I  
 9 was with them personally about, I would say  
 10 the end of August, end of August, possibly  
 11 the beginning of September, and they  
 12 already had eyes on that site because I was  
 13 saying we're probably going to do a site  
 14 plan. I didn't bring it up, they brought  
 15 it up, they brought it up to me, they said  
 16 we have coordinates on the site in the  
 17 corner.  
 18 So, we don't even have a PAD there  
 19 yet, we just have Taco Bell. I was like,  
 20 no, we have coordinates, that must have  
 21 been something that you sent that square,  
 22 that other building. They had the  
 23 coordinates on it already, right, they're  
 24 already looking at them.  
 25 Again, I am one person on the board so

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1 I am going to take a vote --  
 2 MR. RINALDO: No, you don't take a  
 3 vote.  
 4 MR. CURLEY: If I may say one thing,  
 5 it's Robert Curley. The FAA issued an  
 6 approval on the project based upon the  
 7 building as you indicated which is a  
 8 square, they would amend that approval.  
 9 So, they essentially they've issued an  
 10 approval for the project, they also  
 11 identified that this was an obstruction and  
 12 that there would be a requirement to have a  
 13 single light placed on the building on the  
 14 corner that was closest to the RPZ zone.  
 15 So, I just wanted the board to  
 16 understand, an approval was issued on this  
 17 site, it will be amended by the FAA.  
 18 MR. PANTINA: You guys you could  
 19 provide that to the board, honestly, we  
 20 don't have it.  
 21 MR. CURLEY: Absolutely.  
 22 MR. RINALDO: It's a legal question  
 23 and I make the decisions on the legal  
 24 questions. So, you may proceed, and if we  
 25 approve your plan, the entire plan, the RPZ

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1 and everything else, it will not be  
 2 approved unless, you hear these words John,  
 3 unless you get approval from the FAA.  
 4 MR. MICHALSKI: In other words, in  
 5 the resolution it will say --  
 6 MR. RINALDO: In the resolution  
 7 that will be a condition, a negative  
 8 condition unless.  
 9 MR. MICHALSKI: Understood.  
 10 MR. RINALDO: Go.  
 11 MR. MICHALSKI: All right, I'll start  
 12 off then, back with Linden Development,  
 13 LLC, block 469 lot 3805, planned commercial  
 14 development district zone.  
 15 This is an application for  
 16 preliminary, amended preliminary and final  
 17 site plan approval for proposed 7,147  
 18 square foot medical/professional office  
 19 building.  
 20 We are pleased to be back before the  
 21 board for approval of another portion of  
 22 Legacy Square. The medical/professional  
 23 office building is being built on  
 24 speculation to attract future tenants, and  
 25 there is a need for a certain amount of

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1 flexibility with certain features, which  
 2 our witnesses will testify to in more  
 3 detail.  
 4 If you recall, we obtained amended  
 5 preliminary site plan approval for phase 3  
 6 in 2018 which preliminarily approved this  
 7 PAD site. We are now seeking amended  
 8 preliminary and final site plan approval.  
 9 As we talked about a minute ago, we did  
 10 obtain FAA approval dated September 29,  
 11 2020, for a concept building on this  
 12 development lot, and we do anticipate  
 13 receiving FAA approval, amended approval,  
 14 for this amended building layout should the  
 15 board vote favorably and grant approval  
 16 tonight.  
 17 In connection with this application,  
 18 we need two variances, one is principal  
 19 setback to the adjacent zone. You said  
 20 that this variance is necessary, we're  
 21 requesting a variance from ordinance  
 22 section 31-11.4.A3D which requires  
 23 principal building to be setback a minimum  
 24 of 25 feet from all other zone boundaries,  
 25 whereas the principal building is located

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1 17.85 feet from the RPZ overlay zone.  
 2 We're doing this to be conservative.  
 3 We actually agree with Mr. Ricci's comment  
 4 in his letter that the zone setback  
 5 provision was not really intended to  
 6 require a setback from the RPZ overlay  
 7 zone. This overlay zone was put in place  
 8 really to address the FAA issue, and this  
 9 is an unintended consequence.  
 10 So we agree with that, but to be  
 11 conservative, we'll put off proofs for that  
 12 variance. The other variance is sign  
 13 location, this one's a little fuzzy too. I  
 14 know that and we'll get into it in more  
 15 detail too when our witnesses testify, but  
 16 to the extent necessary, we're requesting a  
 17 variance from ordinance section 31-25.8A to  
 18 permit the sign locations proposed, which  
 19 is 6 signs on the building, 2 on the front,  
 20 1 on each side, and 2 on the back.  
 21 The zoning provision is a little  
 22 unclear. It talks about a building facing  
 23 a street, and then it talks about a  
 24 building on a corner lot, by nature of the  
 25 subdivision, technically this building is

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1 no longer on a corner lot if you look at  
 2 the definition. So, we'll leave that to  
 3 Paul's discretion, but to be conservative,  
 4 we're also requesting a variance for sign  
 5 issues to make sure we have that covered.  
 6 We have reviewed the reports, the  
 7 reports received from Mr. Pantina dated  
 8 October 8, 2020, a report received from Mr.  
 9 Ricci dated October 9, 2020, a report  
 10 received from Mr. Klein dated October 8,  
 11 2020, and a report from the fire official  
 12 dated October 8, 2020.  
 13 We do intend to comply with all those  
 14 review letters. I'll also note that in  
 15 connection with those review letters, the  
 16 building has been adjusted and been  
 17 shifted, the layout has been shifted as we  
 18 discussed, we'll show an exhibit shortly to  
 19 show exactly how it was shifted. And so  
 20 with that, I have three witnesses I'll be  
 21 calling tonight.  
 22 The first witness is Brad Kern, our  
 23 project architect from MMA; the second  
 24 witness will be Robert Curley, from Maser,  
 25 our engineer; and last will conclude with

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1 Mr. Hughes who is handling the planning  
 2 from Phillips Preiss.  
 3 So, with that I'd like to swear in my  
 4 first witness unless the board has any  
 5 other questions.  
 6 MR. RINALDO: Mr. Klein did send a  
 7 reply to Mr. Curley, I believe on October  
 8 12, which did say it addressed all the  
 9 provisions, I believe, is that correct?  
 10 MR. MICHALSKI: Thank you very much.  
 11 MR. RINALDO: Go ahead, first  
 12 witness.  
 13 MR. MICHALSKI: First witness will be  
 14 Brad Kern.  
 15 MR. KERN: Can everybody still hear  
 16 me? Am I still audible? Okay, great I  
 17 don't know if I have to be sworn in again,  
 18 but I was sworn in earlier.  
 19  
 20 BRAD KERN, K-E-R-N, with a business address of  
 21 3297 Route 66, Neptune, New Jersey, having been  
 22 duly sworn, testified as follows:  
 23  
 24 MR. MICHALSKI: I submit that Brad is  
 25 an expert architect, he testified before

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1 this board.  
 2 MR. RINALDO: Accepted.  
 3 MR. MICHALSKI: Thank you. Brad, can  
 4 you show on your screen the perspective  
 5 that we're gonna mark as A-1 and walk the  
 6 board through this project from an  
 7 architectural perspective.  
 8 MR. KERN: Sure, so what you're  
 9 seeing on the screen here is the  
 10 perspective rendering of the building.  
 11 What you're looking at is the south facing  
 12 facade, and this exhibit was also included  
 13 in the architectural documents that was  
 14 submitted as part of this application. As  
 15 you can see, the building is comprised of  
 16 primarily EFIS in various patterns and  
 17 textures such as brick, wood, and various  
 18 different colors.  
 19 We also have a cultured stone base, we  
 20 have a store front and glass, and  
 21 architectural features such as the canopies  
 22 as you can see in this rendering, and these  
 23 are the same materials that are utilized in  
 24 other buildings throughout the development.  
 25 Now, what we tried to do is break down

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1 the massing of the facade by changes in  
 2 material, changes in textures, color,  
 3 facade plains, also any architectural  
 4 features, again such as canopies, we feel  
 5 that breaks down the massing of the overall  
 6 building and gives it elegant  
 7 sophistication to the overall design.  
 8 So, again, in my opinion, the  
 9 architectural design is consistent with the  
 10 overall design theme of the development.  
 11 In terms of building signage, as John  
 12 mentioned, we are proposing a total of 6  
 13 signs on the building. Two signs as you  
 14 see in this perspective rendering are  
 15 proposed on the front of the building, one  
 16 sign is proposed on each side of the  
 17 building, and on the rear we are proposing  
 18 two signs.  
 19 Again, 6 signs in total and our intent  
 20 is to comply with section 31-25.8 in terms  
 21 of us complying with the area of 10 percent  
 22 or less of the mall area, will be the area  
 23 of the signage and the height of the sign  
 24 will not be more than 4 feet high, and the  
 25 intent is to comply with that ordinance.

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1 MR. RICCI: And you're gonna revise  
 2 your plans to reflect that, right?  
 3 MR. KERN: Yes, as we discussed, we  
 4 will revise, once we submit our final  
 5 compliance documents for the signage  
 6 specifically, with our signage  
 7 calculations, the depiction of our signs,  
 8 we will arise at the show of compliance.  
 9 Just my final statement, I just want  
 10 to note for the record that we are going to  
 11 reduce the upper power pit on the buildings  
 12 on the front and side elevations by 4  
 13 inches, and this is to comply with the  
 14 parameters set forth in the FAA review  
 15 documentation.  
 16 So what you'll note on the elevations,  
 17 that currently those upper power pits  
 18 mentions are 23 foot 4, we are going to  
 19 propose that those are going to be 23 foot  
 20 even, and that's to comply with the FAA  
 21 documentation that was submitted for 55  
 22 feet above, and that's what I have to offer  
 23 about the architectural design.  
 24 MR. MICHALSKI: And also I think you  
 25 mentioned this, Brad, but you did say that

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1 this building does fit within the designing  
 2 theme that has been established by the  
 3 balance of this project?  
 4 MR. KERN: Yes.  
 5 MR. PANTINA: Brad, so other than  
 6 this perspective rendering, sheet A-3, the  
 7 color is the same as what was submitted,  
 8 but just, I guess a little caveat about  
 9 what you just said about the sign changing  
 10 a couple of inches, right?  
 11 MR. KERN: Correct. All the  
 12 materials, all the building design in  
 13 general, will not change other than the  
 14 specific height of those upper power pits.  
 15 MR. PANTINA: So, when this is  
 16 done, John, I just need visual exhibits  
 17 sent in.  
 18 MR. MICHALSKI: Will do. That's it  
 19 for my direct of Brad, if the board has any  
 20 questions?  
 21 MR. RICCI: No, we'll talk about the  
 22 potential sign variance later, Brad, or you  
 23 want to talk about that now?  
 24 MR. MICHALSKI: We can talk about it  
 25 now.

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1 MR. RICCI: I spoke with Mr. Kern  
 2 earlier today and I think Mr. Michalski,  
 3 you're a very thorough attorney. I'll tell  
 4 you, you serve it quite well, I'll tell you  
 5 that.  
 6 With that said, the PCV signage,  
 7 really, I think it's clear in it's wording,  
 8 applies to, I would agree to the retail  
 9 building, so as an office building, the  
 10 underlying zone for signage would comply in  
 11 this context, I mean, there's an issue  
 12 where you get multiple signs throughout the  
 13 building, it's a corner lot, and what he's  
 14 referring to is that the thing with the  
 15 landscaped area on Route 1 and 9 is a  
 16 separate parcel than the subject property,  
 17 but it's functionally a corner lot, it  
 18 really depends upon, I think you got like a  
 19 foot. That's what makes the fair amount of  
 20 Route 1 on the plan.  
 21 So, I think from a planning  
 22 perspective, this property, and how it  
 23 conceptually sits, functions as a corner  
 24 lot, and I think it should be treated as a  
 25 corner lot, also.

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1 MR. RINALDO: Make that as a final,  
 2 John.  
 3 MR. MICHALSKI: Sounds good. Sounds  
 4 good to me. If we have no other questions,  
 5 I can move on to our engineer.  
 6 All right, Mr. Curley?  
 7 MR. CURLEY: Yes.  
 8  
 9 ROBERT CURLEY, C-U-R-L-E-Y, with a business  
 10 address of 331 Newman Springs Road, Suite 203,  
 11 Red Bank, New Jersey, having been duly sworn,  
 12 testified as follows:  
 13  
 14 MR. MICHALSKI: Robert, Can you just  
 15 give the board the benefit of your  
 16 qualifications, please.  
 17 MR. CURLEY: Yes, I'm a licensed  
 18 professional engineer and professional  
 19 planner in the State of New Jersey. I  
 20 received my bachelor of science from Newark  
 21 College of Engineering, NJIT. I've been  
 22 practicing engineering for 39 years, I've  
 23 been the planning board engineer for Brick  
 24 Township for 7 years, I was the alternate  
 25 planning board engineer for Brielle, I was

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1 the alternate planning board engineer for  
 2 Ion Heights, I've appeared before numerous  
 3 board throughout the state.  
 4 MR. RINALDO: Accepted.  
 5 MR. MICHALSKI: Thank you, very much.  
 6 Can you share the screen and bring up what  
 7 we're gonna mark as A-2, which is the  
 8 comparison exhibit, and explain to the  
 9 board what changes have been made pursuant  
 10 to Mr. Klein's comments.  
 11 MR. CURLEY: Okay, can everyone see  
 12 the screen that I've got displayed? So  
 13 everyone can see -- so what this exhibit  
 14 shows, it shows in a darker outline, the  
 15 proposed building configuration and parking  
 16 lot configuration. In the lighter shade,  
 17 it shows the old configuration whereby we  
 18 had the driveway entrance shifted to the  
 19 south, and it was brought up by Mr. Klein  
 20 to try to realign our driveway entrance so  
 21 it would be opposite the driveway for the  
 22 Walmart site.  
 23 So, in doing so, what we were able to  
 24 do is make a configuration change for the  
 25 parking lot and actually achieve more

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1 parking than what we had previously  
 2 proposed, keeping the trash storage area  
 3 basically in the same place, we modified  
 4 the location of the transformer pad, and  
 5 again, we had the building oriented pretty  
 6 much in the exact same spot and that's  
 7 largely because the site is constrained  
 8 with an existing sanitary sewer easement  
 9 that bisects the site likewise with the RPZ  
 10 zone which is the heavier line.  
 11 So in an effort to mimic the FAA  
 12 approval that was issued on the site, we  
 13 wanted to make sure that our proposed  
 14 building was no closer to the RPZ zone than  
 15 what was previously approved.  
 16 So, those were the constraints that we  
 17 had to work with and what we ended up doing  
 18 was again, shifting the parking lot  
 19 slightly, turning the area that was  
 20 adjacent to where the trash dumpster area  
 21 is, and make it almost parallel to Route 9.  
 22 So, that is the configuration that  
 23 we're proposing right now, and from a  
 24 circulation standpoint, if vehicles needed  
 25 to come into the site, vehicles can enter



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1 the site through a two-way driveway which  
 2 would be located on the southern portion of  
 3 the site, or they can come in through the  
 4 main access road, and if a truck needed to  
 5 access the site, a truck can enter the site  
 6 and then come into the two lane access  
 7 driveway which would be on the north  
 8 portion of the site, enter the site, and as  
 9 directed by your professionals, we'll add a  
 10 stop sign and stop bar at this location  
 11 just before a vehicle would enter the  
 12 parking field.  
 13 Our current proposal has 47 parking  
 14 stalls, whereby previously we had 43, so we  
 15 meet the parking setback, to property lines  
 16 of required by 5 feet, and we're providing  
 17 19.27 feet, and then again, off street  
 18 parking setback to a side or rear property  
 19 line, again, we're meeting that, whereby 3  
 20 feet is required, and we're providing 6.21  
 21 feet.  
 22 Our setback to the RPZ zone is as  
 23 identified as 17.85 feet and with this  
 24 modification, we still meet the impervious  
 25 coverage requirements, whereby 90 percent

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1 is allowed, and we're providing 51 percent,  
 2 50.97 percent.  
 3 That's the summary of the  
 4 modifications to the plans, if I may, I  
 5 could show a proposed rendering and I will  
 6 do that now.  
 7 MR. MICHALSKI: We'll mark this A-3.  
 8 MR. CURLEY: So, this would be a  
 9 proposed rendering of our site and although  
 10 we do indicate the existing retaining wall  
 11 across the frontage of the property, we do  
 12 not indicate any landscaping that has been  
 13 installed across the exterior of the site,  
 14 which is not on our lot.  
 15 Although we were able to make these  
 16 modifications to the plan, the final  
 17 details of all of the landscaping are going  
 18 to need to be relooked at by your board's  
 19 professionals, but this largely mimics what  
 20 was previously submitted, and although we  
 21 will probably add some additional  
 22 landscaping because of our location of the  
 23 parking stalls adjacent to the Route 9  
 24 area, again, it's almost identical.  
 25 We are providing buffering around the

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1 trash storage area, and likewise around the  
 2 rear portion of the transformer pad, and we  
 3 will be placing some foundation plantings  
 4 along the southern wall of the proposed  
 5 structure.  
 6 MR. FIORLETTI: I have a question.  
 7 Why are the handicap spots only in front of  
 8 tenant B?  
 9 MR. CURLEY: So, the handicap stalls,  
 10 the requirement for a site of this size  
 11 with the quantity of stalls that we have,  
 12 is to provide two handicap stalls, and  
 13 we're providing three.  
 14 MR. FIORLETTI: The question is why  
 15 not a couple of them in front of tenant A?  
 16 MR. RICCI: And that's a revision  
 17 from your previous plan, too because you  
 18 showed two on each pad here.  
 19 MR. FIORLETTI: In other words, the  
 20 handicap spots, people parking in handicap  
 21 spots will have to walk across to building  
 22 A.  
 23 MR. COKER: I can explain that, this  
 24 is Jeff with Cypress.  
 25 MR. FIORLETTI: Split them, or put

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1 them in the middle.  
 2 MR. COKER: We can't. The problem is  
 3 that both the tenants that we're  
 4 negotiating leases with want 5 dedicated  
 5 parking spaces in front of their building.  
 6 The only way we can do that if you'll zoom  
 7 in to the handicap parking spaces, the only  
 8 way we can pick up 11 parking, 12 parking  
 9 spaces there including the handicap, we're  
 10 only required to have 3.  
 11 If you look at the far right side of  
 12 the plan, you got two parking spaces, you  
 13 got kind of like a little, not rectangular  
 14 island and we can add a parking space to  
 15 the left of it, and then you got a parking  
 16 space for a handicap island, another  
 17 handicap, and you start counting the  
 18 parking spaces, I can get 5 and 5 for both  
 19 tenants.  
 20 We would love to put the handicap  
 21 parking spaces right in the middle of the  
 22 building, that's what originally we did,  
 23 but it doesn't allow us to give both  
 24 tenants 5 designated parking spaces if they  
 25 want to be able to say, if you park here,

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1 if you're not a customer, you're gonna get  
 2 towed.  
 3 MR. RICCI: There's spaces on the  
 4 side there, why don't you put 3 on the  
 5 side?  
 6 MR. COKER: What do you mean on the  
 7 side?  
 8 MR. RICCI: You lost the spaces that  
 9 were --  
 10 MR. PANTINA: Unless you have the 3  
 11 by the trash enclosure, that's not  
 12 considered part of, that wouldn't be  
 13 considered part of tenant A's?  
 14 MR. MICHALSKI: And Robert, where the  
 15 handicap spaces are, they'll comply with  
 16 ADA, correct?  
 17 MR. CURLEY: That's correct, and the  
 18 closest ADA parking stall is about 60 feet  
 19 from the far building, far entrance.  
 20 MR. COKER: So, when you try and put  
 21 the ADA parking in the front of both  
 22 buildings, you end up having to have  
 23 basically, you lose 3 parking spaces  
 24 because you can't fit a parking space to  
 25 the left of the two parking spaces because

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1 it's not a regular, it's not a handicap --  
 2 it's not a regular 9 by 18 parking space,  
 3 it's a configuration that would work for a  
 4 handicap van, but it won't work for a  
 5 parking space.  
 6 MR. RICCI: What is the distance to  
 7 the door from the furthest handicap space  
 8 to the furthest tenant space? Can someone  
 9 do the distance of that? The furthest  
 10 handicap space all the way to the right of  
 11 the plan view, to the door of the, looking  
 12 in plan view of the left tenant space. How  
 13 far is that?  
 14 MR. CURLEY: It's approximately 78  
 15 feet.  
 16 MR. COKER: I think it's 64.  
 17 MR. RICCI: Is that reasonable?  
 18 MR. FIORLETTI: Should be able to fit  
 19 them in there someplace, I'm not a handicap  
 20 person so --  
 21 MR. RICCI: Is that reasonable, Lee?  
 22 MR. KLEIN: I don't know, I just know  
 23 I always heard it's supposed to be as close  
 24 to the front door as you can make it, I  
 25 always thought, but you're telling me

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1 within 60 feet is adequate?  
 2 MR. RICCI: I don't know.  
 3 MR. KLEIN: Is there a code official  
 4 in town that could look at that and tell us  
 5 what's going on?  
 6 MR. PANTINA: I guess I would ask  
 7 this question to Bob Curley, but Jeff,  
 8 you've been.  
 9 Whatever, just listen, I get the 5  
 10 spaces in front of tenant A, that's what he  
 11 wants, or that's what they want. Where the  
 12 number 11 is, in the pocket there right in  
 13 front of tenant A on the southerly corner  
 14 right by the RPZ zone, you couldn't stick a  
 15 handicap space right there?  
 16 MR. FIORLETTI: You could put them up  
 17 to the curb, that's all and put the -- in  
 18 other words --  
 19 MR. PANTINA: Well, I'm just  
 20 asking, I'm just asking. So you wouldn't  
 21 be able to put like a handicap spot in that  
 22 pocket where the number 11 is, right there,  
 23 and if you had to narrow or modify the curb  
 24 a little bit, the curb line a little bit,  
 25 that island, to accommodate that, but then

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1 that would give you, where you had that  
 2 horizontal dimension, that would give you  
 3 1, 2, 3, 4, 5 spots and then you got  
 4 another spot next to the handicap spot.  
 5 MR. COKER: Yep, if we can do that,  
 6 if we can turn that island into the exit  
 7 space for the van, then absolutely and then  
 8 you could move the second parking space  
 9 that's, move that to the middle of the  
 10 buildings and yeah, that would be perfect.  
 11 MR. PANTINA: I'm just trying to  
 12 come up with an idea to accommodate the  
 13 question, I know you said you don't need  
 14 that many handicap spots.  
 15 MR. COKER: Yeah, we need 3.  
 16 MR. PANTINA: But you don't  
 17 necessarily need 3 on tenant B either,  
 18 right?  
 19 MR. COKER: No, but I guarantee  
 20 tenant B is not going to like it, but if we  
 21 could somehow manufacture a van exit to the  
 22 left of the 11, you know the parking spaces  
 23 got 11 in it, then that would solve all the  
 24 problems. Then we could move one --  
 25 MR. RICCI: For the record, I think

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1 this is all absurd --  
 2 MR. COKER: We definitely could  
 3 accommodate that.  
 4 MR. RICCI: I think this is all  
 5 absurd, really, that a medical building is  
 6 objecting to having handicap spaces right  
 7 in front of it, it's absurd, it really is  
 8 absurd.  
 9 MR. KLEIN: I agree.  
 10 MR. COKER: Well, I hear you, but the  
 11 tenant is going to look at it and say, I'm  
 12 not going to have that many handicap people  
 13 coming, I want my customers to be able to  
 14 park in front of the building.  
 15 MR. RICCI: It's absolutely absurd.  
 16 MR. COKER: I don't disagree with  
 17 you, I'm just telling you what a retail  
 18 tenant thinks.  
 19 MR. RICCI: Well, I think at some  
 20 point you have to do something that's  
 21 legal, and legal 101, you say like hey, you  
 22 have to have handicap spaces in your -- and  
 23 then it's just, whatever, I don't believe  
 24 we're talking about this.  
 25 MR. COKER: We'll do this, if we

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1 don't do what's on the screen right here,  
 2 if we can figure out how to move one space,  
 3 one handicap space all the way over to 11.  
 4 MR. RICCI: These guys, they have  
 5 no--  
 6 MR. COKER: It's equal on both sides,  
 7 so we'll do one of those two things.  
 8 MR. RICCI: One of what two things?  
 9 MR. COKER: Well, we'll either do  
 10 what's on the screen and just make the  
 11 tenant accept it, or we'll go over to the  
 12 11, where the parking space says number 11,  
 13 and say if we can do the landscape island  
 14 over to the left of it, turn that into a  
 15 handicap van exit, and then we'll move one  
 16 of the far right handicap spaces to the  
 17 very middle of the buildings, and that way  
 18 we've got one on the far left, one right in  
 19 the middle, we've got one on the far right.  
 20 MR. RINALDO: Just do it.  
 21 MR. RICCI: So you're gonna have  
 22 reserved signs out there, you're saying,  
 23 reserved for just the one tenant?  
 24 MR. COKER: Yes.  
 25 MR. RICCI: What are those signs

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1 gonna say?  
 2 MR. COKER: They're gonna say parking  
 3 for tenant A, violators will be towed,  
 4 tenant for parking B, violators will be  
 5 towed. And they both want 5 right in front  
 6 of their stores.  
 7 MR. KLEIN: When you say store, these  
 8 are --  
 9 MR. RICCI: How do both of them get  
 10 5?  
 11 MR. COKER: Yes, they both get, so  
 12 the parking spaces --  
 13 MR. RICCI: I count 11 spaces and 3  
 14 handicap along the frontage. So, how do  
 15 they both get 5? So you have 13 minus 3 --  
 16 MR. PANTINA: 13 minus 3 is 10.  
 17 MR. MICHALSKI: 10 regular, 3  
 18 handicap.  
 19 MR. COKER: So I'm saying the two  
 20 that are kind of to the right of the  
 21 handicap spaces, those are gonna be for  
 22 tenant on the right side. So actually,  
 23 moving one of the first handicap space all  
 24 the way up to the left where 11 is, and  
 25 move the second handicap space up right

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1 into the middle, it's gonna give him better  
 2 spacing right in front of his building  
 3 which is gonna make him happy.  
 4 MR. KLEIN: I think it's more  
 5 efficient if you have the stripe in the  
 6 middle and you have the handicap on either  
 7 side of it.  
 8 MR. COKER: I totally agree. I  
 9 totally agree, but we'll do one or the  
 10 other to make it work.  
 11 MR. KLEIN: I have a question about  
 12 signage when you get into signing. You're  
 13 not into signing yet, right?  
 14 MR. MICHALSKI: Go ahead, what's the  
 15 question?  
 16 MR. KLEIN: Is there gonna be a sign  
 17 for the one way entrance driveway, are you  
 18 gonna have a sign out at the corner there  
 19 so people coming from the north, coming  
 20 south, will know to come in that little one  
 21 way entrance driveway?  
 22 MR. COKER: Yeah, they're not going  
 23 to be able to, they're not going to be able  
 24 to jump over and get in the entrance to  
 25 turn right on to Route 1.

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1 MR. KLEIN: No, no, no, no, no.  
 2 MR. MICHALSKI: If they're coming  
 3 down from --  
 4 MR. KLEIN: Inside the shopping  
 5 center, they're coming south on the  
 6 shopping center lane and they want to make  
 7 a left turn in, rather than make a left  
 8 turn into the two-way driveway.  
 9 MR. CURLEY: If there's a sign on the  
 10 corner, they'll know.  
 11 MR. KLEIN: Otherwise, why is there  
 12 an entrance there?  
 13 MR. CURLEY: So I guess the request  
 14 would be to place a sign at this corner  
 15 entrance for --  
 16 MR. KLEIN: Medical building --  
 17 MR. CURLEY: Yeah, medical building.  
 18 MR. KLEIN: Because I think it will  
 19 help, it will reduce the number of left  
 20 turns at the full movement driveway.  
 21 MR. CURLEY: Understood.  
 22 MR. KLEIN: Because I'm a little  
 23 concerned about the left turns overlapping.  
 24 MR. COKER: Yeah, we can put up some  
 25 kind of sign.

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1 MR. KLEIN: Yeah, because I don't see  
 2 more, I think you're gonna wind up with a  
 3 lot of right turns in, and left turns back  
 4 out to Pleasant, that's where everybody is  
 5 gonna come in and out of, it's a medical  
 6 building, correct?  
 7 MR. COKER: Well, I also think a lot  
 8 of people are gonna go out through the  
 9 right and go back down to the main access  
 10 road.  
 11 MR. KLEIN: And avoid a signal on 1  
 12 and 9, right.  
 13 MR. FIORLETTI: Put a sign and let  
 14 them go out the one driveway.  
 15 MR. RICCI: I don't understand what  
 16 you just said.  
 17 MR. FIORLETTI: Eliminate the  
 18 entrance there, put a cul-de-sac at the end  
 19 of the parking lot so the people can turn  
 20 around and go out the one driveway at the  
 21 top.  
 22 MR. MICHALSKI: That's, Robert just  
 23 explain the driveway.  
 24 MR. CURLEY: So, if a vehicle comes  
 25 into the two-way entrance and comes down to

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1 the end and then realizes that all of these  
 2 parking stalls are filled, if he needs to  
 3 make a turn around, if the vehicle needs to  
 4 make a turn around, they can turn around in  
 5 this empty spot, do a K-turn, and then  
 6 leave the parking lot. Or alternatively,  
 7 they can come in through the secondary  
 8 one-way driveway, come in through the site,  
 9 and negotiate the parking field, and then  
 10 leave if they leave through the two-way  
 11 entrance.  
 12 MR. FIORLETTI: What prevents the  
 13 person that's coming off the highway to  
 14 come over into that lane?  
 15 MR. CURLEY: I mean, we can sign it so  
 16 that there's no U-turn, that's not a  
 17 problem, but the signage that's in place is  
 18 what was originally approved by the DOT,  
 19 this configuration of the driveway and the  
 20 entrance was all approved by the access  
 21 boards by the DOT.  
 22 MR. FIORLETTI: I see a conflict  
 23 between somebody coming in off the highway  
 24 and then going over to the driveway.  
 25 MR. PANTINA: Can you extend the

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1 island --  
 2 MR. FIORLETTI: Or put one curb up  
 3 the road a little bit.  
 4 MR. PANTINA: Hey Bob Curley, can  
 5 you, I'm not sure whether this thing exists  
 6 out there now, I know you have a driveway  
 7 coming off the highway, right around where  
 8 your pointer is, so on the right side on  
 9 the northerly side, you got curbs going all  
 10 the way up on top, right? Right where  
 11 you're at, right there, stop the pointer,  
 12 leave the pointer right there. So, from  
 13 that point, from that point right where the  
 14 pointer is at, back to the conjoint where  
 15 the two driveways meet, can you put like  
 16 maybe a curb in there or maybe a false  
 17 island there?  
 18 MR. CURLEY: Yes, we can put a mount  
 19 -- no problem.  
 20 MR. PANTINA: Wait, the question,  
 21 the concern is I got two members here so  
 22 the concern is that when you come in off  
 23 the highway, someone's gonna make a quick  
 24 left to get off the highway. So if you put  
 25 a barrier island or a curb, or a higher

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1 curb, I guess it could be mounted, or it  
 2 would defeat the purpose. Now, if you do  
 3 that, and you're coming in on the left, so  
 4 it's gonna be like a hard thing, if they  
 5 did make the turn, and they're gonna have  
 6 to hop the curb, hop the island.  
 7 MR. FIORLETTI: And then maybe, a  
 8 couple of more arrows with -- going  
 9 straight ahead, signage, in other words,  
 10 painted sign on that first -- the driveway  
 11 coming in from Route 1, maybe make it  
 12 one-way only or something like that, maybe  
 13 put some signage on that, or maybe another  
 14 couple of arrows after that driveway, the  
 15 one-way driveway comes in --  
 16 MR. COKER: Yeah, arrows, putting  
 17 more arrows is no big deal, and putting a  
 18 curb in will make it even harder to do a  
 19 U-turn, that's nothing.  
 20 MR. FIORLETTI: That's only a signage  
 21 problem. I could see a conflict there.  
 22 MR. CURLEY: What I can do is I can  
 23 show you the existing condition, what  
 24 exists today, and this shows how the  
 25 driveway comes in and then the curbing

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1 comes to a pretty abrupt point and to make  
 2 that U-turn through here would be  
 3 difficult. I don't see a problem with  
 4 extending the curb up another 25 to 30 feet  
 5 and we can also put signage, no left turn,  
 6 mount them to the backs of these signs,  
 7 that's not a problem.  
 8 MR. MICHALSKI: And just for the  
 9 transcript, we'll mark this exhibit of A-4,  
 10 it's a photo of the, we'll call it the  
 11 southernmost driveway off of Route 1 and 9.  
 12 MR. CURLEY: Got it.  
 13 MR. RICCI: I just want to copy down  
 14 the photo number, hold on.  
 15 MR. MICHALSKI: Robert, I just have  
 16 one last question which is, can you just  
 17 confirm that you had conferred regarding  
 18 the trip generation and it still falls  
 19 within the report that we submitted?  
 20 MR. RICCI: Those trees are dead out  
 21 there, I'll tell you that.  
 22 MR. COKER: We're getting that fixed.  
 23 We sent a notice a week and a half ago, so  
 24 I think they're supposed to have them all  
 25 replaced by Friday.

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1 MR. CURLEY: So, to answer your  
 2 question, I did have a conversation with  
 3 Karl Pehnke who is the traffic engineer of  
 4 record on the project. I had a discussion  
 5 with him as far as the total quantities of  
 6 parking and with the proposed development  
 7 as it exists, and what we're proposing the  
 8 traffic is comparable and/or less than peak  
 9 hours than what was previously approved.  
 10 MR. MICHALSKI: I have no further  
 11 questions for Robert, so unless the board  
 12 has anything further, we have our last  
 13 witness, which is our planner.  
 14 MR. PANTINA: Do we have any  
 15 questions from any board members?  
 16 MR. CABEZAS: I don't have a  
 17 question, but I have a comment.  
 18 MR. PANTINA: You can make whatever  
 19 you want, Felipe.  
 20 MR. CABEZAS: My comment is, why do  
 21 we always have to reschedule, redraw, any  
 22 plans that comes in front of us when they  
 23 basically know that this is not going to be  
 24 approved the way that they show? So we  
 25 spend 45 minutes rearranging any site

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1 plans. So, actually, we're doing their  
 2 job. I mean, this is uncalled for, this  
 3 cannot be done. You come in with a plan,  
 4 you come in with a rendering, show it  
 5 right, if it's not right, take it back and  
 6 come back some other time. We spend 45  
 7 minutes going on the same thing, oh, can we  
 8 put it here? You know you gotta put in 3  
 9 or 4 handicap parking spaces, you know it's  
 10 gotta be closest to the entrance door, why  
 11 do we have to fool around like that? Why  
 12 do we have to sit here and listen to that?  
 13 You got 4 professionals in there, and they  
 14 all come up with the same thing, oh, we  
 15 gotta do this, oh, maybe we can do this,  
 16 oh, maybe we can do that. This is uncalled  
 17 for, that's my comment.  
 18 MR. COKER: Well, a lot of it's  
 19 driven by what the tenants require. If we  
 20 can't give the tenants what they want, they  
 21 won't do a deal, so we don't have a  
 22 development. That's typically what's  
 23 driving this.  
 24 MR. PANTINA: Do we have any other,  
 25 thank you for your comment, Felipe. I

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1 don't have an answer for you, but we can  
 2 talk about it the future.  
 3 Does anybody else have any questions?  
 4 MR. LOSPINOSO: Just a quick one,  
 5 Jeff, you said that you don't have a tenant  
 6 for this particular PAD site, right?  
 7 MR. COKER: No, I have two.  
 8 MR. LOSPINOSO: Oh, Im sorry, what  
 9 are the names of the tenants, again?  
 10 MR. COKER: The one on the left is  
 11 AFC -- Alex, you always do this to me. AFC  
 12 Urgent Care, and the one on the right is  
 13 Aspen Dental.  
 14 MR. LOSPINOSO: Okay, thank you,  
 15 Jeff.  
 16 MR. RICCI: AFC Urgent Care and Aspen  
 17 Dental.  
 18 MR. PANTINA: Okay, thank you, I'd  
 19 like to open it up to the public. Is there  
 20 anybody in the public that has any  
 21 questions or comments?  
 22 MR. MICHALSKI: We have one more  
 23 witness.  
 24 MR. PANTINA: Oh, I thought you  
 25 said you were done.

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1 MR. MICHALSKI: No, we have Keenan,  
 2 our planner.  
 3 MR. PANTINA: Okay.  
 4 MR. MICHALSKI: And we're down to one  
 5 variance so this should be quick. If I  
 6 could just have Keenan Sworn in again?  
 7  
 8 KEENAN HUGHES, H-U-G-H-E-S, with a business  
 9 address of 33-41 Newark Street, Third Floor,  
 10 Suite D, Hoboken, New Jersey, having been duly  
 11 sworn, testified as follows:  
 12  
 13 MR. HUGHES: I'm a licensed  
 14 professional planner, a member of the  
 15 American Institute of Certified Planners, I  
 16 have frequently appeared as an expert --  
 17 MR. RINALDO: Accepted.  
 18 MR. MICHALSKI: Thank you, and  
 19 Keenan, based upon the prior discussion  
 20 with Mr. Ricci, he's agreed that we don't  
 21 need a variance for the sign location for  
 22 the justification.  
 23 So, if you could just walk the board  
 24 through the variance that we're seeking for  
 25 the principal building setbacks to the

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1 adjacent zone, please do that.  
 2 MR. HUGHES: Yeah, likewise with this  
 3 one, I think there's some question as to  
 4 whether it's actually required. As Paul  
 5 points out in his review letter, the PCD  
 6 zone requirement, which is that any  
 7 building must be setback 25 feet from other  
 8 zones, that actually predates the creation  
 9 of the RPZ overlay.  
 10 So, I think from a planning  
 11 standpoint, the intent of that provision is  
 12 to make sure all the buildings that are  
 13 constructed within the PCD zone,  
 14 specifically within Legacy Square, are set  
 15 back from the surrounding zone. So, if you  
 16 have industrial, commercial, residential  
 17 zones surrounding this property, these  
 18 buildings need to be set back 25 feet.  
 19 The RPZ is an overlay, it's a really  
 20 unique zone that was implemented based on  
 21 requirements from the FAA. This building  
 22 is going to be set back 17.85 feet. As you  
 23 heard, we do require FAA approval, amended  
 24 approval of what we already maintained.  
 25 So, the city will have assurance that any

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1 safety hazards related to this setback will  
 2 be addressed from the context of that  
 3 review.  
 4 So, I think first of all, I don't  
 5 think it necessarily applies to this  
 6 particular property, but even if it does,  
 7 the setback that's being provided here is  
 8 sufficient, and the city can be assured  
 9 that any potential issues will be addressed  
 10 in the context of this amended approval  
 11 from the FAA.  
 12 So, this is a variance that can be  
 13 justified, I would say on a C1 basis. It's  
 14 a fairly constrained site with respect to  
 15 conformance of that RPZ setback, given the  
 16 facts that we do have this sanitary sewer  
 17 easement across the property. But it also  
 18 furthers purposes K and G of the MLUL in  
 19 terms of facilitating this overall planned  
 20 commercial development, accommodating a  
 21 commercial use in a very appropriate  
 22 location.  
 23 And in terms of the negative criteria,  
 24 there's no substantial detriment to the  
 25 public good, and certainly no substantial

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1 impairment of the zoning ordinance in the  
 2 master plan.  
 3 That concludes my testimony, John.  
 4 MR. MICHALSKI: And that opened up  
 5 Keenan to the board for any questions.  
 6 MR. RICCI: Does everyone understand  
 7 the issue there? Does everyone follow  
 8 that? Does everyone follow the issue or  
 9 no?  
 10 And Mr. Hughes, the only reason I  
 11 think conservatively it's needed is because  
 12 in section 313.1, it identifies the RPZ  
 13 zone as a zoning district study, so I'm not  
 14 sure how you can differentiate, even though  
 15 I agree with everything you said.  
 16 I think it's just a consequence of  
 17 having an RPZ added and layered, no one  
 18 anticipated this.  
 19 MR. HUGHES: I agree.  
 20 MR. PANTINA: Do we have any  
 21 questions from the board for this witness?  
 22 Do we have any questions from the  
 23 public?  
 24 I don't see any hands up on the right,  
 25 it seems like everybody is over on the

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1 left.  
 2 I'd like to close the public hearing.  
 3 MR. MICHALSKI: I'm sorry, I just had  
 4 one more comment I wanted to make which is  
 5 early on when we had testified with regard  
 6 to that FAA approval and concept building,  
 7 that they had required a light on the  
 8 corner of the building, the roof of the  
 9 building because it's close to the RPZ  
 10 zone.  
 11 So, it's not shown on the plan,  
 12 obviously that will be depicted once the  
 13 FAA approval is granted, but I just want to  
 14 make the board aware that there will be  
 15 probably one, I believe it will only be one  
 16 light that they'll require to be on the  
 17 roof of the building. Most likely the  
 18 closest corner to the RPZ line.  
 19 MR. PANTINA: So, it's an  
 20 obstruction light?  
 21 MR. CURLEY: That's correct, it's an  
 22 L-810 signal red steady, burning light.  
 23 MR. PANTINA: What's the number on  
 24 it that you said?  
 25 MR. CURLEY: L-810.

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1 MR. PANTINA: Okay, red  
 2 construction light, got it.  
 3 Okay, very good. I'd like to close  
 4 the public hearing on this and seeing no  
 5 further questions, I'd like to have a  
 6 motion to move on this application with the  
 7 variances discussed, and the conditions  
 8 discussed, and regardless of what we do,  
 9 well, actually if we do a positive motion,  
 10 it's going to be conditional on FAA  
 11 approval.  
 12 MR. FIORLETTI: Armand Fiorletti  
 13 moved what Nick Pantina said and approves  
 14 SP-1132-20, medical building.  
 15 MR. RINALDO: I'm just going to say  
 16 Mr. Michalski, make sure when you resubmit  
 17 that plan that we're talking about, the  
 18 left on the part with the signage, that  
 19 it's on there and it's subject to approval  
 20 by the board, especially as to what  
 21 everybody's doing with the parking, with  
 22 the left turn, and so forth, and moving the  
 23 curbing down. You follow me?  
 24 MR. PANTINA: So, I need a second  
 25 on Armand's motion, I'll second it. Can I

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1 have a roll call, please?  
 2 MS. KOTOWSKI: Chairman LaPlaca?  
 3 MR. LAPLACA: Yes.  
 4 MS. KOTOWSKI: Armand Fiorletti?  
 5 MR. FIORLETTI: Yes.  
 6 MS. KOTOWSKI: Nicholas Pantina?  
 7 MR. PANTINA: Yes.  
 8 MS. KOTOWSKI: Councilman Javick?  
 9 MR. JAVICK: Yes.  
 10 MS. KOTOWSKI: Curtis Humphrey?  
 11 MR. HUMPHREY: Yes.  
 12 MS. KOTOWSKI: Felipe Cabezas?  
 13 Felipe?  
 14 MR. PANTINA: He's gone.  
 15 MS. KOTOWSKI: Michael Anderson?  
 16 MR. ANDERSON: Yes.  
 17 MS. KOTOWSKI: Frank Hetem?  
 18 MR. HETEM: Yes.  
 19 MS. KOTOWSKI: Noyo Edem?  
 20 MS. EDEM: Yes.  
 21 MS. KOTOWSKI: Alex Lospinoso?  
 22 MR. LOSPINOSO: Yes.  
 23 MR. PANTINA: Thank you.  
 24 MR. CABEZAS: They didn't call me.  
 25 MR. PANTINA: They did call you,

1 you didn't respond.  
 2 MR. CABEZAS: You couldn't hear.  
 3 MR. PANTINA: Did you respond yes  
 4 or no?  
 5 MR. CABEZAS: I didn't respond  
 6 because I didn't hear my name.  
 7 MR. PANTINA: Felipe Cabezas?  
 8 MR. CABEZAS: There you are, yes.  
 9  
 10 (Hearing was adjourned at 9:12 p.m.)  
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