

HOBOKEN ZONING BOARD OF ADJUSTMENT
CITY OF HOBOKEN

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SPECIAL MEETING OF THE HOBOKEN :
ZONING BOARD OF ADJUSTMENT : November 22, 2016
OF THE CITY OF HOBOKEN : Tuesday 7 p.m.
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Held At: 94 Washington Street
Hoboken, New Jersey

B E F O R E:

Acting Chairman Diane Fitzmyer Murphy
Commissioner Antonio Grana
Commissioner Owen McAnuff
Commissioner Dan Weaver
Commissioner Cory Johnson
Commissioner Frank DeGrim

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

Kristin Russell, Planning Consultant

Alan P. Hilla, Jr., PE, PP, CME
Patricia A. Dannhardt, PE, CLA
Board Engineers

Patricia Carcone, Board Secretary

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CERTIFIED COURT REPORTER
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5 (732) 364-3011
6 Attorney for the Board.

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PAGE

Board Business	1 & 56
614-625 Clinton Street	7
720 Clinton Street	17
8-10-12 Paterson Avenue	47

1 MR. GALVIN: I would like to advise all
2 of those present that notice of the meeting has been
3 provided to the public in accordance with the
4 provisions of the Open Public Meetings Act, and that
5 notice was published in The Jersey Journal and on
6 the city website. Copies were provided in The
7 Star-Ledger, The Record, and also placed on the
8 bulletin board in the lobby of City Hall.

9 Roll call.

10 MS. CARCONE: Commissioners Aibel,
11 Branciforte and Cohen are absent.

12 Commissioner Grana?

13 COMMISSIONER GRANA: Here.

14 MS. CARCONE: Commissioner Marsh is
15 absent.

16 Commissioner Murphy?

17 ACTING CHAIRMAN MURPHY: Here.

18 MS. CARCONE: Commissioner McAnuff?

19 COMMISSIONER MC ANUFF: Here.

20 MS. CARCONE: Commissioner Weaver?

21 COMMISSIONER WEAVER: Here.

22 MS. CARCONE: Commissioner McBride is
23 absent.

24 Commissioner Johnson?

25 COMMISSIONER JOHNSON: Here.

1 MS. CARCONE: And Commissioner DeGrim?

2 COMMISSIONER DE GRIM: Here.

3 MS. CARCONE: Okay. We have a quorum.

4 MR. GALVIN: The first piece of
5 business is we need an Acting Chairman.

6 Would someone like to nominate an
7 Acting Chairman?

8 COMMISSIONER MC ANUFF: I nominate
9 Diane Murphy.

10 COMMISSIONER GRANA: Second.

11 MR. GALVIN: All right.

12 MS. CARCONE: All in favor?

13 (All Board members voted in the
14 affirmative)

15 MR. GALVIN: Well, we're good to go.
16 You got the ball.

17 ACTING CHAIRMAN MURPHY: Oh, yeah.
18 Well, should we salute our flag?

19 (Pledge of Allegiance recited)

20 ACTING CHAIRMAN MURPHY: Okay. So
21 should we take care of the administrative things
22 first or we have a resolution?

23 MR. GALVIN: Something tells me we are
24 better off --

25 ACTING CHAIRMAN MURPHY: Holding off on

1 all of it?

2 MR. GALVIN: -- let's do the two cases
3 and then come back to the administrative stuff.

4 ACTING CHAIRMAN MURPHY: Okay.

5 (Continue on next page)

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HOBOKEN ZONING BOARD OF ADJUSTMENT
CITY OF HOBOKEN
HOZ-16-9

- - - - - X
RE: 614-625 CLINTON STREET :
BLOCK 79, LOT 9 :
APPLICANT: Bret Skirvin - Site : November 22, 2016
Enhancement Services :
Acme is seeking approval for internal : Tuesday 7:05 p.m.
illumination for wall sign on the :
front facade & C Variances :
- - - - - X

Held At: 94 Washington Street
Hoboken, New Jersey

B E F O R E:

Acting Chairman Diane Fitzmyer Murphy
Commissioner Antonio Grana
Commissioner Owen McAnuff
Commissioner Dan Weaver
Commissioner Cory Johnson
Commissioner Frank DeGrim

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1 MR. GALVIN: Well, wait a minute.

2 Is somebody here on the Acme case?

3 ACTING CHAIRMAN MURPHY: Yes, right
4 there.

5 COMMISSIONER GRANA: Yes.

6 MR. GALVIN: Okay.

7 Do you want to do that? We could do
8 that.

9 ACTING CHAIRMAN MURPHY: Sure.

10 MR. GALVIN: All right. Why don't you
11 stand up and tell us who you are?

12 MR. SKIRVIN: Bret Skirvin of Site
13 Enhancement Services for the acting agent for Acme.

14 MR. GALVIN: Okay. The Chairman had
15 raised the concern after the hearing about the fact
16 that here is the way it breaks down. There were
17 complaints of neighbors about the Acme sign. The
18 zoning officer didn't communicate that to us, but
19 she didn't feel that she needed to.

20 Right, Pat, do you agree with me on
21 that? She didn't think it rose to the level that we
22 had to be aware of it?

23 MS. CARCONE: Uh-huh.

24 MR. GALVIN: That is what prompted her
25 to take the action that she took, which was to go

1 out there and issue a violation, and then they filed
2 an application in response to that.

3 I think during the hearing that they
4 did mention the process, but it was very lightly
5 touched on,

6 Bret, do you agree or disagree with
7 that?

8 MR. SKIRVIN: Yes, I agree.

9 MR. GALVIN: Okay. And then because of
10 Jim's concern, I went back to the attorney for the
11 applicant.

12 Did you all receive that letter from
13 the --

14 COMMISSIONER GRANA: Yes.

15 MR. GALVIN: Okay.

16 So I guess kind of what you have to
17 decide is, Jim was worried that there was a little
18 hide the ball, that maybe we weren't told that there
19 were complaints, and then we took the fact that
20 there were no neighbors as reinforcing the fact that
21 they were okay with this, or maybe they were
22 complaining in the beginning.

23 What I would say to you guys is: Never
24 rely on the existence or absence of neighbors. We
25 have to decide the case on the law and the facts,

1 and not on how many people are here. It is a good
2 example of you think it is safe, nobody is here, but
3 really people might have had some issues with it.

4 Anyway, at the end of the day, I am
5 comfortable, I don't know if you guys are
6 comfortable, so you have to tell me where you are
7 at.

8 COMMISSIONER GRANA: I am just asking
9 you a question, Counsel.

10 MR. GALVIN: Sure.

11 COMMISSIONER GRANA: There are some of
12 us who argued based on the testimony not for
13 approval. Should they really opine in this
14 particular situation, because that is a person that
15 has already cast an opinion?

16 MR. GALVIN: I agree. If there's a
17 concern, it should only be --

18 COMMISSIONER GRANA: Probably only
19 approving members?

20 MR. GALVIN: -- people who approved, if
21 they think that there was missing evidence, and you
22 know, that is what you would be opening it for would
23 be for missing evidence.

24 But what I said at the time, and I
25 would still maintain it, is there a very good legal

1 argument that they might be entitled to that sign no
2 matter what, because it preexisted. It's small and
3 the other one was preexisting before that.

4 Number two: We have come to a light
5 standard that is in the resolution, and we did
6 something very highly unique. We reserved
7 jurisdiction for two years. I never do that in
8 Hoboken because I think it would lead to crazy
9 problems for us, but I did it in this case.

10 So assuming everything works right and
11 nobody complains, we are good to go.

12 ACTING CHAIRMAN MURPHY: Well, right,
13 because there was the thing that if somebody in the
14 neighborhood complained, we could talk about the
15 lighting.

16 MR. GALVIN: You could still do that.

17 Then the question was put to me: How
18 is that going to work.

19 Well, the way it is going to work is
20 they are going down to Ann Holtzman, and they are
21 going to say, Hey, I think this is too bright.

22 And then Ann is going to kind of make
23 an investigation of the matter. If she agrees with
24 them, then she might issue a stop work order or
25 something, and they will come back to us, and we

1 will still have jurisdiction, or she will write us a
2 letter saying that there is an issue, and since we
3 have jurisdiction, we will write to you guys and
4 tell you to turn it back down.

5 I don't know why you would be screwing
6 with the lights on the Acme, you know, once it is
7 set, and if nobody is complaining, it will probably
8 be okay.

9 So anybody feel strongly one way or the
10 other?

11 Jim told me he was okay with us
12 resolving it tonight, so --

13 COMMISSIONER MC ANUFF: Two people are
14 here that voted originally. Antonio was opposed,
15 and Diane was for it --

16 MR. GALVIN: So, Diane, I guess it
17 really turns on you.

18 (Laughter)

19 COMMISSIONER WEAVER: No pressure.

20 ACTING CHAIRMAN MURPHY: No, none.

21 (Laughter)

22 COMMISSIONER MC ANUFF: Do you want to
23 see if there's anybody from the public --

24 MR. GALVIN: No, there wouldn't be
25 anybody in the public.

1 ACTING CHAIRMAN MURPHY: No.

2 Having the two-year jurisdiction makes
3 it palatable for me to say that we should, you know,
4 accept this and let them have their light.

5 MR. GALVIN: Do we have the resolution?

6 MS. CARCONE: Yes. The resolution was
7 distributed and --

8 MR. GALVIN: So the only one who can
9 vote is Diane.

10 MS. CARCONE: The only one who can vote
11 is Diane.

12 MR. GALVIN: So do you move that?

13 ACTING CHAIRMAN MURPHY: I move it, I
14 second it, I vote it.

15 All in favor?

16 (Laughter)

17 MR. GALVIN: Bret, congratulations.

18 Tell Steve to come back. Tell him not
19 to be afraid to come back, okay?

20 MR. SKIRVIN: He sent me here from
21 Indiana because he was busy tonight, so --

22 ACTING CHAIRMAN MURPHY: You came all
23 the way from Indiana?

24 MR. SKIRVIN: I did.

25 ACTING CHAIRMAN MURPHY: Oh, I hope you

1 have fun in Hoboken.

2 (Laughter)

3 MR. SKIRVIN: At least you made my job
4 easy, and I appreciate that.

5 COMMISSIONER GRANA: Great restaurant
6 recommendation, if you want it.

7 MR. GALVIN: You know, if I go back and
8 tell your boss, you got done around ten o'clock.

9 (Laughter)

10 MR. SKIRVIN: Thank you, guys. I
11 appreciate it.

12 MR. GALVIN: You are welcome.

13 (The matter concluded)

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C E R T I F I C A T E

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3 I, PHYLLIS T. LEWIS, a Certified Court

4 Reporter, Certified Realtime Court Reporter, and

5 Notary Public of the State of New Jersey, do hereby

6 certify that the foregoing is a true and accurate

7 transcript of the proceedings as taken

8 stenographically by and before me at the time, place

9 and date hereinbefore set forth.

10

11 I DO FURTHER CERTIFY that I am neither

12 a relative nor employee nor attorney nor counsel to

13 any of the parties to this action, and that I am

14 neither a relative nor employee of such attorney or

15 counsel, and that I am not financially interested in

16 the action.

17

18 s/Phyllis T. Lewis, CCR, CRCR

19 - - - - -

20 PHYLLIS T. LEWIS, C.C.R. XI01333 C.R.C.R. 30XR15300

21 Notary Public of the State of New Jersey

22 My commission expires 11/5/2020.

23 Dated: 11/23/16

24 This transcript was prepared in accordance with

25 NJAC 13:43-5.9.

HOBOKEN ZONING BOARD OF ADJUSTMENT
CITY OF HOBOKEN
HOZ-16-13

- - - - - X
RE: 720 Clinton Street :
BLOCK 152, LOTS 3.01 and 3.02 :
APPLICANT: Wonderlofts, LLC : November 22, 2016
Final Site Plan Review for the :
Rehabilitation and Expansion of the : Tuesday 7:05 p.m.
Existing Industrial Structure and :
Conversion to Residential Land Use :
- - - - - X

Held At: 94 Washington Street
Hoboken, New Jersey

B E F O R E:

Acting Chairman Diane Fitzmyer Murphy
Commissioner Antonio Grana
Commissioner Owen McAnuff
Commissioner Dan Weaver
Commissioner Cory Johnson
Commissioner Frank DeGrim

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8 Two Hudson Place (5th Floor)
9 Hoboken, New Jersey 07030
10 (201) 659-0403
11 Attorney for the Applicant.

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1 MR. GALVIN: So then I would suggest we
2 move on to 720 Clinton.

3 ACTING CHAIRMAN MURPHY: Yes, okay.

4 So we will move to 720 Clinton.

5 MR. MATULE: Good evening.

6 Robert Matule, appearing on behalf of
7 the applicant, 720 Clinton Street, which is the
8 Wonder Bread building.

9 We were here in January of 2015. The
10 Board approved variances and preliminary site plan
11 approvals to renovate and enlarge that building into
12 68 residential units, 2,375 square feet of
13 commercial space and 118 parking spaces. There were
14 a laundry list of conditions that we needed to
15 address.

16 We have now submitted our proofs that
17 we have addressed all of those, and we are now
18 requesting final site plan approval.

19 One of the issues was the affordable
20 housing. I think in the Maser report, it says it is
21 before the Planning Board, but in fact it has been
22 approved by the Planning Board.

23 When I submitted our application
24 package, it included the resolution from the
25 Planning Board for that standalone six residential

1 unit building, so basically we believe we have
2 addressed all of the conditions.

3 I have Mr. Minervini here, if there are
4 any questions on anything.

5 I guess the one other thing is that one
6 conditions is that a plaque would be put on the
7 building, you know, when it was finished.
8 Obviously, we are not there yet.

9 I would just ask that, you know, should
10 the Board approve this, that a condition of approval
11 be that before a CO is issued, we would submit the
12 proposed design of the plaque to the Board or the
13 Board professionals for their review and blessing
14 before we actually have it fabricated.

15 MR. GALVIN: I'm sorry. My computer
16 was running slow. It must be cold.

17 ACTING CHAIRMAN MURPHY: So --

18 MR. GALVIN: All right. So the plaque?

19 MR. MATULE: Yes.

20 One of the conditions was that we put a
21 historic plaque, you know, setting --

22 ACTING CHAIRMAN MURPHY: Right, stating
23 it --

24 MR. MATULE: -- forth the historic
25 significance of the building and the history of the

1 building, which we will do. We have not gotten that
2 far with the design yet. But what I am suggesting
3 is to make it a condition of the CO and the final
4 certificate of zoning compliance that we present a
5 design to the Board professionals for their review
6 and approval.

7 COMMISSIONER WEAVER: May I make a
8 suggestion?

9 ACTING CHAIR MURPHY: Yes.

10 COMMISSIONER WEAVER: Can we identify a
11 size for the plaque now?

12 MR. GALVIN: Go ahead, Dan. Tell me
13 what you want.

14 COMMISSIONER WEAVER: Two-by-four, two
15 feet by four feet, and it needs to have the approval
16 of the Historic Commission before we see it, because
17 it is a historic plaque,

18 You have the information that they find
19 first, right?

20 I mean, we are not the arbiter of what
21 needs to go on a historic plaque.

22 MR. MATULE: I am fine, if we make the
23 Historic Commission the arbiter, you know --

24 MR. GALVIN: Oh, oh, oh --

25 MR. MATULE: -- they do act in an

1 advisory capacity. Certainly if you want to reserve
2 the right to weigh in, that is your prerogative.

3 COMMISSIONER GRANA: Well, Dan, I think
4 what you are proposing is that -- are you proposing
5 that the Historic Commission be the arbiter or just
6 that they see it first?

7 COMMISSIONER WEAVER: That we don't see
8 it until they approve it.

9 COMMISSIONER GRANA: I agree.

10 ACTING CHAIRMAN MURPHY: Oh, so it
11 should still come to us?

12 COMMISSIONER WEAVER: Oh, yeah. It
13 comes to us, and let's call it a bronze plaque.

14 COMMISSIONER GRANA: So we are
15 proposing that the Historic Commission in an
16 advisory role see the plaque --

17 COMMISSIONER WEAVER: Approve it.

18 COMMISSIONER GRANA: -- opine on the
19 plaque --

20 COMMISSIONER WEAVER: Yes --

21 COMMISSIONER GRANA: -- and then send
22 it to us?

23 COMMISSIONER WEAVER: -- give us a
24 recommendation --

25 COMMISSIONER GRANA: -- and give us a

1 recommendation --

2 COMMISSIONER WEAVER: -- they could say
3 thumbs down.

4 MR. GALVIN: And we can still approve
5 it --

6 COMMISSIONER GRANA: -- and we can
7 still approve it.

8 MR. GALVIN: -- because they are
9 advisory.

10 MR. MATULE: No. I don't have any
11 objections to -- I am trying to think of the word --
12 I don't know that we would be able to go through a
13 formal application process with them, but we could
14 certainly --

15 MR. GALVIN: Do like an administrative
16 thing. Go like --

17 MR. MATULE: Ask them for their input
18 basically.

19 COMMISSIONER GRANA: Yeah.

20 MR. MATULE: It is like here it is, let
21 us know if you have any objections.

22 COMMISSIONER WEAVER: Yes.

23 MR. GALVIN: All right.

24 Now, we are going to do the -- are you
25 guys done kind of?

1 MR. MATULE: Yes.

2 MR. GALVIN: All right. Now, there is
3 a 300-pound elephant, okay?

4 One of the issues in this case is will
5 it stand --

6 COMMISSIONER GRANA: Yes.

7 MR. GALVIN: -- and what happens if it
8 doesn't stay up, okay?

9 You guys have a structural inspection
10 report. Jeff has been in and out because he is ill.
11 I know there are all kinds of reports.

12 I am comfortable that if you are
13 telling me this building is going to stay up, it's
14 going to stay up.

15 What we had chatted about back and
16 forth is how do we check that during the course of
17 the construction.

18 In the beginning you were okay with
19 having the engineer come out --

20 MR. MATULE: Right.

21 MR. GALVIN: -- and then it kind of got
22 changed a little bit.

23 MR. MATULE: Well, I think part of the
24 sort of metamorphosis of that was Severud, I think
25 is our engineers, they had direct communications

1 with the H2M structural engineering people, and my
2 understanding of the way we left it, what we were
3 proposing is that we would submit like a monthly
4 report to H2M. We will have our engineer submit a
5 monthly report to their engineer just advising him
6 of the progress of the project and the status, and
7 if anything does go awry, to bring it to their
8 attention and see where we go from here.

9 I think we satisfied the underlying
10 concern that the project can be executed --

11 MR. GALVIN: I think so, too.

12 MR. MATULE: -- structurally.

13 ACTING CHAIRMAN MURPHY: So that would
14 be no site visit?

15 MR. GALVIN: Well, you guys are the
16 Board. This is what they are suggesting.

17 MR. HILLA: Can I suggest, you know,
18 really we advise the Board here and ultimately
19 enforce what the Board from a land use
20 perspective -- we really have probably limited
21 responsibility, if any, with regard to the actual
22 structure of the building. That is left to your
23 structural professionals. We want no responsibility
24 for that.

25 But to the extent that there may be

1 changes to the building that would affect parking,
2 pedestrian circulation and vehicular circulation,
3 that is the stuff that really comes under the
4 purview of this Board and really probably requires,
5 you know, it would be essentially a changed
6 condition, so ...

7 COMMISSIONER WEAVER: What I would say
8 would be any changed condition. The facade
9 materials, the extent of the historic facade versus
10 the new facade. You know, when we are approving an
11 application, we've approving -- you know the history
12 we have in Hoboken, I'm sure.

13 MR. MATULE: But just if I might, I
14 think we are getting off with apples and oranges
15 here.

16 The specific thing we are talking about
17 right now is the structural underpinnings of the
18 building, and if we have to take any substantial
19 deviation from what we proposed in order to keep the
20 building up.

21 MR. GALVIN: Correct.

22 If we are missing walls and we're
23 missing floors, we have a problem.

24 MR. MATULE: Right.

25 So (a), I think an implicit condition

1 of all of this is, if there is any significant
2 change in any of that, we have to come back to you.
3 But our engineer will submit monthly reports keeping
4 the Board's engineer just in the loop as to how
5 things are going.

6 The other, and I think it is a more
7 overriding condition is, and I will think it is
8 already in the preliminary resolution, that if there
9 is any significant change in terms of the facade or
10 the structure or anything like that, that we can't
11 execute the plan as approved --

12 ACTING CHAIR MURPHY: Right. Then you
13 got to come back to us.

14 MR. MATULE: -- we have to come back
15 and explain to you what is going on and see if you
16 are okay with it. And if you are not, then, you
17 know, deal with the consequences.

18 MR. GALVIN: All right.

19 This is a new thing. I think we are
20 going to do it when we do things that are adaptive
21 reuse or historical. I am not a hundred percent how
22 we are going to do it, but we are going to work it
23 out. Okay?

24 We want to add a demolition sheet to
25 the final site plan that shows what is and isn't

1 supposed to be demolished, and we will let the
2 engineer review it and then --

3 COMMISSIONER WEAVER: It should be
4 demolition sheets, plural.

5 MR. GALVIN: Demolition sheet?

6 COMMISSIONER WEAVER: Plural.

7 COMMISSIONER GRANA: Plural.

8 MR. GALVIN: Okay.

9 COMMISSIONER GRANA: I think we called
10 it, Dennis -- is it a demolition sheet or demolition
11 plan that we called it?

12 MR. GALVIN: Well, the reason why -- I
13 am going to defer to Dan because he might know the
14 correct parlance --

15 COMMISSIONER GRANA: Get the right
16 nomenclature.

17 MR. GALVIN: -- but what we were
18 talking about was the fact that somehow there's a --
19 we are having a problem on our side of the fence,
20 where what we do here doesn't necessarily translate
21 to zoning, and then to the building department, and
22 we think by adding this sheet, that it will assist
23 the zoning officer, and then hopefully the building
24 department will see that and pick up on that, so we
25 are going to try that, okay?

1 MR. MATULE: Fine.

2 And the architect, Mr. Minervini --

3 MR. GALVIN: And then if you deviate
4 from the demolition plan, or if you need to, you
5 should come back here and say, look, this element we
6 looked at it now, and it is not holding up. Can we
7 have some permission to do something there, which I
8 think we might grant you in the right circumstance.

9 MR. MATULE: Yes.

10 I mean, in the past if you got
11 something significant or something like that that
12 comes up, but what we have done is written a letter
13 to the Board, you know, and said this is what is up.
14 Is it something you can approve, or do you want us
15 to come back --

16 MR. GALVIN: Correct. That is the
17 process we want to use, yes.

18 COMMISSIONER WEAVER: Sometimes that
19 happens --

20 MR. GALVIN: We are getting better.
21 We're getting better. We're getting closer.

22 COMMISSIONER GRANA: I have a question.
23 It's kind of based on our conversation and counsel,
24 and also I just want to get Dan's input here.

25 By asking for the demolition sheets,

1 does that kind of remove some of the pressure on
2 inspections from H2M?

3 MR. GALVIN: I wouldn't change that.
4 This is the unique case, so I want to do both. We
5 don't know if the sheets are going to work yet.

6 COMMISSIONER GRANA: Okay. Fine.

7 MR. GALVIN: If they both work, that is
8 great.

9 COMMISSIONER GRANA: Good enough.

10 MR. GALVIN: We will take two shots at
11 the apple.

12 You don't mind. You were going to give
13 us the reports anyway.

14 MR. MATULE: It's belt and suspenders.

15 MR. GALVIN: You know, it's belt and
16 suspenders.

17 MR. MINERVINI: We have to do
18 demolition plans anyway.

19 MR. GALVIN: Right, but now they will
20 be included as part of the final site plan, and
21 these guys will double check and make sure it's --
22 in the future, it would have to be consistent with
23 what was testified to, and then maybe we would find
24 out that we are not agreeing on something that you
25 think this wall comes down, and we don't think it

1 comes down, and we can talk about it right away and
2 solve it, so you guys can move forward fast.

3 (Board members confer)

4 MR. GALVIN: I'm sorry. All right.

5 And do you have all of your final
6 approvals?

7 Do you have all of your outside agency
8 approvals?

9 MR. MATULE: Yes. We have our sewer.
10 We have our will-serve letters from Suez and PSE&G.
11 We have our soil erosion sediment control. Our
12 stormwater design has been approved by North Hudson.
13 We have our individual permit.

14 MR. GALVIN: So this kind of case is
15 administrative, and it only requires a majority
16 vote.

17 Basically what we're looking to see, we
18 are looking under the hood to see if they did
19 everything that they promised to do under
20 preliminary, and I think we adjusted that two or
21 three items that are of concern beyond that.

22 COMMISSIONER GRANA: So --

23 MS. RUSSELL: Did you guys go to the
24 governing body for this loading zone, permission for
25 this loading zone?

1 MR. MATULE: The short answer is it is
2 not the governing body, but we have spoken with the
3 director in the city about it, and supposedly he was
4 sending an email out to the transportation traffic
5 division that they were okay with it. That is the
6 last we have heard.

7 MR. GALVIN: All right.

8 So we are going to condition the final
9 with everything that was conditioned on preliminary,
10 so if there is something that is still outstanding,
11 it is still going to have to be addressed before the
12 issuance of the first certificate of zoning.

13 MR. MATULE: Yes --

14 MS. RUSSELL: But the plans are going
15 to need to show if there is a loading zone there or
16 not when we sign off on the plans --

17 MR. GALVIN: Yes.

18 MS. RUSSELL: -- so we need to find
19 that out sooner.

20 MR. GALVIN: No. You can't sign off on
21 the plans --

22 MS. RUSSELL: Right, right. Okay.

23 MR. GALVIN: -- sooner, if they want to
24 get their building moved.

25 MS. RUSSELL: Okay.

1 MR. MATULE: The other thing maybe we
2 should have Frank address, too, about one of the
3 conditions, because I think this was the first time
4 it ever came up, was about having the LEDs
5 perpendicular to the building in the sidewalk.

6 You can address that, Frank.

7 MR. MINERVINI: This Board was the
8 first Board that suggested the LED warning light
9 within the sidewalk. So at the meeting we agreed,
10 and it seemed to make sense at the time, to have it
11 perpendicular to the building running across the
12 short dimension of the sidewalk.

13 City Council, and this actually came
14 from a project that we approved at the Planning
15 Board, subsequently went to City Council, and they
16 don't want it going across the city property. They
17 don't want it perpendicular to the building. They
18 want it at the threshold of the building.

19 So every building subsequent to this
20 approval has had that LED warning light at the edge
21 of the property beneath the garage door. So when
22 the garage door opens, the light flashes --

23 MR. GALVIN: I don't think we should
24 have a problem with that.

25 COMMISSIONER GRANA: Well, I think we

1 can't have a problem with that.

2 MR. GALVIN: No.

3 ACTING CHAIRMAN MURPHY: We have to
4 accept it.

5 MR. MATULE: That is the way you have
6 it shown on the plans, Frank.

7 MR. MINERVINI: Yes.

8 (Everyone talking at once.)

9 MR. GALVIN: Listen, just so we all
10 understand, if a higher authority than us doesn't
11 like something that we are doing, occasionally you
12 can come up with another idea.

13 Like the fact that we are requiring
14 them to put the LED in at all was our idea. If we
15 didn't like it, we could say, okay, take it out
16 completely. We could say put a warning Klaxon on
17 the building instead of this other way.

18 Sometimes there are other things we can
19 do, but since we know that the governing body won't
20 allow what we suggested, if you like the LED, we are
21 going to be turning it to the way that the governing
22 body has approached it.

23 COMMISSIONER GRANA: Yup.

24 ACTING CHAIRMAN MURPHY: I don't like
25 that --

1 MR. MATULE: I just don't want to leave
2 any stones unturned.

3 MR. GALVIN: No.

4 ACTING CHAIRMAN MURPHY: -- well, then
5 it begs the question, what good is the LED down
6 there, if it is not acting the way that we
7 originally wanted it?

8 The whole point was that there is a
9 school --

10 MR. MATULE: No. It will be -- if
11 somebody is walking down the sidewalk --

12 ACTING CHAIRMAN MURPHY: They will be
13 able to see it?

14 MR. MATULE: -- once the garage door
15 starts going up, it will be flashing --

16 ACTING CHAIRMAN MURPHY: Okay, okay.

17 MR. MATULE: -- but it will just be
18 parallel to the opening rather than perpendicular --

19 ACTING CHAIRMAN MURPHY: Okay, okay,
20 Got you. Okay. Right.

21 MR. MATULE: -- it still will be
22 noticeable.

23 ACTING CHAIRMAN MURPHY: Right.

24 COMMISSIONER GRANA: Yeah.

25 MR. MINERVINI: Yes.

1 MS. RUSSELL: So do we need to change
2 that condition?

3 MR. GALVIN: Yes. The plan will be
4 revised --

5 MR. MATULE: The plan has been revised
6 and it shows it.

7 MR. GALVIN: So we are voting on the
8 plan as submitted. They are telling us, because
9 that is going to be inconsistent.

10 What I put is: All conditions of the
11 preliminary approval shall remain in full force and
12 effect, except as herein modified.

13 So I would ask for a motion.

14 COMMISSIONER GRANA: I just -- just one
15 quick question for counsel. I just wanted to be
16 sure that from that January 15th meeting, that all
17 of the language related to the requirement to
18 preserve the super structure will embedded in the
19 final, or they have to -- they have to come back to
20 the Board. I just wanted to be sure.

21 MR. GALVIN: You are talking about from
22 our meeting?

23 COMMISSIONER GRANA: From our meeting.

24 MR. GALVIN: I'm uncertain -- we got to
25 work on that --

1 COMMISSIONER GRANA: Okay.

2 MR. GALVIN: -- because I am not a
3 hundred percent.

4 Bob, one of the things we are saying is
5 we are talking about these demolition sheets, but we
6 may add some more information about this whole
7 process with the demolition.

8 If you have a problem when you see the
9 resolution, we will talk about it.

10 MR. MATULE: All right.

11 MR. GALVIN: I want to give Tony a
12 chance to -- he didn't see this coming, and like I
13 said, we had a subcommittee meeting with one or two
14 people and the zoning officer and came up with the
15 whole thing --

16 MR. MATULE: Okay. But I mean, I think
17 you probably covered it in a broader way when you
18 said all of the conditions of preliminary are going
19 to be re-incorporated.

20 MR. GALVIN: I was taking about this
21 demolition sheet thing and how we are going to
22 handle it, and I think this is --

23 MR. MATULE: Okay.

24 MR. GALVIN: -- I think this is
25 probably spot on for right now, but we should kick

1 it around and see if we --

2 COMMISSIONER GRANA: Okay. Given that
3 assessment, I would be prepared to move.

4 COMMISSIONER WEAVER: Wait. I have a
5 question --

6 COMMISSIONER GRANA: A Dennis question?

7 COMMISSIONER WEAVER: -- we were
8 talking about the demolition plan.

9 Does that also include Item C, the test
10 borings?

11 MR. MATULE: We have submitted all of
12 that already --

13 COMMISSIONER WEAVER: You are all
14 submitted.

15 MR. MATULE: -- test borings and the
16 whole geo-technical report to H2M.

17 COMMISSIONER WEAVER: Okay.

18 And the only other thing that -- the
19 only other thing I might add is --

20 MR. GALVIN: I'm sorry.

21 COMMISSIONER WEAVER: -- that if
22 they -- it is like, I guess, condition number --
23 still under (A), so in the event that any portion of
24 the building has to be demolished or lost during
25 construction, this approval will be rendered null

1 and void.

2 I would say that if they don't follow
3 the demolition plan, they have to notify us. I
4 would give them a time limit. I don't want to find
5 out a month later that this happened.

6 MR. GALVIN: That's what we have to
7 figure out.

8 COMMISSIONER WEAVER: I would say like
9 72 hours, because the next thing you know, they
10 knock down one thing, which then happens, which
11 knocks down another thing, and then --

12 ACTING CHAIRMAN MURPHY: Right --

13 COMMISSIONER WEAVER: -- construction
14 instability and then --

15 ACTING CHAIRMAN MURPHY: -- it
16 snowballs.

17 MR. GALVIN: I will try to strengthen
18 that, I promise.

19 COMMISSIONER WEAVER: Thank you.

20 I am done.

21 MR. MATULE: And when you send me the
22 draft of the resolution, we can talk about it.

23 MR. GALVIN: Yes. You tell me. You
24 know, I'm going to draft it fast.

25 All we are going to do is we are trying

1 to take the guts from what we said on preliminary
2 and make sure that -- we have had too many walls
3 fall down, so that's the problem.

4 COMMISSIONER JOHNSON: Dennis, I am not
5 sure if it's relevant to our Board, but maybe just
6 information for myself and the Board --

7 MR. GALVIN: Go ahead. Ask it.

8 COMMISSIONER JOHNSON: -- so there were
9 six affordable housing set aside in the plan?

10 MR. GALVIN: Yes.

11 COMMISSIONER JOHNSON: Is there an
12 actual, like I am not sure, if there's like a law or
13 a certain amount of housing that is supposed to be
14 set aside, do you know?

15 MR. GALVIN: Yes, I do. I am pretty
16 much on top of that.

17 COMMISSIONER JOHNSON: Okay.

18 MR. GALVIN: Okay. Hoboken is not part
19 of -- does not have to meet the affordable housing
20 obligations of other suburban communities.

21 We have an ordinance that says when you
22 do more than ten or eleven houses, examples you
23 have -- units, you have to provide a set aside of
24 ten percent.

25 This project generated 60 units.

1 Therefore, they had to do, you know, a ten percent
2 set aside, and in fact, this is one of the few
3 projects that has actually like totally did their
4 job properly.

5 They went and got another building,
6 built it -- they are going to build it --

7 MR. MATULE: Right across the street.

8 MR. GALVIN: -- they got approvals from
9 the Planning Board, and they are going to put those
10 six units in another building.

11 ACTING CHAIRMAN MURPHY: What's the
12 address of that?

13 MR. MATULE: 721 Clinton.

14 MR. GALVIN: It's just across the
15 street --

16 ACTING CHAIRMAN MURPHY: 721 Clinton.

17 MR. GALVIN: -- so, I mean, it really
18 even meets -- I think it even meets the spirit of
19 what we are trying to do because it keeps it in the
20 neighborhood.

21 So you could either build it as part of
22 the project, build it in a separate building, or you
23 can make a financial contribution, which generally
24 is not in the best interest of the city. We are not
25 going to get units. You know, we are going to get

1 some money, but not units.

2 So I think they need to be applauded on
3 it, that we finally are getting some affordable
4 housing units.

5 Does that help?

6 COMMISSIONER JOHNSON: Yes.

7 Thank you.

8 MR. GALVIN: Okay, cool.

9 COMMISSIONER GRANA: Okay.

10 COMMISSIONER MC ANUFF: Ready for a
11 motion?

12 ACTING CHAIRMAN MURPHY: I am.

13 COMMISSIONER GRANA: I would like to
14 move in favor of Wonderlofts.

15 COMMISSIONER MC ANUFF: Second.

16 COMMISSIONER WEAVER: What are the
17 conditions?

18 ACTING CHAIRMAN MURPHY: Do you want to
19 give the conditions?

20 MR. GALVIN: Sure.

21 One: The bronze plaque must be
22 installed prior to the issuance of the final
23 certificate of whatever -- I got the right language
24 back at the home office -- for the Board's review
25 and approval. The sign must be two feet by four

1 feet. It must be submitted to the Historic
2 Commission for their comment prior to the Board's
3 approval.

4 Two: All conditions of the preliminary
5 approval shall remain in full force and effect
6 except as herein modified, and specifically all of
7 that language about saving the building.

8 Three: The applicant is to submit a
9 monthly report of the progress of the project as to
10 the building structure to the Board's engineer.

11 Four: Separate demolition sheets --
12 COMMISSIONER WEAVER: I'm sorry. A
13 demolition plan.

14 MR. GALVIN: -- okay.

15 COMMISSIONER WEAVER: -- because there
16 may be elevations and --

17 MR. GALVIN: Okay.

18 -- is to be reviewed and approved by
19 the Board's engineer and must be added to the final
20 site plan.

21 Then I am going to add additional
22 language when I speak to Antonio to kind of make
23 sure that we capture the flavor of saving the
24 building.

25 If you run into a problem, like some

1 kind of time limit when you find out a wall is shaky
2 or something like that, what is your obligation,
3 okay?

4 MR. MATULE: Okay.

5 MR. MINERVINI: Okay.

6 ACTING CHAIRMAN MURPHY: And you are
7 saying 72 hours, if they have an issue?

8 MR. GALVIN: Should report it, I guess.

9 COMMISSIONER WEAVER: Yeah.

10 COMMISSIONER GRANA: Report it maybe
11 with the wheels of --

12 MR. MINERVINI: To the zoning officer?

13 MR. GALVIN: Yes. That is the
14 appropriate person to report it to.

15 COMMISSIONER WEAVER: Well, the problem
16 with the construction official is they never tell
17 us.

18 COMMISSIONER GRANA: Exactly.

19 COMMISSIONER WEAVER: That's the
20 disconnect in the city.

21 MR. GALVIN: Well, their job is to make
22 it safe, so their first thought is, oh, God, the
23 wall is coming down, let's control it.

24 ACTING CHAIRMAN MURPHY: Okay.

25 So are we ready?

1 COMMISSIONER GRANA: I think we are
2 ready. We have a motion and a second.

3 ACTING CHAIRMAN MURPHY: Yes.

4 COMMISSIONER WEAVER: Roll call.

5 MS. CARCONE: Commissioner Grana?

6 COMMISSIONER GRANA: Yes.

7 MS. CARCONE: Commissioner McAnuff?

8 COMMISSIONER MC ANUFF: Yes.

9 MS. CARCONE: Commissioner Weaver?

10 COMMISSIONER WEAVER: Yes.

11 MS. CARCONE: Commissioner Johnson?

12 COMMISSIONER JOHNSON: Yes.

13 MS. CARCONE: Commissioner DeGrim?

14 COMMISSIONER DE GRIM: Yes.

15 MS. CARCONE: And Commissioner Murphy?

16 ACTING CHAIRMAN MURPHY: Yes.

17 MS. CARCONE: Okay.

18 MR. MINERVINI: Thank you.

19 MR. MATULE: Thank you.

20 ACTING CHAIRMAN MURPHY: All right.

21 One down.

22 (The matter concluded)

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C E R T I F I C A T E

I, PHYLLIS T. LEWIS, a Certified Court Reporter, Certified Realtime Court Reporter, and Notary Public of the State of New Jersey, do hereby certify that the foregoing is a true and accurate transcript of the proceedings as taken stenographically by and before me at the time, place and date hereinbefore set forth.

I DO FURTHER CERTIFY that I am neither a relative nor employee nor attorney nor counsel to any of the parties to this action, and that I am neither a relative nor employee of such attorney or counsel, and that I am not financially interested in the action.

s/Phyllis T. Lewis, CCR. CRCR

 PHYLLIS T. LEWIS, C.C.R. XI01333 C.R.C.R. 30XR15300
 Notary Public of the State of New Jersey
 My commission expires 11/5/2020.
 Dated: 11/23/16
 This transcript was prepared in accordance with
 NJAC 13:43-5.9.

HOBOKEN ZONING BOARD OF ADJUSTMENT
CITY OF HOBOKEN
HOZ-16-17

- - - - - X
RE: 8-10-12 Paterson Avenue :
BLOCK: 15, Lots 2 and 4 :
APPLICANT: James & Frances Buonavolonta : November 22, 2016
Final Site Plan Review for a new : Tuesday 7:40 p.m.
Four-story residential building, :
12 units, 10 parking & 950 square foot :
commercial. :
- - - - - X

Held At: 94 Washington Street
Hoboken, New Jersey

B E F O R E:

Acting Chairman Diane Fitzmyer Murphy
Commissioner Antonio Grana
Commissioner Owen McAnuff
Commissioner Dan Weaver
Commissioner Cory Johnson
Commissioner Frank DeGrim

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

Kristin Russell, Planning Consultant

Alan P. Hilla, Jr., PE, PP, CME
Patricia A. Dannhardt, PE, CLA,
Board Engineers

Patricia Carcone, Board Secretary

PHYLLIS T. LEWIS
CERTIFIED COURT REPORTER
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Phone: (732) 735-4522

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3 730 Brewers Bridge Road
4 Jackson, New Jersey 08527
5 (732) 364-3011
6 Attorney for the Board.

7 ROBERT C. MATULE, ESQUIRE
8 Two Hudson Place (5th Floor)
9 Hoboken, New Jersey 07030
10 (201) 659-0403
11 Attorney for the Applicant.

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1 ACTING CHAIRMAN MURPHY: So next up is
2 8-10-12 Paterson.

3 MR. MATULE: Okay. Good evening.

4 Robert Matule, appearing on behalf of
5 the applicant.

6 Again, this is an application for final
7 site plan for 8-10-12 Paterson Avenue.

8 Just to refresh the Board's memory, in
9 July of 2014, we received preliminary site plan
10 approval and variances to construct a five-story
11 building, 12 residential units, one commercial unit
12 of, I believe, 930 square feet and ten parking
13 spaces.

14 We are now requesting final. We have
15 received Hudson County site plan approval.

16 We have will-serve letters from Suez
17 and PSE&G.

18 We filed our stormwater management plan
19 and sewer application with North Hudson, and we have
20 filed with Hudson, Passaic, Essex Soil Erosion.

21 I believe the Board of professionals
22 have reviewed everything, and we have addressed
23 everything that was in the preliminary.

24 MS. RUSSELL: I think there were
25 changes to the rear yard.

1 Can you go over that?

2 MR. MATULE: Oh, yes.

3 Frank?

4 MR. MINERVINI: Elevation changes?

5 MR. MATULE: No.

6 MS. RUSSELL: No, like the rear yard
7 area.

8 MR. MATULE: Okay. So it was called
9 out, and then a separate sheet was submitted. I
10 have it here.

11 The rear yard landscaping was modified
12 as per the request of -- I just want to find
13 Eileen's report --

14 MR. MINERVINI: It was in Eileen's
15 report.

16 MR. MATULE: Yes. Here.

17 MR. MINERVINI: Uh-huh.

18 I don't know if there is a question.

19 MR. MATULE: Well, can you just
20 explain --

21 MS. RUSSELL: Can you just summarize
22 what the changes were and --

23 MR. MINERVINI: It was just a slight
24 change in material, and I think all of the planting
25 is exactly as it was, still permeable --

1 MS. RUSSELL: Oh, I thought previously
2 it was the rear yard and grass yard, and now it
3 looks like it is rocks and pavers.

4 MR. MINERVINI: It's still permeable.

5 MS. RUSSELL: Okay.

6 MR. MINERVINI: By the way, if the
7 Board wanted it to be grass, it certainly could be.

8 MR. MATULE: Let me just maybe shed
9 some light on it.

10 In Condition 9 of the preliminary
11 approval was: The applicant is to revise the
12 landscaping in the rear of the building to ensure
13 that trees to be utilized will be a survivable
14 species and the substituted species is to be
15 reviewed by the planner.

16 I believe that, in fact, is what it
17 was --

18 MR. MINERVINI: That explains this part
19 of the provision, yes, the eastern portion -- well,
20 northeast.

21 MR. MATULE: So in that rear area,
22 there is a whole -- one, two, three, four, five, six
23 trees and some permeable pavers and a drain that we
24 will put in.

25 MR. MINERVINI: Uh-huh. Nothing has

1 changed certainly in terms of dimension or use or
2 access or lighting.

3 MR. GALVIN: You guys, you're okay with
4 that?

5 They would have made the changes that
6 we required at preliminary. Did they do that?

7 MS. RUSSELL: Yes. They met all of the
8 conditions and the other comments that we had at the
9 preliminary. Everything was satisfied with site
10 plans.

11 ACTING CHAIRMAN MURPHY: Is everything
12 okay with you?

13 MR. HILLA: Yes.

14 ACTING CHAIRMAN MURPHY: Okay.

15 MR. GALVIN: Outside agency approvals,
16 you say you have them all?

17 MR. MATULE: The application with North
18 Hudson has been submitted. We don't have the permit
19 in hand yet, but Jeff just wanted proof that it was
20 filed -- Mr. Marsden just wanted proof that it was
21 filed.

22 MR. GALVIN: Okay. So we will have all
23 outside agency -- as a condition: All the
24 conditions of preliminary approval shall remain in
25 full force and effect except as herein modified.

1 All outside agency approvals must be obtained,
2 including North Hudson.

3 MR. MATULE: Right.

4 And I submitted the application for
5 Hudson County Planning Board approval.

6 MR. GALVIN: So if anybody wants to
7 make a motion, we are ready.

8 COMMISSIONER WEAVER: Motion.

9 ACTING CHAIRMAN MURPHY: Motion.

10 And a second?

11 COMMISSIONER GRANA: Has it been moved?

12 ACTING CHAIRMAN MURPHY: Yes.

13 COMMISSIONER GRANA: I'll second it.

14 ACTING CHAIRMAN MURPHY: Okay. Take a
15 vote.

16 MS. CARCONE: Commissioner Grana?

17 COMMISSIONER GRANA: Yes.

18 MS. CARCONE: Commissioner McAnuff?

19 COMMISSIONER MC ANUFF: Yes.

20 MS. CARCONE: Commissioner Weaver?

21 COMMISSIONER WEAVER: Yes.

22 MS. CARCONE: Commissioner Johnson?

23 COMMISSIONER JOHNSON: Yes.

24 MS. CARCONE: Commissioner De Grim?

25 COMMISSIONER DE GRIM: Yes.

1 MS. CARCONE: And Commissioner Murphy?

2 ACTING CHAIRMAN MURPHY: Yes.

3 MR. MATULE: Thank you.

4 Have a wonderful Thanksgiving.

5 MR. GALVIN: Happy Thanksgiving.

6 COMMISSIONER GRANA: You do the same.

7 (The matter concluded)

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I, PHYLLIS T. LEWIS, a Certified Court Reporter, Certified Realtime Court Reporter, and Notary Public of the State of New Jersey, do hereby certify that the foregoing is a true and accurate transcript of the proceedings as taken stenographically by and before me at the time, place and date hereinbefore set forth.

I DO FURTHER CERTIFY that I am neither a relative nor employee nor attorney nor counsel to any of the parties to this action, and that I am neither a relative nor employee of such attorney or counsel, and that I am not financially interested in the action.

s/Phyllis T. Lewis, CCR, CRCR

- - - - -

PHYLLIS T. LEWIS, C.C.R. XI01333 C.R.C.R. 30XR15300
Notary Public of the State of New Jersey
My commission expires 11/5/2020.
This transcript was prepared in accordance with
NJAC 13:43-5.9.

HOBOKEN ZONING BOARD OF ADJUSTMENT
CITY OF HOBOKEN

----- X
SPECIAL MEETING OF THE HOBOKEN :
ZONING BOARD OF ADJUSTMENT : November 22, 2016
OF THE CITY OF HOBOKEN : Tuesday 7:45 p.m.
----- X

Held At: 94 Washington Street
Hoboken, New Jersey

B E F O R E:

Acting Chairman Diane Fitzmyer Murphy
Commissioner Antonio Grana
Commissioner Owen McAnuff
Commissioner Dan Weaver
Commissioner Cory Johnson
Commissioner Frank DeGrim

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

Kristin Russell, Planning Consultant

Alan P. Hilla, Jr., PE, PP, CME
Patricia A. Dannhardt, PE, CLA
Board Engineers

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6 Attorney for the Board.

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1 MR. GALVIN: Wait a second. We're not
2 done yet.

3 All right. What else do we have?

4 ACTING CHAIRMAN MURPHY: We have left
5 the resolution for 614-632 Clinton.

6 MS. CARCONE: No, we did that.

7 MR. GALVIN: We also have 138 Park.

8 ACTING CHAIRMAN MURPHY: Oh, I forgot
9 about that. It's not written on the --

10 MS. CARCONE: We have 660 First, which
11 is the next item we were going to discuss for the
12 appeal.

13 MR. GALVIN: Well, I have a problem
14 there, because technically if I have conflict, I
15 can't be talking about that case.

16 MS. CARCONE: Okay.

17 MR. GALVIN: But talking about 138 Park
18 and 660 as a general rule of thumb as to the process
19 we have, when we get an appeal, we have 120 days to
20 hear an appeal.

21 If somebody doesn't act within 120
22 days, then we need to ask them for an extension of
23 time, or at some point we need to administratively
24 dismiss them for failure to act.

25 In these appeals that are floating

1 around, we are not getting them done. So what I
2 would recommend to you is although you are being
3 asked for extensions of time into December, I think
4 there is a point where people need to fish or cut
5 bait, and the process that you would use there is
6 you would send letter that basically says that if
7 you don't try -- you know, you are either going to
8 process this case or we are going to dismiss it
9 administratively by that point.

10 In the 660 case, if they are going to
11 go forward with that appeal, Mr. Gibbons will be
12 here, as I understand it, and he will handle that
13 case. So hopefully, we will be able to figure it
14 out before that.

15 On 138 Park, the same thing. Mr.
16 Gibbons will handle that, if it's on. But there is
17 a point where people have to either do their thing
18 or give it up, you know, it's like --

19 ACTING CHAIRMAN MURPHY: So how far
20 past are we on these?

21 MR. GALVIN: Well, we are beyond 120
22 days, but there is a -- it goes to the management of
23 the calendar, and in some situations, you want to
24 keep the pressure, just like a court, you want to
25 keep the pressure up to get people to do -- some

1 people would leave this as an open book for a year
2 or two years, or whatever.

3 It's just like we could easily make a
4 mistake, lose track, grant them administrative
5 approval. You know, my advice to every Board in the
6 state would be you can't let these things go, unless
7 you have some good reason, and right now I am not
8 sensing any good reason in the cases that are here
9 that would allow for indefinite --

10 COMMISSIONER GRANA: So I have a
11 question on the clock. I just want to make sure.

12 The applicant has appealed and is
13 waiting for action from the Board, or we are waiting
14 for action from the applicant?

15 MR. GALVIN: We are waiting for action
16 of the applicant. We are a judge. We're here to
17 hear the case. Come on, bring it on.

18 What I am finding is these kinds of
19 cases sometimes present issues that if you were the
20 person who was appealing, or you are the person --
21 you might decide it is better just to bring an
22 application for approval rather than to bring the
23 appeal.

24 I don't know. If that is where these
25 are heading, people need -- you know, I was told

1 that on the 138 case that this was going to
2 eventually be turned into an application. But even
3 in that case, these are like two different
4 situations. The appellant in the one case is an
5 objector, and the appellant in the other case is an
6 owner, so it changes their roles a little bit. But,
7 you know, the fact remains that I want to create a
8 situation where people act.

9 COMMISSIONER GRANA: So -- go ahead.

10 ACTING CHAIRMAN MURPHY: Well,
11 considering the fact that we only have one month
12 left in this calendar year, which means the Board
13 may completely change, does that make a difference
14 and --

15 MR. GALVIN: Well, in both of these
16 cases, let me tell you what is happening in both of
17 these cases.

18 If I am hearing that they are going to
19 file an application, but they don't file it, we
20 could suspend an appeal indefinitely while we are
21 waiting to hear the application.

22 So if somebody files an application,
23 now we are saying, okay, now we are at least
24 suspending the appeal to the termination of the
25 application hearing, and then the application would

1 follow the normal course. But at this point, nobody
2 is filing an application. All we are doing is we
3 are just continuing to mind these cases for no
4 reason.

5 ACTING CHAIRMAN MURPHY: Right. So,
6 but --

7 COMMISSIONER WEAVER: So they filed --

8 COMMISSIONER GRANA: So they -- go
9 ahead, Dan.

10 COMMISSIONER WEAVER: -- so they filed
11 the appeal, right? But we don't have anything --
12 they have not brought anything, did not actually --
13 like what is the next step for them?

14 MR. GALVIN: They need to tell us if
15 they want a hearing. They're not --

16 COMMISSIONER WEAVER: They never
17 requested a hearing --

18 MR. GALVIN: -- they don't really want
19 a hearing. We have been saying, do you want a
20 hearing, and there is a lot more to these that I
21 can't talk about where there's --

22 COMMISSIONER WEAVER: So if we
23 administratively dismiss it, what is to stop them
24 from just refiling the appeal?

25 MR. GALVIN: No problem, unless they

1 are out of time in which case they could be --

2 ACTING CHAIRMAN MURPHY: Wouldn't they
3 be out of time?

4 MS. CARCONE: They would be out of
5 time.

6 MR. GALVIN: Pat is correct. They
7 would be out of time. They would be out of time and
8 they wouldn't be able to refile.

9 They could appeal our decision to
10 dismiss them and go to court. But trust me on my
11 over 20 years of experience doing this, that I think
12 it will cause an action.

13 COMMISSIONER GRANA: What is the
14 proposed action?

15 MR. GALVIN: They will file an
16 application. They will either decide to dismiss
17 their appeal or they will file an application.

18 COMMISSIONER GRANA: What do you
19 believe should be the proposed action on behalf of
20 the Board?

21 MR. GALVIN: I think that we should
22 schedule them for our December meeting and send them
23 a letter saying that that hearing is going to be a
24 try or dismiss, and that puts a fire under them, and
25 then they will come here and they will at least tell

1 you --

2 ACTING CHAIRMAN MURPHY: Tell us what
3 they --

4 MR. GALVIN: -- tell you what they need
5 and why they haven't prosecuted this case yet, and
6 it is true in both cases --

7 ACTING CHAIRMAN MURPHY: So we need to
8 write them a letter.

9 MR. GALVIN: -- so I am directing you
10 generally. I'm not giving you advice as to a
11 specific case, but I am saying this is the process
12 that I believe the Board should follow when you
13 reach these kinds of cases.

14 ACTING CHAIRMAN MURPHY: So --

15 COMMISSIONER WEAVER: At any point,
16 just like with an application, is there a -- there
17 is no tacit approval of their appeal?

18 MR. GALVIN: No, not really, not
19 really. I am just saying --

20 COMMISSIONER WEAVER: You just don't
21 want to keep it -- you just don't want to keep it --

22 ACTING CHAIRMAN MURPHY: Can we do
23 that --

24 MR. GALVIN: What if our caseload picks
25 up in January and February?

1 COMMISSIONER WEAVER: I hear you.

2 MS. CARCONE: Try or dismiss, I like
3 that.

4 ACTING CHAIRMAN MURPHY: Right.

5 COMMISSIONER GRANA: So does the Board
6 need to just take action or the Chair needs to take
7 action or --

8 MR. GALVIN: My recommendation for you
9 would be: If you think I have given you advice that
10 you should act on, then you should make a motion
11 that the secretary should be directed to send both
12 or any pending applicants for appeals over 120 days,
13 send them a letter telling them at this December
14 date that they have to at a minimum appear. You
15 know, that if they don't prosecute their case by
16 this date, they will be dismissed.

17 When they call her up and they are
18 panicked, she can say, show up and talk to the
19 Board, and then you guys can decide what to do now.

20 ACTING CHAIRMAN MURPHY: Yeah.

21 COMMISSIONER GRANA: So moved.

22 COMMISSIONER WEAVER: Second.

23 COMMISSIONER DE GRIM: Second.

24 MS. CARCONE: So that was Commissioners
25 Grana and Weaver?

1 COMMISSIONER GRANA: And DeGrim.

2 (Laughter)

3 COMMISSIONER DE GRIM: I think Weaver
4 beat me.

5 MS. CARCONE: Are we doing a vote or is
6 all in favor good?

7 ACTING CHAIRMAN MURPHY: All in favor?

8 (All Board members answered in the
9 affirmative)

10 MS. CARCONE: Dennis, you just said one
11 thing that -- so they do file an application this
12 month, then they could choose to suspend their
13 appeal?

14 MR. GALVIN: I think the Board can
15 decide at that December meeting, we will say -- you
16 will report that they filed an application, and then
17 I would say, well, based on that application, are
18 you okay with suspending the appeal pending the
19 outcome of the application.

20 If the application goes in a way that
21 is favorable to the applicant, then they won't need
22 the appeal, or favorable to the other objector, then
23 they won't need the appeal. Okay?

24 MS. CARCONE: Interesting,

25 MR. GALVIN: It is a solution.

1 ACTING CHAIRMAN MURPHY: I am also
2 guessing, I mean, if you are going to put a date in
3 there, we will probably only end up with one meeting
4 that month.

5 MS. CARCONE: Right. Yes. I can't see
6 us having a second meeting in December.

7 COMMISSIONER DE GRIM: So what date is
8 that going to be?

9 MS. CARCONE: December 20th is our next
10 scheduled meeting date, one and only in December.

11 MR. GALVIN: I am going to be
12 experiencing joy on the 27th, comfort and joy.

13 (Laughter)

14 ACTING CHAIRMAN MURPHY: Comfort and
15 joy, there you go.

16 All right. Anything else that needs to
17 be dismissed?

18 Motion to adjourn.

19 COMMISSIONER WEAVER: Second.

20 ACTING CHAIRMAN MURPHY: All in favor?

21 (All Board members answered in the
22 affirmative.)

23 (The meeting concluded at 8 p.m.)

24

25

C E R T I F I C A T E

I, PHYLLIS T. LEWIS, a Certified Court Reporter, Certified Realtime Court Reporter, and Notary Public of the State of New Jersey, do hereby certify that the foregoing is a true and accurate transcript of the proceedings as taken stenographically by and before me at the time, place and date hereinbefore set forth.

I DO FURTHER CERTIFY that I am neither a relative nor employee nor attorney nor counsel to any of the parties to this action, and that I am neither a relative nor employee of such attorney or counsel, and that I am not financially interested in the action.

s/Phyllis T. Lewis, CCR, CRCR

 PHYLLIS T. LEWIS, C.C.R. XI01333 C.R.C.R. 30XR15300
 Notary Public of the State of New Jersey
 My commission expires 11/5/2020.
 Dated: 11/23/16
 This transcript was prepared in accordance with
 NJAC 13:43-5.9.

0	47 [1] - 3:8	35:13, 59:13, 63:8	actual [2] - 25:21, 40:12	38:11, 38:13, 43:6, 50:24, 52:7, 52:16, 52:22, 66:6
07030 [2] - 18:6, 48:6 08527 [5] - 2:2, 8:3, 18:3, 48:3, 57:2	5	about [22] - 9:15, 9:17, 12:14, 24:15, 26:16, 28:18, 31:1, 32:3, 33:2, 33:4, 36:21, 37:5, 37:6, 37:9, 37:20, 38:8, 39:22, 43:7, 58:9, 58:15, 58:17, 62:21	actually [4] - 20:14, 33:13, 41:3, 62:12	All [25] - 5:11, 5:12, 5:13, 9:10, 14:15, 20:18, 23:23, 24:2, 27:18, 31:4, 32:7, 36:10, 37:10, 39:25, 43:4, 45:20, 52:23, 53:1, 58:3, 62:2, 66:7, 66:8, 67:16, 67:20, 67:21
1	56 [1] - 3:4 5th [2] - 18:6, 48:6	absent [3] - 4:11, 4:15, 4:23	adaptive [1] - 27:20	allow [2] - 34:20, 60:9
1 [1] - 3:4 10 [1] - 47:6 11/23/16 [3] - 16:21, 46:21, 68:21 11/5/2020 [4] - 16:21, 46:21, 55:21, 68:21 118 [1] - 19:13 12 [2] - 47:6, 49:11 120 [4] - 58:19, 58:21, 59:21, 65:12 138 [4] - 58:7, 58:17, 59:15, 61:1 13:43-5.9 [4] - 16:22, 46:22, 55:22, 68:22 15 [1] - 47:4 152 [1] - 17:4 15th [1] - 36:16 17 [1] - 3:7	6	accept [2] - 14:4, 34:4	added [1] - 43:19	allegiance [1] - 5:19
2	60 [1] - 40:25 614-625 [2] - 3:6, 7:3 614-632 [1] - 58:5 659-0403 [2] - 18:7, 48:7 660 [3] - 58:10, 58:18, 59:10 68 [1] - 19:12	access [1] - 52:2	address [4] - 19:15, 33:2, 33:6, 41:12	already [3] - 11:15, 27:8, 38:12
2 [1] - 47:4 2,375 [1] - 19:12 20 [1] - 63:11 201 [2] - 18:7, 48:7 2014 [1] - 49:9 2015 [1] - 19:9 2016 [5] - 1:3, 7:4, 17:4, 47:4, 56:3 20th [1] - 67:9 22 [5] - 1:3, 7:4, 17:4, 47:4, 56:3 27th [1] - 67:12	7	accordance [5] - 4:3, 16:22, 46:22, 55:21, 68:22	addressed [4] - 19:17, 20:2, 32:11, 49:22	also [5] - 4:7, 29:24, 38:9, 58:7, 67:1
2 [1] - 47:4 2,375 [1] - 19:12 20 [1] - 63:11 201 [2] - 18:7, 48:7 2014 [1] - 49:9 2015 [1] - 19:9 2016 [5] - 1:3, 7:4, 17:4, 47:4, 56:3 20th [1] - 67:9 22 [5] - 1:3, 7:4, 17:4, 47:4, 56:3 27th [1] - 67:12	7 [2] - 1:4, 3:6 72 [2] - 39:9, 44:7 720 [5] - 3:7, 17:3, 19:2, 19:4, 19:7 721 [2] - 41:13, 41:16 730 [5] - 2:1, 8:2, 18:2, 48:2, 57:1 732 [10] - 1:24, 2:2, 7:25, 8:3, 17:24, 18:3, 47:24, 48:3, 56:24, 57:2 735-4522 [5] - 1:24, 7:25, 17:24, 47:24, 56:24 79 [1] - 7:4 7:05 [2] - 7:5, 17:5 7:40 [1] - 47:5 7:45 [1] - 56:4	across [4] - 33:11, 33:16, 41:7, 41:14	adjoined [1] - 31:20	although [1] - 59:2
3	8 [1] - 67:23 8-10-12 [4] - 3:8, 47:3, 49:2, 49:7	act [5] - 7:5, 9:2, 9:13, 9:17, 13:6	ADJUSTMENT [7] - 1:1, 1:3, 7:1, 17:1, 47:1, 56:1, 56:3	am [35] - 11:4, 11:8, 16:11, 16:13, 16:15, 21:2, 21:22, 23:11, 24:12, 27:21, 28:13, 37:2, 39:20, 40:4, 40:12, 40:15, 42:12, 43:21, 46:11, 46:13, 46:15, 55:11, 55:13, 55:15, 60:7, 60:18, 61:18, 64:9, 64:11, 64:19, 67:1, 67:11, 68:11, 68:13, 68:15
3.01 [1] - 17:4 3.02 [1] - 17:4 300-pound [1] - 24:3 30XR15300 [4] - 16:20, 46:20, 55:20, 68:20 364-3011 [5] - 2:2, 8:3, 18:3, 48:3, 57:2	8	Acme [5] - 7:5, 9:2, 9:13, 9:17, 13:6	administrative [5] - 5:21, 6:3, 23:15, 31:15, 60:4	amount [1] - 40:13
4	9 [2] - 7:4, 51:10 930 [1] - 49:12 94 [5] - 1:6, 7:9, 17:9, 47:9, 56:6 950 [1] - 47:6	act [5] - 7:5, 9:2, 9:13, 9:17, 13:6	administratively [3] - 58:23, 59:9, 62:23	an [34] - 5:5, 5:6, 10:2, 11:15, 12:23, 13:2, 21:25, 22:15, 23:15, 26:10, 26:25, 32:4, 40:11, 40:21, 44:7, 49:6, 58:19, 58:20, 58:22, 60:1, 60:21, 61:2, 61:4, 61:5, 61:19, 61:20, 61:22, 62:2, 63:12, 63:15, 63:17, 64:16, 66:11, 66:16
4 [1] - 47:4	9	action [17] - 9:25, 16:13, 16:16, 46:13, 46:16, 55:13, 55:16, 60:13, 60:14, 60:15, 63:12, 63:14, 63:19, 65:6, 65:7, 68:13, 68:16	advise [3] - 60:5, 64:10, 65:9	and [181] - 4:4, 4:5, 4:7, 4:11, 6:3, 9:11, 10:1, 10:19, 10:25, 11:1, 11:21, 11:24, 12:2, 12:5, 12:10, 12:20, 12:25, 13:2, 13:3, 13:7, 13:15, 14:4, 14:7, 15:4, 15:7, 16:4, 16:6, 16:8, 16:9, 16:13, 16:15, 17:4, 17:5, 17:6, 19:10, 19:11, 19:13, 19:17, 20:13, 20:25, 21:3, 21:6, 21:15, 22:13, 22:21, 22:25, 23:6
4	A	Acting [7] - 1:10, 5:5, 5:7, 7:12, 17:12, 47:12, 56:10	advise [2] - 4:1, 25:18	and [181] - 4:4, 4:5, 4:7, 4:11, 6:3, 9:11, 10:1, 10:19, 10:25, 11:1, 11:21, 11:24, 12:2, 12:5, 12:10, 12:20, 12:25, 13:2, 13:3, 13:7, 13:15, 14:4, 14:7, 15:4, 15:7, 16:4, 16:6, 16:8, 16:9, 16:13, 16:15, 17:4, 17:5, 17:6, 19:10, 19:11, 19:13, 19:17, 20:13, 20:25, 21:3, 21:6, 21:15, 22:13, 22:21, 22:25, 23:6
4 [1] - 47:4	able [4] - 23:12,	action [17] - 9:25, 16:13, 16:16, 46:13, 46:16, 55:13, 55:16, 60:13, 60:14, 60:15, 63:12, 63:14, 63:19, 65:6, 65:7, 68:13, 68:16	advised [1] - 31:20	and [181] - 4:4, 4:5, 4:7, 4:11, 6:3, 9:11, 10:1, 10:19, 10:25, 11:1, 11:21, 11:24, 12:2, 12:5, 12:10, 12:20, 12:25, 13:2, 13:3, 13:7, 13:15, 14:4, 14:7, 15:4, 15:7, 16:4, 16:6, 16:8, 16:9, 16:13, 16:15, 17:4, 17:5, 17:6, 19:10, 19:11, 19:13, 19:17, 20:13, 20:25, 21:3, 21:6, 21:15, 22:13, 22:21, 22:25, 23:6

<p>24:7, 24:10, 24:15, 24:21, 25:1, 25:6, 25:8, 25:18, 26:2, 26:4, 26:14, 26:18, 26:22, 27:6, 27:7, 27:15, 27:25, 28:1, 28:2, 28:21, 28:23, 28:24, 29:5, 29:6, 29:13, 29:23, 29:24, 30:14, 30:15, 30:20, 30:21, 30:23, 30:25, 31:1, 31:10, 31:15, 31:20, 32:3, 33:10, 33:13, 33:15, 36:6, 36:11, 37:12, 37:14, 37:21, 37:22, 38:1, 38:15, 39:1, 39:11, 39:14, 40:2, 40:6, 41:2, 41:5, 41:9, 42:25, 43:5, 43:6, 43:16, 43:18, 43:19, 45:2, 46:4, 46:6, 46:8, 46:9, 46:13, 46:15, 47:4, 49:10, 49:12, 49:17, 49:19, 49:22, 50:9, 50:22, 50:24, 51:2, 51:3, 51:14, 51:23, 52:8, 52:25, 55:4, 55:6, 55:8, 55:9, 55:13, 55:15, 58:18, 59:5, 59:12, 59:23, 60:7, 60:12, 61:5, 61:14, 61:25, 62:20, 63:7, 63:10, 63:22, 63:24, 63:25, 64:5, 64:25, 65:17, 65:18, 65:19, 65:25, 66:16, 67:10, 67:12, 67:14, 68:4, 68:6, 68:8, 68:9, 68:13, 68:15</p> <p>And [16] - 5:1, 10:9, 12:22, 23:4, 27:16, 29:2, 29:3, 31:5, 38:18, 39:21, 44:6, 45:15, 53:4, 53:10, 54:1, 66:1</p> <p>Ann [2] - 12:20, 12:22</p> <p>another [4] - 34:12, 39:11, 41:5, 41:10</p> <p>answer [1] - 32:1</p> <p>answered [2] - 66:8, 67:21</p> <p>Antonio [7] - 1:11, 7:13, 13:14, 17:13, 43:22, 47:12, 56:11</p> <p>ANUFF [8] - 4:19, 5:8, 13:13, 13:22, 42:10, 42:15, 45:8, 53:19</p>	<p>any [18] - 16:13, 20:4, 23:10, 23:21, 25:21, 26:8, 26:18, 27:1, 27:2, 27:9, 35:2, 38:23, 46:13, 55:13, 60:8, 64:15, 65:12, 68:13</p> <p>anybody [4] - 13:9, 13:23, 13:25, 53:6</p> <p>Anything [1] - 67:16</p> <p>anything [5] - 20:4, 25:7, 27:10, 62:11, 62:12</p> <p>Anyway [1] - 11:4</p> <p>anyway [2] - 30:13, 30:18</p> <p>appeal [16] - 58:12, 58:19, 58:20, 59:11, 60:23, 61:20, 61:24, 62:11, 62:24, 63:9, 63:17, 64:17, 66:13, 66:18, 66:22, 66:23</p> <p>appealed [1] - 60:12</p> <p>appealer [2] - 61:4, 61:5</p> <p>appealing [1] - 60:20</p> <p>appeals [2] - 58:25, 65:12</p> <p>appear [1] - 65:14</p> <p>appearing [2] - 19:6, 49:4</p> <p>applauded [1] - 42:2</p> <p>apple [1] - 30:11</p> <p>apples [1] - 26:14</p> <p>APPLICANT [3] - 7:4, 17:4, 47:4</p> <p>applicant [9] - 10:11, 19:7, 43:8, 49:5, 51:11, 60:12, 60:14, 60:16, 66:21</p> <p>Applicant [2] - 18:7, 48:7</p> <p>applicants [1] - 65:12</p> <p>application [24] - 10:2, 19:23, 23:13, 26:11, 49:6, 49:19, 52:17, 53:4, 60:22, 61:2, 61:19, 61:21, 61:22, 61:25, 62:2, 63:16, 63:17, 64:16, 66:11, 66:16, 66:17, 66:19, 66:20</p> <p>appreciate [2] - 15:4, 15:11</p> <p>approached [1] - 34:22</p> <p>appropriate [1] - 44:14</p> <p>approval [20] - 7:5,</p>	<p>11:13, 19:18, 20:10, 21:6, 21:15, 33:20, 36:11, 38:25, 42:25, 43:3, 43:5, 49:10, 49:15, 51:11, 52:24, 53:5, 60:5, 60:22, 64:17</p> <p>approvals [6] - 19:11, 31:6, 31:8, 41:8, 52:15, 53:1</p> <p>Approve [1] - 22:17</p> <p>approve [5] - 20:10, 22:8, 23:4, 23:7, 29:14</p> <p>approved [7] - 11:20, 19:10, 19:22, 27:11, 31:12, 33:14, 43:18</p> <p>approving [3] - 11:19, 26:10, 26:11</p> <p>arbiter [3] - 21:20, 21:23, 22:5</p> <p>architect [1] - 29:2</p> <p>area [2] - 50:7, 51:21</p> <p>argued [1] - 11:12</p> <p>argument [1] - 12:1</p> <p>around [3] - 15:8, 38:1, 59:1</p> <p>as [22] - 10:20, 16:7, 27:4, 27:11, 30:20, 36:8, 36:12, 41:21, 43:6, 43:9, 46:7, 50:12, 50:25, 52:23, 52:25, 55:7, 58:18, 59:12, 60:1, 64:10, 68:7</p> <p>aside [4] - 40:9, 40:14, 40:23, 41:2</p> <p>ask [3] - 20:9, 36:13, 58:22</p> <p>Ask [2] - 23:17, 40:7</p> <p>asked [1] - 59:3</p> <p>asking [2] - 11:8, 29:25</p> <p>assessment [1] - 38:3</p> <p>assist [1] - 28:22</p> <p>assuming [1] - 12:10</p> <p>At [7] - 1:6, 7:9, 15:3, 17:9, 47:9, 56:6, 64:15</p> <p>at [27] - 11:4, 11:7, 11:24, 16:8, 29:6, 30:10, 33:9, 33:10, 33:14, 33:18, 33:20, 34:8, 34:14, 42:24, 46:8, 52:6, 52:8, 55:8, 58:23, 61:23, 62:1, 63:25, 65:13, 65:14, 66:15, 67:23, 68:8</p> <p>attention [1] - 25:8</p>	<p>Attorney [7] - 2:3, 8:4, 18:4, 18:7, 48:4, 48:7, 57:3</p> <p>attorney [9] - 10:10, 16:12, 16:14, 46:12, 46:14, 55:12, 55:14, 68:12, 68:14</p> <p>authority [1] - 34:10</p> <p>Avenue [3] - 3:8, 47:3, 49:7</p> <p>aware [1] - 9:22</p> <p>away [1] - 31:1</p> <p>awry [1] - 25:7</p>	<p>33:3, 36:8, 37:2, 39:9, 41:19, 43:15, 58:14</p> <p>been [8] - 4:2, 19:21, 24:10, 31:12, 36:5, 52:18, 53:11, 62:19</p> <p>before [11] - 12:3, 16:8, 19:21, 20:11, 20:14, 21:16, 32:11, 46:8, 55:8, 59:14, 68:8</p> <p>beginning [2] - 10:22, 24:18</p> <p>begs [1] - 35:5</p> <p>behalf [3] - 19:6, 49:4, 63:19</p> <p>being [1] - 59:2</p> <p>believe [6] - 20:1, 49:12, 49:21, 51:16, 63:19, 64:12</p> <p>belt [2] - 30:14, 30:15</p> <p>beneath [1] - 33:21</p> <p>best [1] - 41:24</p> <p>better [4] - 5:24, 29:20, 29:21, 60:21</p> <p>beyond [2] - 31:21, 59:21</p> <p>bit [2] - 24:22, 61:6</p> <p>blessing [1] - 20:13</p> <p>BLOCK [3] - 7:4, 17:4, 47:4</p> <p>board [1] - 4:8</p> <p>BOARD [7] - 1:1, 1:3, 7:1, 17:1, 47:1, 56:1, 56:3</p> <p>Board [51] - 1:18, 1:19, 2:3, 3:4, 5:13, 7:20, 7:21, 8:4, 17:20, 17:21, 18:4, 19:10, 19:21, 19:22, 19:25, 20:10, 20:12, 20:13, 21:5, 25:16, 25:18, 25:19, 26:4, 29:13, 31:3, 33:7, 33:8, 33:15, 36:20, 40:5, 40:6, 41:9, 47:19, 47:20, 48:4, 49:21, 51:7, 53:5, 56:18, 56:19, 57:3, 60:5, 60:13, 61:12, 63:20, 64:12, 65:5, 65:19, 66:8, 66:14, 67:21</p> <p>Board's [6] - 27:4, 42:24, 43:2, 43:10, 43:19, 49:8</p> <p>Bob [1] - 37:4</p> <p>body [4] - 31:24, 32:2, 34:19, 34:22</p> <p>book [1] - 60:1</p> <p>borings [2] - 38:10,</p>
--	---	---	--	---

<p>38:15 boss [1] - 15:8 both [6] - 30:4, 30:7, 61:15, 61:16, 64:6, 65:11 Branciforte [1] - 4:11 Bread [1] - 19:8 breaks [1] - 9:16 Bret [4] - 7:4, 9:12, 10:6, 14:17 Brewers [5] - 2:1, 8:2, 18:2, 48:2, 57:1 Bridge [5] - 2:1, 8:2, 18:2, 48:2, 57:1 bright [1] - 12:21 bring [4] - 25:7, 60:17, 60:21, 60:22 broader [1] - 37:17 bronze [2] - 22:13, 42:21 brought [1] - 62:12 build [3] - 41:6, 41:21, 41:22 building [30] - 19:8, 19:11, 20:1, 20:7, 20:25, 21:1, 24:13, 25:22, 26:1, 26:18, 26:20, 28:21, 28:23, 32:24, 33:5, 33:11, 33:17, 33:18, 33:19, 34:17, 38:24, 41:5, 41:10, 41:22, 43:7, 43:10, 43:24, 47:5, 49:11, 51:12 built [1] - 41:6 bulletin [1] - 4:8 Buonavolonta [1] - 47:4 business [1] - 5:5 Business [1] - 3:4 busy [1] - 14:21</p>	<p>33:4, 33:13, 37:14 Can [6] - 21:10, 25:17, 29:6, 50:1, 50:21, 64:22 can [17] - 14:8, 14:10, 23:4, 23:6, 25:10, 29:14, 31:1, 31:2, 33:6, 34:12, 34:18, 39:22, 41:23, 50:19, 65:18, 65:19, 66:14 can't [7] - 27:10, 32:20, 34:1, 58:15, 60:6, 62:21, 67:5 capacity [1] - 22:1 capture [1] - 43:23 Carcone [5] - 1:19, 7:21, 17:21, 47:20, 56:19 CARCONE [35] - 4:10, 4:14, 4:18, 4:20, 4:22, 5:1, 5:3, 5:12, 9:23, 14:6, 14:10, 45:5, 45:7, 45:9, 45:11, 45:13, 45:15, 45:17, 53:16, 53:18, 53:20, 53:22, 53:24, 54:1, 58:6, 58:10, 58:16, 63:4, 65:2, 65:24, 66:5, 66:10, 66:24, 67:5, 67:9 care [1] - 5:21 case [19] - 9:2, 10:25, 12:9, 24:4, 30:4, 31:14, 58:15, 59:8, 59:10, 59:13, 60:17, 61:1, 61:3, 61:4, 61:5, 63:1, 64:5, 64:11, 65:15 caseload [1] - 64:24 cases [8] - 6:2, 60:8, 60:19, 61:16, 61:17, 62:3, 64:6, 64:13 cast [1] - 11:15 cause [1] - 63:12 CCR [4] - 16:18, 46:18, 55:18, 68:18 certain [1] - 40:13 Certainly [1] - 22:1 certainly [3] - 23:14, 51:7, 52:1 certIFICATE [3] - 21:4, 32:12, 42:23 CERTIFIED [10] - 1:23, 1:23, 7:24, 7:24, 17:23, 17:24, 47:23, 47:24, 56:23, 56:23 Certified [8] - 16:3, 16:4, 46:3, 46:4, 55:3, 55:4, 68:3, 68:4</p>	<p>certify [4] - 16:6, 46:6, 55:6, 68:6 CERTIFY [4] - 16:11, 46:11, 55:11, 68:11 Chair [1] - 65:6 CHAIR [2] - 21:9, 27:12 Chairman [8] - 1:10, 5:5, 5:7, 7:12, 9:14, 17:12, 47:12, 56:10 CHAIRMAN [59] - 4:17, 5:17, 5:20, 5:25, 6:4, 9:3, 9:9, 12:12, 13:20, 14:1, 14:13, 14:22, 14:25, 19:3, 20:17, 20:22, 22:10, 25:13, 34:3, 34:24, 35:4, 35:12, 35:16, 35:19, 35:23, 39:12, 39:15, 41:11, 41:16, 42:12, 42:18, 44:6, 44:24, 45:3, 45:16, 45:20, 49:1, 52:11, 52:14, 53:9, 53:12, 53:14, 54:2, 58:4, 58:8, 59:19, 61:10, 62:5, 63:2, 64:2, 64:7, 64:14, 64:22, 65:4, 65:20, 66:7, 67:1, 67:14, 67:20 chance [1] - 37:12 change [6] - 27:2, 27:9, 30:3, 36:1, 50:24, 61:13 changed [4] - 24:22, 26:5, 26:8, 52:1 changes [6] - 26:1, 49:25, 50:4, 50:22, 52:5, 61:6 chatted [1] - 24:15 check [2] - 24:16, 30:21 choose [1] - 66:12 circulation [2] - 26:2 circumstance [1] - 29:8 CITY [7] - 1:1, 1:4, 7:1, 17:1, 47:1, 56:1, 56:4 city [5] - 4:6, 32:3, 33:16, 41:24, 44:20 City [3] - 4:8, 33:13, 33:15 CLA [5] - 1:17, 7:19, 17:19, 47:19, 56:17 CLINTON [1] - 7:3 Clinton [9] - 3:6, 3:7, 17:3, 19:2, 19:4, 19:7, 41:13, 41:16, 58:5 clock [1] - 60:11</p>	<p>closer [1] - 29:21 CME [5] - 1:17, 7:19, 17:19, 47:18, 56:17 CO [2] - 20:11, 21:3 Cohen [1] - 4:11 cold [1] - 20:16 Come [1] - 60:17 come [15] - 6:3, 12:4, 12:25, 14:18, 14:19, 22:11, 24:19, 27:2, 27:13, 27:14, 29:5, 29:15, 34:12, 36:19, 63:25 comes [5] - 22:13, 26:3, 29:12, 30:25, 31:1 comfort [1] - 67:12 Comfort [1] - 67:14 comfortable [3] - 11:5, 11:6, 24:12 coming [2] - 37:12, 44:23 comment [1] - 43:2 comments [1] - 52:8 commercial [3] - 19:13, 47:6, 49:11 commission [4] - 16:21, 46:21, 55:21, 68:21 Commission [5] - 21:16, 21:23, 22:5, 22:15, 43:2 Commissioner [45] - 1:11, 1:11, 1:12, 1:12, 1:13, 4:12, 4:14, 4:16, 4:18, 4:20, 4:22, 4:24, 5:1, 7:13, 7:13, 7:14, 7:14, 7:15, 17:13, 17:13, 17:14, 17:14, 17:15, 45:5, 45:7, 45:9, 45:11, 45:13, 45:15, 47:12, 47:13, 47:13, 47:14, 47:14, 53:16, 53:18, 53:20, 53:22, 53:24, 54:1, 56:11, 56:11, 56:12, 56:12, 56:13 COMMISSIONER [115] - 4:13, 4:19, 4:21, 4:25, 5:2, 5:8, 5:10, 9:5, 10:14, 11:8, 11:11, 11:18, 13:13, 13:19, 13:22, 15:5, 21:7, 21:10, 21:14, 22:3, 22:7, 22:9, 22:12, 22:14, 22:17, 22:18, 22:20, 22:21, 22:23, 22:25, 23:2, 23:6, 23:19, 23:22, 24:6, 26:7, 28:3, 28:6,</p>	<p>28:7, 28:9, 28:15, 29:18, 29:22, 30:6, 30:9, 31:22, 33:25, 34:23, 35:24, 36:14, 36:23, 37:1, 38:2, 38:4, 38:6, 38:7, 38:13, 38:17, 38:21, 39:8, 39:13, 39:19, 40:4, 40:8, 40:11, 40:17, 42:6, 42:9, 42:10, 42:13, 42:15, 42:16, 43:12, 43:15, 44:9, 44:10, 44:15, 44:18, 44:19, 45:1, 45:4, 45:6, 45:8, 45:10, 45:12, 45:14, 53:8, 53:11, 53:13, 53:17, 53:19, 53:21, 53:23, 53:25, 54:6, 60:10, 61:9, 62:7, 62:8, 62:10, 62:16, 62:22, 63:13, 63:18, 64:15, 64:20, 65:1, 65:5, 65:21, 65:22, 65:23, 66:1, 66:3, 67:7, 67:19 Commissioners [2] - 4:10, 65:24 communicate [1] - 9:18 communications [1] - 24:25 communities [1] - 40:20 complained [1] - 12:14 complaining [2] - 10:22, 13:7 complains [1] - 12:11 complaints [2] - 9:17, 10:19 completely [2] - 34:16, 61:13 compliance [1] - 21:4 computer [1] - 20:15 concern [5] - 9:15, 10:10, 11:17, 25:10, 31:21 concluded [4] - 15:13, 45:22, 54:7, 67:23 Condition [1] - 51:10 condition [10] - 20:10, 21:3, 26:6, 26:8, 26:25, 27:7, 32:8, 36:2, 38:22, 52:23 conditioned [1] -</p>
<p style="text-align: center;">C</p> <p>C [17] - 1:25, 7:6, 8:1, 16:1, 18:1, 18:5, 38:9, 46:1, 48:1, 48:5, 55:1, 56:25, 68:1 C.C.R [4] - 16:20, 46:20, 55:20, 68:20 C.R.C.R [4] - 16:20, 46:20, 55:20, 68:20 calendar [2] - 59:23, 61:12 call [4] - 4:9, 22:13, 45:4, 65:17 called [3] - 28:9, 28:11, 50:8 came [4] - 14:22,</p>				

<p>32:9 conditions [12] - 19:14, 20:2, 20:6, 20:20, 33:3, 36:10, 37:18, 42:17, 42:19, 43:4, 52:8, 52:24 confer [1] - 31:3 conflict [1] - 58:14 congratulations [1] - 14:17 consequences [1] - 27:17 considering [1] - 61:11 consistent [1] - 30:22 construct [1] - 49:10 construction [4] - 24:17, 38:25, 39:13, 44:16 Consultant [5] - 1:16, 7:18, 17:18, 47:17, 56:16 Continue [1] - 6:5 continuing [1] - 62:3 contribution [1] - 41:23 control [2] - 31:11, 44:23 conversation [1] - 29:23 Conversion [1] - 17:6 cool [1] - 42:8 Copies [1] - 4:6 Correct [2] - 26:21, 29:16 correct [2] - 28:14, 63:6 Cory [5] - 1:12, 7:14, 17:14, 47:14, 56:12 could [14] - 9:7, 12:14, 12:16, 23:2, 23:13, 34:15, 34:16, 41:21, 51:7, 60:3, 61:20, 63:1, 63:9, 66:12 Council [2] - 33:13, 33:15 Counsel [1] - 11:9 counsel [10] - 16:12, 16:15, 29:23, 36:15, 46:12, 46:15, 55:12, 55:15, 68:12, 68:15 County [2] - 49:15, 53:5 course [2] - 24:16, 62:1 Court [8] - 16:3, 16:4, 46:3, 46:4, 55:3,</p>	<p>55:4, 68:3, 68:4 court [2] - 59:24, 63:10 COURT [10] - 1:23, 1:23, 7:24, 7:24, 17:23, 17:24, 47:23, 47:24, 56:23, 56:23 covered [1] - 37:17 crazy [1] - 12:8 CRCR [4] - 16:18, 46:18, 55:18, 68:18 create [1] - 61:7 cut [1] - 59:4</p> <p style="text-align: center;">D</p> <p>D [1] - 3:1 Dan [9] - 1:12, 7:14, 17:14, 21:12, 22:3, 28:13, 47:13, 56:12, 62:9 Dan's [1] - 29:24 Dannhardt [5] - 1:17, 7:19, 17:19, 47:19, 56:17 date [9] - 16:9, 46:9, 55:9, 65:14, 65:16, 67:2, 67:7, 67:10, 68:9 Dated [3] - 16:21, 46:21, 68:21 day [1] - 11:4 days [4] - 58:19, 58:22, 59:22, 65:12 DE [6] - 5:2, 45:14, 53:25, 65:23, 66:3, 67:7 De [1] - 53:24 deal [1] - 27:17 December [7] - 59:3, 63:22, 65:13, 66:15, 67:6, 67:9, 67:10 decide [6] - 10:17, 10:25, 60:21, 63:16, 65:19, 66:15 decision [1] - 63:9 defer [1] - 28:13 DeGrim [8] - 1:13, 5:1, 7:15, 17:15, 45:13, 47:14, 56:13, 66:1 demolished [2] - 28:1, 38:24 demolition [14] - 27:24, 28:4, 28:10, 29:4, 29:25, 30:18, 37:5, 37:7, 37:21, 38:8, 39:3, 43:11, 43:13</p>	<p>Demolition [1] - 28:5 DENNIS [5] - 2:1, 8:2, 18:2, 48:2, 57:1 Dennis [4] - 28:10, 38:6, 40:4, 66:10 department [2] - 28:21, 28:24 design [4] - 20:12, 21:2, 21:5, 31:12 deviate [1] - 29:3 deviation [1] - 26:19 Diane [10] - 1:10, 5:9, 7:12, 13:15, 13:16, 14:9, 14:11, 17:12, 47:12, 56:10 did [8] - 10:4, 12:5, 12:9, 14:24, 31:18, 41:3, 58:6, 62:12 Did [3] - 10:12, 31:23, 52:6 didn't [5] - 9:18, 9:19, 9:21, 34:15, 37:12 difference [1] - 61:13 different [1] - 61:3 dimension [2] - 33:12, 52:1 direct [1] - 24:25 directed [1] - 65:11 directing [1] - 64:9 director [1] - 32:3 disagree [1] - 10:6 disconnect [1] - 44:20 discuss [1] - 58:11 dismiss [7] - 58:24, 59:8, 62:23, 63:10, 63:16, 63:24, 65:2 dismissed [2] - 65:16, 67:17 distributed [1] - 14:7 division [1] - 32:5 DO [4] - 16:11, 46:11, 55:11, 68:11 Do [6] - 9:7, 13:22, 14:5, 23:15, 31:7, 42:18 do [44] - 6:2, 9:7, 9:20, 10:6, 12:7, 12:16, 14:12, 16:5, 21:1, 21:25, 23:24, 24:16, 27:20, 27:22, 28:20, 29:7, 29:14, 30:4, 30:17, 31:5, 31:19, 34:19, 36:1, 39:25, 40:14, 40:15, 40:22, 41:1, 41:19, 46:5, 52:6, 54:6, 55:5, 58:3, 59:17, 59:25, 62:19, 63:18, 64:22,</p>	<p>65:19, 66:11, 68:5 Does [2] - 38:9, 42:5 does [5] - 25:7, 30:1, 40:19, 61:13, 65:5 doesn't [4] - 24:8, 28:20, 34:10, 58:21 doing [4] - 34:11, 62:2, 63:11, 66:5 don't [26] - 9:10, 11:5, 13:5, 22:7, 23:10, 23:12, 30:5, 30:12, 30:25, 33:16, 33:17, 33:23, 34:24, 35:1, 39:2, 39:4, 50:18, 52:18, 59:7, 60:24, 61:19, 62:11, 62:18, 64:20, 64:21, 65:15 done [6] - 15:8, 23:25, 29:12, 39:20, 58:2, 59:1 door [3] - 33:21, 33:22, 35:14 double [1] - 30:21 down [13] - 9:16, 12:20, 13:4, 23:3, 30:25, 31:1, 35:5, 35:11, 39:10, 39:11, 40:3, 44:23, 45:21 draft [2] - 39:22, 39:24 drain [1] - 51:23 during [3] - 10:3, 24:16, 38:24</p> <p style="text-align: center;">E</p> <p>E [39] - 1:9, 1:15, 1:25, 3:1, 7:11, 7:17, 8:1, 16:1, 17:11, 17:17, 18:1, 46:1, 47:11, 47:16, 48:1, 55:1, 56:9, 56:15, 56:25, 68:1 easily [1] - 60:3 eastern [1] - 51:19 easy [1] - 15:4 edge [1] - 33:20 effect [3] - 36:12, 43:5, 52:25 Eileen's [2] - 50:13, 50:14 either [4] - 41:21, 59:7, 59:17, 63:16 element [1] - 29:5 elephant [1] - 24:3 Elevation [1] - 50:4 elevations [1] - 43:16</p>	<p>eleven [1] - 40:22 else [2] - 58:3, 67:16 email [1] - 32:4 embedded [1] - 36:18 employee [8] - 16:12, 16:14, 46:12, 46:14, 55:12, 55:14, 68:12, 68:14 end [2] - 11:4, 67:3 enforce [1] - 25:19 engineer [8] - 24:19, 25:4, 25:5, 27:3, 27:4, 28:2, 43:10, 43:19 engineering [1] - 25:1 Engineers [5] - 1:18, 7:20, 17:20, 47:19, 56:18 engineers [1] - 24:25 Enhancement [2] - 7:5, 9:13 enlarge [1] - 19:11 enough [1] - 30:9 ensure [1] - 51:12 entitled [1] - 12:1 Erosion [1] - 49:20 erosion [1] - 31:11 ESQUIRE [7] - 2:1, 8:2, 18:2, 18:5, 48:2, 48:5, 57:1 essentially [1] - 26:5 Essex [1] - 49:20 even [3] - 41:18, 61:2 evening [2] - 19:5, 49:3 event [1] - 38:23 eventually [1] - 61:2 ever [1] - 33:4 every [2] - 33:19, 60:5 Everyone [1] - 34:8 everything [6] - 12:10, 31:19, 32:9, 49:22, 49:23, 52:11 Everything [1] - 52:9 evidence [2] - 11:21, 11:23 Exactly [1] - 44:18 exactly [1] - 50:25 example [1] - 11:2 examples [1] - 40:22 except [3] - 36:12, 43:6, 52:25 execute [1] - 27:11 executed [1] - 25:10 existence [1] - 10:24 Existing [1] - 17:6 Expansion [1] - 17:5</p>
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<p>experience ^[1] - 63:11</p> <p>experiencing ^[1] - 67:12</p> <p>expires ^[4] - 16:21, 46:21, 55:21, 68:21</p> <p>explain ^[2] - 27:15, 50:20</p> <p>explains ^[1] - 51:18</p> <p>extension ^[1] - 58:22</p> <p>extensions ^[1] - 59:3</p> <p>extent ^[2] - 25:25, 26:9</p>	<p>Final ^[2] - 17:5, 47:5</p> <p>finally ^[1] - 42:3</p> <p>financial ^[1] - 41:23</p> <p>financially ^[4] - 16:15, 46:15, 55:15, 68:15</p> <p>find ^[6] - 21:18, 30:23, 32:18, 39:4, 44:1, 50:12</p> <p>finding ^[1] - 60:18</p> <p>Fine ^[2] - 29:1, 30:6</p> <p>fine ^[1] - 21:22</p> <p>finished ^[1] - 20:7</p> <p>fire ^[1] - 63:24</p> <p>First ^[1] - 58:10</p> <p>first ^[8] - 5:4, 5:22, 21:19, 22:6, 32:12, 33:3, 33:8, 44:22</p> <p>fish ^[1] - 59:4</p> <p>Fitzmyer ^[5] - 1:10, 7:12, 17:12, 47:12, 56:10</p> <p>five ^[2] - 49:10, 51:22</p> <p>five-story ^[1] - 49:10</p> <p>flag ^[1] - 5:18</p> <p>flashes ^[1] - 33:22</p> <p>flashing ^[1] - 35:15</p> <p>flavor ^[1] - 43:23</p> <p>floating ^[1] - 58:25</p> <p>Floor ^[2] - 18:6, 48:6</p> <p>floors ^[1] - 26:23</p> <p>follow ^[3] - 39:2, 62:1, 64:12</p> <p>foot ^[1] - 47:6</p> <p>for ^[56] - 2:3, 7:5, 7:6, 8:4, 9:13, 10:10, 11:12, 11:22, 11:23, 12:7, 12:9, 13:15, 14:3, 17:5, 18:4, 18:7, 19:25, 20:13, 21:5, 21:11, 23:17, 25:24, 29:25, 31:24, 36:13, 36:15, 37:25, 40:6, 42:10, 42:24, 43:2, 47:5, 48:4, 48:7, 49:6, 49:7, 53:4, 57:3, 58:5, 58:11, 58:22, 58:24, 59:3, 60:1, 60:9, 60:13, 60:14, 60:15, 60:22, 62:3, 62:13, 63:22, 65:8, 65:12</p> <p>force ^[3] - 36:11, 43:5, 52:25</p> <p>foregoing ^[4] - 16:6, 46:6, 55:6, 68:6</p> <p>forgot ^[1] - 58:8</p> <p>formal ^[1] - 23:13</p> <p>forth ^[6] - 16:9, 20:24, 24:16, 46:9, 55:9, 68:9</p>	<p>forward ^[2] - 31:2, 59:11</p> <p>four ^[4] - 21:14, 21:15, 42:25, 51:22</p> <p>Four ^[2] - 43:11, 47:5</p> <p>Four-story ^[1] - 47:5</p> <p>Frances ^[1] - 47:4</p> <p>Frank ^[9] - 1:13, 7:15, 17:15, 33:2, 33:6, 34:6, 47:14, 50:3, 56:13</p> <p>from ^[20] - 10:12, 13:23, 14:20, 14:23, 19:24, 25:8, 25:19, 26:19, 29:4, 30:2, 31:10, 33:14, 36:16, 36:21, 40:1, 41:8, 49:16, 60:13, 60:14, 62:24</p> <p>From ^[1] - 36:23</p> <p>front ^[1] - 7:6</p> <p>full ^[3] - 36:11, 43:5, 52:25</p> <p>fun ^[1] - 15:1</p> <p>FURTHER ^[4] - 16:11, 46:11, 55:11, 68:11</p> <p>future ^[1] - 30:22</p>	<p>44:8, 44:13, 44:21, 48:2, 52:3, 52:15, 52:22, 53:6, 54:5, 57:1, 58:1, 58:7, 58:13, 58:17, 59:21, 60:15, 61:15, 62:14, 62:18, 62:25, 63:6, 63:15, 63:21, 64:4, 64:9, 64:18, 64:24, 65:8, 66:14, 66:25, 67:11</p> <p>garage ^[3] - 33:21, 33:22, 35:14</p> <p>general ^[1] - 58:18</p> <p>generally ^[2] - 41:23, 64:10</p> <p>generated ^[1] - 40:25</p> <p>geo ^[1] - 38:16</p> <p>geo-technical ^[1] - 38:16</p> <p>Get ^[1] - 28:15</p> <p>get ^[6] - 29:24, 32:24, 41:25, 58:19, 59:25</p> <p>getting ^[6] - 26:14, 29:20, 29:21, 42:3, 59:1</p> <p>Gibbons ^[2] - 59:11, 59:16</p> <p>give ^[7] - 22:23, 22:25, 30:12, 37:11, 39:4, 42:19, 59:18</p> <p>given ^[1] - 65:9</p> <p>Given ^[1] - 38:2</p> <p>giving ^[1] - 64:10</p> <p>Go ^[3] - 21:12, 23:16, 40:7</p> <p>go ^[16] - 5:15, 9:25, 12:11, 15:7, 21:21, 23:12, 25:7, 25:8, 31:23, 50:1, 59:11, 60:6, 61:9, 62:8, 63:10, 67:15</p> <p>God ^[1] - 44:22</p> <p>goes ^[2] - 59:22, 66:20</p> <p>going ^[43] - 12:18, 12:19, 12:20, 12:21, 12:22, 23:24, 24:13, 24:14, 27:5, 27:15, 27:20, 27:22, 28:13, 28:25, 30:5, 30:12, 32:8, 32:11, 32:14, 33:16, 34:21, 35:15, 36:9, 37:18, 37:21, 39:24, 39:25, 41:6, 41:9, 41:25, 43:21, 58:11, 59:7, 59:8, 59:10, 61:1, 61:18, 63:23, 67:2, 67:8,</p>	<p>67:11</p> <p>Good ^[3] - 19:5, 30:9, 49:3</p> <p>good ^[8] - 5:15, 11:1, 11:25, 12:11, 35:5, 60:7, 60:8, 66:6</p> <p>Got ^[1] - 35:20</p> <p>got ^[9] - 5:16, 15:8, 24:21, 27:13, 29:10, 36:24, 41:5, 41:8, 42:23</p> <p>gotten ^[1] - 21:1</p> <p>governing ^[4] - 31:24, 32:2, 34:19, 34:21</p> <p>Grana ^[9] - 1:11, 4:12, 7:13, 17:13, 45:5, 47:12, 53:16, 56:11, 65:25</p> <p>GRANA ^[50] - 4:13, 5:10, 9:5, 10:14, 11:8, 11:11, 11:18, 15:5, 22:3, 22:9, 22:14, 22:18, 22:21, 22:25, 23:6, 23:19, 24:6, 28:7, 28:9, 28:15, 29:22, 30:6, 30:9, 31:22, 33:25, 34:23, 35:24, 36:14, 36:23, 37:1, 38:2, 38:6, 42:9, 42:13, 44:10, 44:18, 45:1, 45:6, 53:11, 53:13, 53:17, 54:6, 60:10, 61:9, 62:8, 63:13, 63:18, 65:5, 65:21, 66:1</p> <p>grant ^[2] - 29:8, 60:4</p> <p>grass ^[2] - 51:2, 51:7</p> <p>great ^[1] - 30:8</p> <p>Great ^[1] - 15:5</p> <p>GRIM ^[6] - 5:2, 45:14, 53:25, 65:23, 66:3, 67:7</p> <p>Grim ^[1] - 53:24</p> <p>guess ^[5] - 10:16, 13:16, 20:5, 38:22, 44:8</p> <p>guessing ^[1] - 67:2</p> <p>guts ^[1] - 40:1</p> <p>guys ^[12] - 10:23, 11:5, 13:3, 15:10, 23:25, 24:9, 25:15, 30:21, 31:2, 31:23, 52:3, 65:19</p>
F		G		H
<p>F ^[9] - 1:9, 7:11, 16:1, 17:11, 46:1, 47:11, 55:1, 56:9, 68:1</p> <p>fabricated ^[1] - 20:14</p> <p>facade ^[5] - 7:6, 26:8, 26:9, 26:10, 27:9</p> <p>fact ^[10] - 9:15, 10:19, 10:20, 19:21, 28:18, 34:13, 41:2, 51:16, 61:7, 61:11</p> <p>facts ^[1] - 10:25</p> <p>failure ^[1] - 58:24</p> <p>fall ^[1] - 40:3</p> <p>far ^[2] - 21:2, 59:19</p> <p>fast ^[2] - 31:2, 39:24</p> <p>favor ^[6] - 5:12, 14:15, 42:14, 66:6, 66:7, 67:20</p> <p>favorable ^[2] - 66:21, 66:22</p> <p>February ^[1] - 64:25</p> <p>feel ^[2] - 9:19, 13:9</p> <p>feet ^[6] - 19:12, 21:15, 42:25, 43:1, 49:12</p> <p>fence ^[1] - 28:19</p> <p>few ^[1] - 41:2</p> <p>figure ^[2] - 39:7, 59:13</p> <p>file ^[5] - 61:19, 63:15, 63:17, 66:11</p> <p>filed ^[8] - 10:1, 49:18, 49:20, 52:20, 52:21, 62:7, 62:10, 66:16</p> <p>files ^[1] - 61:22</p> <p>filing ^[1] - 62:2</p> <p>final ^[11] - 19:18, 21:3, 27:25, 30:20, 31:5, 32:8, 36:19, 42:22, 43:19, 49:6, 49:14</p>	<p>galvanizing ^[1] - 30:22</p> <p>GALVIN ^[120] - 2:1, 4:1, 5:4, 5:11, 5:15, 5:23, 6:2, 8:2, 9:1, 9:6, 9:10, 9:14, 9:24, 10:9, 10:15, 11:10, 11:16, 11:20, 12:16, 13:16, 13:24, 14:5, 14:8, 14:12, 14:17, 15:7, 15:12, 18:2, 19:1, 20:15, 20:18, 21:12, 21:24, 23:4, 23:8, 23:15, 23:23, 24:2, 24:7, 24:21, 25:11, 25:15, 26:21, 27:18, 28:5, 28:8, 28:12, 28:17, 29:3, 29:16, 29:20, 30:3, 30:7, 30:10, 30:15, 30:19, 31:4, 31:14, 32:7, 32:17, 32:20, 32:23, 33:23, 34:2, 34:9, 35:3, 36:3, 36:7, 36:21, 36:24, 37:2, 37:11, 37:20, 37:24, 38:20, 39:6, 39:17, 39:23, 40:7, 40:10, 40:15, 40:18, 41:8, 41:14, 41:17, 42:8, 42:20, 43:14, 43:17,</p>	<p>galvanizing ^[1] - 30:22</p>	<p>H2M ^[4] - 25:1, 25:4, 30:2, 38:16</p>	

<p>had [10] - 9:14, 9:22, 11:3, 24:15, 24:25, 33:20, 37:13, 40:2, 41:1, 52:8</p> <p>Hall [1] - 4:8</p> <p>hand [1] - 52:19</p> <p>handle [3] - 37:22, 59:12, 59:16</p> <p>happened [1] - 39:5</p> <p>happening [1] - 61:16</p> <p>happens [3] - 24:7, 29:19, 39:10</p> <p>Happy [1] - 54:5</p> <p>has [13] - 4:2, 11:15, 19:21, 24:10, 31:12, 33:20, 34:22, 36:5, 38:24, 41:3, 51:25, 52:18, 60:12</p> <p>Has [1] - 53:11</p> <p>have [9] - 5:3, 5:22, 10:16, 10:25, 11:3, 11:6, 12:4, 13:1, 13:3, 14:4, 14:5, 15:1, 19:16, 19:17, 20:1, 20:3, 20:14, 21:1, 21:15, 21:18, 23:10, 23:21, 24:9, 25:4, 25:20, 26:12, 26:18, 26:23, 27:2, 27:14, 29:7, 29:12, 29:22, 30:17, 30:22, 31:5, 31:7, 31:9, 31:10, 31:11, 31:13, 32:2, 32:6, 32:11, 33:2, 33:10, 33:24, 34:1, 34:3, 34:5, 36:19, 37:8, 38:4, 38:11, 39:3, 39:6, 40:2, 40:19, 40:21, 40:23, 44:7, 45:2, 49:14, 49:16, 49:19, 49:22, 50:10, 52:5, 52:16, 52:18, 52:22, 58:3, 58:4, 58:7, 58:10, 58:13, 58:14, 58:19, 59:17, 60:7, 60:10, 61:11, 62:11, 62:12, 62:19, 65:9, 65:14</p> <p>Have [1] - 54:4</p> <p>haven't [1] - 64:5</p> <p>Having [1] - 14:2</p> <p>having [4] - 24:19, 28:19, 33:4, 67:6</p> <p>heading [1] - 60:25</p> <p>hear [4] - 58:20, 60:17, 61:21, 65:1</p> <p>heard [1] - 32:6</p> <p>hearing [9] - 9:15, 10:3, 61:18, 61:25,</p>	<p>62:15, 62:17, 62:19, 62:20, 63:23</p> <p>Held [5] - 1:6, 7:9, 17:9, 47:9, 56:6</p> <p>help [1] - 42:5</p> <p>Here [7] - 4:13, 4:17, 4:19, 4:21, 4:25, 5:2, 50:16</p> <p>here [20] - 9:2, 9:16, 11:1, 11:2, 13:14, 14:20, 19:9, 20:3, 23:20, 25:8, 25:18, 26:15, 28:20, 29:5, 29:24, 50:10, 59:12, 60:8, 60:16, 63:25</p> <p>hereby [4] - 16:5, 46:5, 55:5, 68:5</p> <p>herein [3] - 36:12, 43:6, 52:25</p> <p>hereinbefore [4] - 16:9, 46:9, 55:9, 68:9</p> <p>Hey [1] - 12:21</p> <p>hide [1] - 10:18</p> <p>higher [1] - 34:10</p> <p>highly [1] - 12:6</p> <p>Hilla [5] - 1:17, 7:19, 17:19, 47:18, 56:17</p> <p>HILLA [2] - 25:17, 52:13</p> <p>him [2] - 14:18, 25:5</p> <p>Historic [5] - 21:16, 21:23, 22:5, 22:15, 43:1</p> <p>historic [5] - 20:21, 20:24, 21:17, 21:21, 26:9</p> <p>historical [1] - 27:21</p> <p>history [2] - 20:25, 26:11</p> <p>HOBOKEN [14] - 1:1, 1:1, 1:3, 1:4, 7:1, 7:1, 17:1, 17:1, 47:1, 47:1, 56:1, 56:1, 56:3, 56:4</p> <p>Hoboken [11] - 1:7, 7:9, 12:8, 15:1, 17:9, 18:6, 26:12, 40:18, 47:9, 48:6, 56:7</p> <p>Holding [1] - 5:25</p> <p>holding [1] - 29:6</p> <p>Holtzman [1] - 12:20</p> <p>home [1] - 42:24</p> <p>hood [1] - 31:18</p> <p>hope [1] - 14:25</p> <p>hopefully [2] - 28:23, 59:13</p> <p>hours [2] - 39:9, 44:7</p> <p>houses [1] - 40:22</p> <p>housing [5] - 19:20, 40:9, 40:13, 40:19, 42:4</p>	<p>how [6] - 11:1, 24:16, 27:4, 27:21, 37:21, 59:19</p> <p>How [1] - 12:17</p> <p>HOZ-16-13 [1] - 17:2</p> <p>HOZ-16-17 [1] - 47:2</p> <p>HOZ-16-9 [1] - 7:2</p> <p>Hudson [9] - 18:6, 31:12, 48:6, 49:15, 49:19, 49:20, 52:18, 53:2, 53:5</p> <p>huh [3] - 9:23, 50:17, 51:25</p> <p>hundred [2] - 27:21, 37:3</p>	<p>24:10, 26:12, 26:19, 27:2, 27:4, 27:8, 27:9, 29:8, 29:10, 30:22, 32:3, 33:5, 34:14, 36:11, 36:18, 37:17, 38:23, 40:9, 41:2, 41:10, 41:19, 41:22, 41:24, 42:14, 43:5, 44:20, 46:15, 46:22, 49:8, 49:23, 50:14, 50:24, 51:12, 51:16, 51:21, 51:24, 52:1, 52:19, 52:24, 55:15, 55:21, 59:23, 60:5, 60:8, 61:3, 61:4, 61:5, 61:12, 61:15, 61:16, 63:1, 64:6, 64:25, 66:6, 66:7, 66:8, 66:20, 67:2, 67:6, 67:10, 67:20, 67:21, 68:15, 68:22</p> <p>In [4] - 24:18, 51:10, 58:25, 59:10</p> <p>include [1] - 38:9</p> <p>included [2] - 19:24, 30:20</p> <p>including [1] - 53:2</p> <p>inconsistent [1] - 36:9</p> <p>incorporated [1] - 37:19</p> <p>indefinite [1] - 60:9</p> <p>indefinitely [1] - 61:20</p> <p>Indiana [2] - 14:21, 14:23</p> <p>individual [1] - 31:13</p> <p>Industrial [1] - 17:6</p> <p>information [3] - 21:18, 37:6, 40:6</p> <p>input [2] - 23:17, 29:24</p> <p>inspection [1] - 24:9</p> <p>inspections [1] - 30:2</p> <p>instability [1] - 39:14</p> <p>installed [1] - 42:22</p> <p>instead [1] - 34:17</p> <p>interest [1] - 41:24</p> <p>interested [4] - 16:15, 46:15, 55:15, 68:15</p> <p>Interesting [1] - 66:24</p> <p>internal [1] - 7:5</p> <p>into [4] - 19:11, 43:25, 59:3, 61:2</p> <p>investigation [1] - 12:23</p> <p>isn't [1] - 27:25</p>	<p>issuance [2] - 32:12, 42:22</p> <p>issue [4] - 10:1, 12:24, 13:2, 44:7</p> <p>issued [1] - 20:11</p> <p>issues [4] - 11:3, 19:19, 24:4, 60:19</p> <p>it [148] - 6:1, 9:16, 9:21, 9:22, 10:4, 11:2, 11:3, 11:17, 11:22, 11:25, 12:2, 12:8, 12:9, 12:19, 13:4, 13:6, 13:7, 13:12, 13:15, 13:16, 14:3, 14:13, 14:14, 15:6, 15:11, 19:20, 19:21, 19:24, 20:7, 20:14, 20:23, 21:3, 21:15, 21:16, 21:17, 22:6, 22:8, 22:10, 22:13, 22:17, 22:22, 23:5, 23:7, 23:20, 24:5, 24:7, 24:21, 25:2, 25:7, 26:5, 27:6, 27:7, 27:16, 27:20, 27:22, 28:2, 28:10, 28:11, 28:22, 29:6, 29:14, 30:22, 30:25, 31:1, 31:2, 31:15, 32:1, 32:3, 32:5, 32:11, 33:4, 33:10, 33:16, 34:4, 34:6, 34:15, 34:21, 34:22, 35:5, 35:6, 35:7, 35:13, 35:15, 35:17, 35:21, 36:6, 37:9, 37:17, 37:22, 38:1, 38:22, 39:15, 39:22, 39:24, 40:7, 41:6, 41:17, 41:18, 41:19, 41:21, 41:22, 42:3, 44:8, 44:10, 44:14, 44:22, 44:23, 50:8, 50:10, 50:25, 51:2, 51:3, 51:7, 51:9, 51:16, 52:19, 52:20, 53:11, 53:13, 59:8, 59:12, 59:13, 59:18, 59:22, 60:17, 60:21, 61:6, 61:19, 62:23, 63:12, 64:6, 64:21</p> <p>It [10] - 11:1, 20:16, 22:12, 23:20, 28:3, 35:10, 43:1, 50:14, 50:23, 66:25</p> <p>It's [7] - 12:2, 29:23, 30:14, 41:14, 51:4, 58:9, 60:3</p> <p>it's [6] - 24:13, 30:15, 30:21, 40:5, 59:16,</p>
I		<p>I'll [1] - 53:13</p> <p>I'm [8] - 20:15, 26:12, 31:4, 36:24, 38:20, 39:24, 43:12, 64:10</p> <p>idea [2] - 34:12, 34:14</p> <p>identify [1] - 21:10</p> <p>If [12] - 11:16, 12:23, 26:22, 30:7, 34:14, 37:8, 43:25, 58:21, 60:24, 61:18, 65:9, 66:20</p> <p>if [53] - 11:5, 11:20, 12:13, 13:7, 13:23, 15:6, 15:7, 20:3, 21:22, 22:1, 23:21, 24:7, 24:12, 25:7, 25:21, 26:13, 26:18, 27:1, 27:8, 27:15, 27:16, 29:3, 29:4, 29:10, 30:5, 31:18, 32:10, 32:15, 32:23, 34:10, 34:20, 35:6, 35:10, 38:1, 38:21, 39:2, 40:5, 40:12, 44:7, 50:18, 51:6, 53:6, 58:14, 59:6, 59:10, 59:16, 60:19, 61:22, 62:14, 62:22, 64:24, 65:15, 67:2</p> <p>ill [1] - 24:10</p> <p>illumination [1] - 7:6</p> <p>implicit [1] - 26:25</p> <p>in [89] - 4:3, 4:5, 4:6, 4:8, 5:12, 5:13, 10:2, 10:22, 11:13, 12:5, 12:7, 12:9, 12:13, 13:25, 14:15, 15:1, 16:15, 16:22, 19:9, 19:20, 19:21, 21:25, 22:2, 22:15, 24:4,</p>	<p>issuance [2] - 32:12, 42:22</p> <p>issue [4] - 10:1, 12:24, 13:2, 44:7</p> <p>issued [1] - 20:11</p> <p>issues [4] - 11:3, 19:19, 24:4, 60:19</p> <p>it [148] - 6:1, 9:16, 9:21, 9:22, 10:4, 11:2, 11:3, 11:17, 11:22, 11:25, 12:2, 12:8, 12:9, 12:19, 13:4, 13:6, 13:7, 13:12, 13:15, 13:16, 14:3, 14:13, 14:14, 15:6, 15:11, 19:20, 19:21, 19:24, 20:7, 20:14, 20:23, 21:3, 21:15, 21:16, 21:17, 22:6, 22:8, 22:10, 22:13, 22:17, 22:22, 23:5, 23:7, 23:20, 24:5, 24:7, 24:21, 25:2, 25:7, 26:5, 27:6, 27:7, 27:16, 27:20, 27:22, 28:2, 28:10, 28:11, 28:22, 29:6, 29:14, 30:22, 30:25, 31:1, 31:2, 31:15, 32:1, 32:3, 32:5, 32:11, 33:4, 33:10, 33:16, 34:4, 34:6, 34:15, 34:21, 34:22, 35:5, 35:6, 35:7, 35:13, 35:15, 35:17, 35:21, 36:6, 37:9, 37:17, 37:22, 38:1, 38:22, 39:15, 39:22, 39:24, 40:7, 41:6, 41:17, 41:18, 41:19, 41:21, 41:22, 42:3, 44:8, 44:10, 44:14, 44:22, 44:23, 50:8, 50:10, 50:25, 51:2, 51:3, 51:7, 51:9, 51:16, 52:19, 52:20, 53:11, 53:13, 59:8, 59:12, 59:13, 59:18, 59:22, 60:17, 60:21, 61:6, 61:19, 62:23, 63:12, 64:6, 64:21</p> <p>It [10] - 11:1, 20:16, 22:12, 23:20, 28:3, 35:10, 43:1, 50:14, 50:23, 66:25</p> <p>It's [7] - 12:2, 29:23, 30:14, 41:14, 51:4, 58:9, 60:3</p> <p>it's [6] - 24:13, 30:15, 30:21, 40:5, 59:16,</p>	

<p>59:18 item [1] - 58:11 Item [1] - 38:9 items [1] - 31:21</p>	<p>keeping [1] - 27:3 keeps [1] - 41:19 kick [1] - 37:25 kind [9] - 10:16, 12:22, 23:25, 24:21, 29:23, 30:1, 31:14, 43:22, 44:1 kinds [3] - 24:11, 60:18, 64:13 Klaxon [1] - 34:16 knock [1] - 39:10 knocks [1] - 39:11 know [36] - 11:5, 11:22, 13:5, 13:6, 14:3, 15:7, 20:7, 20:9, 20:21, 21:23, 23:12, 23:21, 24:11, 25:17, 26:5, 26:10, 26:11, 27:17, 28:13, 29:13, 30:5, 30:15, 34:19, 39:9, 39:24, 40:14, 41:1, 41:25, 50:18, 59:7, 59:18, 60:5, 60:24, 60:25, 61:7, 65:15 Kristin [5] - 1:16, 7:18, 17:18, 47:17, 56:16</p>	<p>Let [1] - 51:8 let's [3] - 6:2, 22:13, 44:23 letter [7] - 10:12, 13:2, 29:12, 59:6, 63:23, 64:8, 65:13 letters [2] - 31:10, 49:16 level [1] - 9:21 Lewis [4] - 16:18, 46:18, 55:18, 68:18 LEWIS [13] - 1:22, 7:23, 16:3, 16:20, 17:23, 46:3, 46:20, 47:23, 55:3, 55:20, 56:22, 68:3, 68:20 light [6] - 12:4, 14:4, 33:8, 33:20, 33:22, 51:9 lighting [2] - 12:15, 52:2 lightly [1] - 10:4 lights [1] - 13:6 Like [1] - 34:13 like [30] - 4:1, 5:6, 23:15, 23:16, 23:20, 25:3, 27:10, 29:11, 34:11, 34:15, 34:20, 34:24, 37:12, 38:22, 39:8, 40:12, 41:3, 42:13, 43:25, 44:2, 50:6, 51:3, 59:18, 59:24, 60:3, 61:3, 62:13, 64:16, 65:2 limit [2] - 39:4, 44:1 limited [1] - 25:20 list [1] - 19:14 Listen [1] - 34:9 little [3] - 10:17, 24:22, 61:6 LLC [1] - 17:4 loading [3] - 31:24, 31:25, 32:15 lobby [1] - 4:8 look [1] - 29:5 looked [1] - 29:6 looking [2] - 31:17, 31:18 looks [1] - 51:3 loop [1] - 27:4 lose [1] - 60:4 lost [1] - 38:24 LOT [1] - 7:4 lot [1] - 62:20 Lots [1] - 47:4 LOTS [1] - 17:4</p>	<p style="text-align: center;">M</p> <p>M [5] - 2:1, 8:2, 18:2, 48:2, 57:1 made [2] - 15:3, 52:5 maintain [1] - 11:25 majority [1] - 31:15 make [15] - 12:22, 21:3, 21:7, 21:22, 30:21, 33:10, 40:2, 41:23, 43:22, 44:21, 53:7, 60:3, 60:11, 61:13, 65:10 makes [1] - 14:2 management [2] - 49:18, 59:22 many [2] - 11:1, 40:2 Marsden [1] - 52:20 Marsh [1] - 4:14 Maser [1] - 19:20 material [1] - 50:24 materials [1] - 26:9 matter [5] - 12:2, 12:23, 15:13, 45:22, 54:7 MATULE [52] - 18:5, 19:5, 20:19, 20:24, 21:22, 21:25, 23:10, 23:17, 23:20, 24:1, 24:20, 24:23, 25:12, 26:13, 26:24, 27:14, 29:1, 29:9, 30:14, 31:9, 32:1, 32:13, 33:1, 34:5, 35:1, 35:10, 35:14, 35:17, 35:21, 36:5, 37:10, 37:16, 37:23, 38:11, 38:15, 39:21, 41:7, 41:13, 44:4, 45:19, 48:5, 49:3, 50:2, 50:5, 50:8, 50:16, 50:19, 51:8, 51:21, 52:17, 53:3, 54:3 Matule [2] - 19:6, 49:4 May [1] - 21:7 may [4] - 25:25, 37:6, 43:16, 61:13 maybe [7] - 10:18, 10:21, 30:23, 33:1, 40:5, 44:10, 51:8 MC [8] - 4:19, 5:8, 13:13, 13:22, 42:10, 42:15, 45:8, 53:19 McAnuff [8] - 1:11, 4:18, 7:13, 17:13, 45:7, 47:13, 53:18, 56:11 McBride [1] - 4:22</p>	<p>me [19] - 5:23, 9:20, 11:6, 12:17, 13:11, 14:3, 14:20, 16:8, 21:12, 24:13, 39:21, 39:23, 46:8, 51:8, 55:8, 61:16, 63:10, 66:4, 68:8 mean [5] - 21:20, 29:10, 37:16, 41:17, 67:2 means [1] - 61:12 meet [1] - 40:19 MEETING [2] - 1:3, 56:3 meeting [12] - 4:2, 33:9, 36:16, 36:22, 36:23, 37:13, 63:22, 66:15, 67:3, 67:6, 67:10, 67:23 Meetings [1] - 4:4 meets [2] - 41:18 members [5] - 5:13, 11:19, 31:3, 66:8, 67:21 memory [1] - 49:8 mention [1] - 10:4 met [1] - 52:7 metamorphosis [1] - 24:24 might [8] - 11:3, 12:1, 12:24, 26:13, 28:13, 29:8, 38:19, 60:21 mind [2] - 30:12, 62:3 Minervini [2] - 20:3, 29:2 MINERVINI [15] - 30:17, 33:7, 34:7, 35:25, 44:5, 44:12, 45:18, 50:4, 50:14, 50:17, 50:23, 51:4, 51:6, 51:18, 51:25 minimum [1] - 65:14 minute [1] - 9:1 missing [4] - 11:21, 11:23, 26:22, 26:23 mistake [1] - 60:4 modified [4] - 36:12, 43:6, 50:11, 52:25 money [1] - 42:1 month [4] - 39:5, 61:11, 66:12, 67:4 monthly [4] - 25:3, 25:5, 27:3, 43:9 more [4] - 27:6, 37:6, 40:22, 62:20 Motion [3] - 53:8, 53:9, 67:18 motion [5] - 36:13,</p>
J				
<p>Jackson [5] - 2:2, 8:3, 18:3, 48:3, 57:2 James [1] - 47:4 January [3] - 19:9, 36:16, 64:25 Jeff [2] - 24:10, 52:19 Jersey [21] - 1:7, 2:2, 4:5, 7:9, 8:3, 16:5, 16:20, 17:9, 18:3, 18:6, 46:5, 46:20, 47:9, 48:3, 48:6, 55:5, 55:20, 56:7, 57:2, 68:5, 68:20 Jim [2] - 10:17, 13:11 Jim's [1] - 10:10 job [3] - 15:3, 41:4, 44:21 JOHNSON [8] - 4:25, 40:4, 40:8, 40:11, 40:17, 42:6, 45:12, 53:23 Johnson [8] - 1:12, 4:24, 7:14, 17:14, 45:11, 47:14, 53:22, 56:12 Journal [1] - 4:5 joy [3] - 67:12, 67:15 Jr [5] - 1:17, 7:19, 17:19, 47:18, 56:17 judge [1] - 60:16 July [1] - 49:9 jurisdiction [4] - 12:7, 13:1, 13:3, 14:2 just [35] - 11:8, 20:9, 22:5, 25:5, 26:13, 27:4, 29:24, 34:9, 35:1, 35:17, 36:14, 36:15, 36:20, 40:5, 41:14, 50:12, 50:19, 50:21, 50:23, 51:8, 52:19, 52:20, 59:24, 60:3, 60:11, 60:21, 62:3, 62:24, 64:16, 64:19, 64:20, 64:21, 65:6, 66:10 Just [1] - 49:8</p>	L			
K	<p>L [5] - 1:15, 7:17, 17:17, 47:16, 56:15 Land [1] - 17:6 land [1] - 25:19 landscaping [2] - 50:11, 51:12 language [4] - 36:17, 42:23, 43:7, 43:22 last [1] - 32:6 later [1] - 39:5 Laughter [7] - 13:18, 13:21, 14:16, 15:2, 15:9, 66:2, 67:13 laundry [1] - 19:14 law [2] - 10:25, 40:12 lead [1] - 12:8 least [3] - 15:3, 61:23, 63:25 leave [2] - 35:1, 60:1 LED [5] - 33:8, 33:20, 34:14, 34:20, 35:5 Ledger [1] - 4:7 LEDs [1] - 33:4 left [4] - 25:2, 25:22, 58:4, 61:12 legal [1] - 11:25 let [5] - 14:4, 23:20, 28:1, 60:6, 61:16</p>			
<p>keep [5] - 26:19, 59:24, 59:25, 64:21</p>				

<p>42:11, 45:2, 53:7, 65:10</p> <p>move [7] - 14:12, 14:13, 19:2, 19:4, 31:2, 38:3, 42:14</p> <p>moved [3] - 32:24, 53:11, 65:21</p> <p>Mr [5] - 20:3, 29:2, 52:20, 59:11, 59:15</p> <p>MR [188] - 4:1, 5:4, 5:11, 5:15, 5:23, 6:2, 9:1, 9:6, 9:10, 9:12, 9:14, 9:24, 10:8, 10:9, 10:15, 11:10, 11:16, 11:20, 12:16, 13:16, 13:24, 14:5, 14:8, 14:12, 14:17, 14:20, 14:24, 15:3, 15:7, 15:10, 15:12, 19:1, 19:5, 20:15, 20:18, 20:19, 20:24, 21:12, 21:22, 21:24, 21:25, 23:4, 23:8, 23:10, 23:15, 23:17, 23:20, 23:23, 24:1, 24:2, 24:7, 24:20, 24:21, 24:23, 25:11, 25:12, 25:15, 25:17, 26:13, 26:21, 26:24, 27:14, 27:18, 28:5, 28:8, 28:12, 28:17, 29:1, 29:3, 29:9, 29:16, 29:20, 30:3, 30:7, 30:10, 30:14, 30:15, 30:17, 30:19, 31:4, 31:9, 31:14, 32:1, 32:7, 32:13, 32:17, 32:20, 32:23, 33:1, 33:7, 33:23, 34:2, 34:5, 34:7, 34:9, 35:1, 35:3, 35:10, 35:14, 35:17, 35:21, 35:25, 36:3, 36:5, 36:7, 36:21, 36:24, 37:2, 37:10, 37:11, 37:16, 37:20, 37:23, 37:24, 38:11, 38:15, 38:20, 39:6, 39:17, 39:21, 39:23, 40:7, 40:10, 40:15, 40:18, 41:7, 41:8, 41:13, 41:14, 41:17, 42:8, 42:20, 43:14, 43:17, 44:4, 44:5, 44:8, 44:12, 44:13, 44:21, 45:18, 45:19, 49:3, 50:2, 50:4, 50:5, 50:8, 50:14, 50:16, 50:17, 50:19, 50:23, 51:4, 51:6, 51:8, 51:18, 51:21, 51:25, 52:3,</p>	<p>52:13, 52:15, 52:17, 52:22, 53:3, 53:6, 54:3, 54:5, 58:1, 58:7, 58:13, 58:17, 59:21, 60:15, 61:15, 62:14, 62:18, 62:25, 63:6, 63:15, 63:21, 64:4, 64:9, 64:18, 64:24, 65:8, 66:14, 66:25, 67:11</p> <p>MS [47] - 4:10, 4:14, 4:18, 4:20, 4:22, 5:1, 5:3, 5:12, 9:23, 14:6, 14:10, 31:23, 32:14, 32:18, 32:22, 32:25, 36:1, 45:5, 45:7, 45:9, 45:11, 45:13, 45:15, 45:17, 49:24, 50:6, 50:21, 51:1, 51:5, 52:7, 53:16, 53:18, 53:20, 53:22, 53:24, 54:1, 58:6, 58:10, 58:16, 63:4, 65:2, 65:24, 66:5, 66:10, 66:24, 67:5, 67:9</p> <p>much [1] - 40:16</p> <p>Murphy [9] - 1:10, 4:16, 5:9, 7:12, 17:12, 45:15, 47:12, 54:1, 56:10</p> <p>MURPHY [61] - 4:17, 5:17, 5:20, 5:25, 6:4, 9:3, 9:9, 12:12, 13:20, 14:1, 14:13, 14:22, 14:25, 19:3, 20:17, 20:22, 21:9, 22:10, 25:13, 27:12, 34:3, 34:24, 35:4, 35:12, 35:16, 35:19, 35:23, 39:12, 39:15, 41:11, 41:16, 42:12, 42:18, 44:6, 44:24, 45:3, 45:16, 45:20, 49:1, 52:11, 52:14, 53:9, 53:12, 53:14, 54:2, 58:4, 58:8, 59:19, 61:10, 62:5, 63:2, 64:2, 64:7, 64:14, 64:22, 65:4, 65:20, 66:7, 67:1, 67:14, 67:20</p> <p>must [6] - 20:16, 42:21, 42:25, 43:1, 43:19, 53:1</p> <p>My [6] - 16:21, 20:15, 46:21, 55:21, 65:8, 68:21</p> <p>my [4] - 15:3, 25:1, 60:5, 63:10</p> <p>myself [1] - 40:6</p>	<p style="text-align: center;">N</p> <p>N [11] - 1:15, 1:25, 3:1, 7:17, 8:1, 17:17, 18:1, 47:16, 48:1, 56:15, 56:25</p> <p>necessarily [1] - 28:20</p> <p>need [16] - 5:5, 29:4, 32:15, 32:18, 36:1, 42:2, 58:22, 58:23, 59:4, 60:25, 62:14, 64:4, 64:7, 65:6, 66:21, 66:23</p> <p>needed [2] - 9:19, 19:14</p> <p>needs [4] - 21:15, 21:21, 65:6, 67:16</p> <p>neighborhood [2] - 12:14, 41:20</p> <p>neighbors [3] - 9:17, 10:20, 10:24</p> <p>neither [8] - 16:11, 16:14, 46:11, 46:14, 55:11, 55:14, 68:11, 68:14</p> <p>Never [1] - 10:23</p> <p>never [3] - 12:7, 44:16, 62:16</p> <p>New [20] - 1:7, 2:2, 7:9, 8:3, 16:5, 16:20, 17:9, 18:3, 18:6, 46:5, 46:20, 47:9, 48:3, 48:6, 55:5, 55:20, 56:7, 57:2, 68:5, 68:20</p> <p>new [3] - 26:10, 27:19, 47:5</p> <p>next [6] - 6:5, 39:9, 49:1, 58:11, 62:13, 67:9</p> <p>NJAC [4] - 16:22, 46:22, 55:22, 68:22</p> <p>no [6] - 10:20, 12:1, 25:14, 25:23, 62:3, 64:17</p> <p>No [14] - 13:19, 13:20, 13:24, 14:1, 23:10, 32:20, 34:2, 35:3, 35:10, 50:5, 50:6, 58:6, 62:25, 64:18</p> <p>nobody [4] - 11:2, 12:11, 13:7, 62:1</p> <p>nomenclature [1] - 28:16</p> <p>nominate [2] - 5:6, 5:8</p> <p>none [1] - 13:20</p>	<p>nor [16] - 16:12, 16:14, 46:12, 46:14, 55:12, 55:14, 68:12, 68:14</p> <p>normal [1] - 62:1</p> <p>North [4] - 31:12, 49:19, 52:17, 53:2</p> <p>northeast [1] - 51:20</p> <p>not [35] - 11:1, 11:12, 14:18, 16:15, 20:8, 21:1, 21:20, 27:16, 27:21, 29:6, 30:24, 32:2, 32:16, 35:6, 37:2, 40:4, 40:12, 40:18, 40:19, 41:24, 42:1, 46:15, 55:15, 58:1, 58:9, 59:1, 60:7, 62:12, 62:15, 64:10, 64:18, 68:15</p> <p>Notary [8] - 16:5, 16:20, 46:5, 46:20, 55:5, 55:20, 68:5, 68:20</p> <p>Nothing [1] - 51:25</p> <p>notice [2] - 4:2, 4:5</p> <p>noticeable [1] - 35:22</p> <p>notify [1] - 39:3</p> <p>November [5] - 1:3, 7:4, 17:4, 47:4, 56:3</p> <p>now [13] - 19:16, 19:17, 21:11, 26:17, 29:6, 30:19, 37:25, 49:14, 51:2, 60:7, 61:23, 65:19</p> <p>Now [2] - 23:24, 24:2</p> <p>null [1] - 38:25</p> <p>Number [1] - 12:4</p> <p>number [1] - 38:22</p> <p style="text-align: center;">O</p> <p>O [10] - 1:9, 1:15, 7:11, 7:17, 17:11, 17:17, 47:11, 47:16, 56:9, 56:15</p> <p>o'clock [1] - 15:8</p> <p>objections [2] - 23:11, 23:21</p> <p>objector [2] - 61:5, 66:22</p> <p>obligation [1] - 44:2</p> <p>obligations [1] - 40:20</p> <p>obtained [1] - 53:1</p> <p>Obviously [1] - 20:8</p> <p>occasionally [1] - 34:11</p> <p>of [160] - 4:2, 4:4,</p>	<p>4:8, 5:4, 5:19, 5:21, 6:1, 9:12, 9:17, 9:22, 10:9, 10:16, 10:24, 11:2, 11:4, 11:11, 12:22, 12:23, 16:5, 16:7, 16:13, 16:14, 16:20, 17:5, 19:6, 19:9, 19:12, 19:14, 19:17, 19:19, 20:2, 20:10, 20:12, 20:20, 20:25, 21:3, 21:4, 21:16, 21:20, 23:11, 23:25, 24:4, 24:11, 24:16, 24:21, 24:23, 24:24, 25:2, 25:6, 25:22, 26:4, 26:9, 26:17, 27:1, 27:2, 27:9, 28:19, 29:23, 30:1, 30:20, 31:5, 31:7, 31:14, 31:21, 32:12, 33:2, 33:12, 33:18, 33:21, 34:17, 36:10, 36:17, 37:4, 37:18, 38:11, 38:23, 39:22, 40:13, 40:16, 40:19, 40:20, 40:23, 41:2, 41:12, 41:18, 41:21, 41:24, 42:14, 42:22, 42:23, 43:4, 43:6, 43:9, 43:22, 43:23, 44:1, 44:11, 46:5, 46:7, 46:13, 46:14, 46:20, 49:4, 49:9, 49:12, 49:21, 50:12, 50:24, 51:10, 51:12, 51:19, 52:1, 52:7, 52:24, 55:5, 55:7, 55:13, 55:14, 55:20, 58:18, 58:22, 59:3, 59:22, 60:16, 60:18, 61:15, 61:16, 61:24, 63:1, 63:3, 63:4, 63:7, 63:11, 63:19, 64:13, 64:17, 66:19, 68:5, 68:7, 68:13, 68:14, 68:20</p> <p>OF [18] - 1:1, 1:1, 1:3, 1:3, 1:4, 7:1, 7:1, 17:1, 17:1, 47:1, 47:1, 56:1, 56:1, 56:3, 56:3, 56:4</p> <p>off [5] - 5:24, 5:25, 26:14, 32:16, 32:20</p> <p>office [1] - 42:24</p> <p>officer [4] - 9:18, 28:23, 37:14, 44:12</p> <p>official [1] - 44:16</p> <p>oh [3] - 21:24, 44:22</p> <p>Oh [8] - 5:17, 14:25, 21:24, 22:10, 22:12,</p>
---	--	---	---	---

<p>50:2, 51:1, 58:8 Okay [37] - 5:3, 5:20, 6:4, 9:6, 9:14, 10:9, 10:15, 27:23, 28:8, 30:6, 32:22, 32:25, 35:16, 35:19, 35:20, 37:1, 37:16, 37:23, 38:2, 38:17, 40:17, 40:18, 42:8, 42:9, 43:17, 44:4, 44:5, 44:24, 45:17, 49:3, 50:8, 51:5, 52:14, 52:22, 53:14, 58:16, 66:23 okay [20] - 10:21, 13:8, 13:11, 14:19, 19:3, 24:3, 24:8, 24:18, 27:16, 28:25, 32:5, 34:15, 35:16, 35:19, 43:14, 44:3, 52:3, 52:12, 61:23, 66:18 on [51] - 4:5, 4:7, 5:25, 6:5, 7:6, 9:2, 9:20, 10:5, 10:24, 10:25, 11:1, 11:12, 13:6, 13:17, 19:2, 19:6, 20:4, 20:6, 21:21, 22:18, 27:15, 28:19, 28:24, 29:23, 30:1, 30:24, 32:9, 32:16, 32:20, 34:6, 34:16, 36:7, 36:25, 37:25, 40:1, 40:16, 42:2, 49:4, 51:9, 58:9, 59:16, 59:20, 60:11, 60:17, 61:1, 63:10, 63:19, 65:10, 66:17, 67:12 On [1] - 59:15 once [3] - 13:6, 34:8, 35:14 one [19] - 12:3, 13:9, 14:8, 14:10, 20:5, 33:2, 36:14, 37:4, 37:13, 39:10, 41:2, 49:11, 51:22, 61:4, 61:11, 66:10, 67:3, 67:10 One [5] - 19:19, 20:20, 24:4, 42:21, 45:21 only [10] - 11:17, 11:18, 14:8, 14:10, 31:15, 38:18, 38:19, 61:11, 67:3, 67:10 Open [1] - 4:4 open [1] - 60:1 opening [2] - 11:22, 35:18</p>	<p>opens [1] - 33:22 opine [2] - 11:13, 22:18 opinion [1] - 11:15 opposed [1] - 13:14 or [48] - 5:22, 10:6, 10:21, 10:24, 12:24, 13:1, 13:9, 16:14, 20:12, 22:5, 27:9, 27:10, 27:21, 28:10, 29:4, 29:11, 29:14, 31:20, 32:15, 36:19, 37:13, 38:24, 40:12, 40:22, 41:22, 44:2, 46:14, 52:1, 52:2, 55:14, 58:23, 59:4, 59:8, 59:18, 60:2, 60:13, 60:20, 63:17, 63:24, 65:2, 65:6, 65:7, 65:12, 66:5, 66:22, 68:14 oranges [1] - 26:14 order [2] - 12:24, 26:19 ordinance [1] - 40:21 originally [2] - 13:14, 35:7 other [13] - 12:3, 13:10, 20:5, 27:6, 33:1, 34:17, 34:18, 38:18, 38:19, 40:20, 52:8, 61:5, 66:22 our [21] - 5:18, 19:16, 19:23, 24:25, 25:4, 27:3, 28:19, 29:23, 31:9, 31:10, 31:11, 31:13, 34:14, 36:22, 36:23, 40:5, 49:18, 63:9, 63:22, 64:24, 67:9 Our [1] - 31:11 out [18] - 10:1, 24:10, 24:19, 27:23, 30:24, 32:4, 32:19, 34:15, 39:5, 39:7, 44:1, 50:9, 59:14, 63:1, 63:3, 63:4, 63:7 outcome [1] - 66:19 Outside [1] - 52:15 outside [3] - 31:7, 52:23, 53:1 outstanding [1] - 32:10 over [3] - 50:1, 63:11, 65:12 overriding [1] - 27:7 Owen [5] - 1:11, 7:13, 17:13, 47:13, 56:11 owner [1] - 61:6</p>	<p style="text-align: center;">P</p> <p>P [20] - 1:15, 1:17, 1:25, 7:17, 7:19, 8:1, 17:17, 17:19, 18:1, 47:16, 47:18, 48:1, 56:15, 56:17, 56:25 p.m [6] - 1:4, 7:5, 17:5, 47:5, 56:4, 67:23 package [1] - 19:24 PAGE [1] - 3:3 page [1] - 6:5 palatable [1] - 14:3 panicked [1] - 65:18 parallel [1] - 35:18 Park [3] - 58:7, 58:17, 59:15 parking [4] - 19:13, 26:1, 47:6, 49:12 parlance [1] - 28:14 part [5] - 24:23, 30:20, 40:18, 41:21, 51:18 particular [1] - 11:14 parties [4] - 16:13, 46:13, 55:13, 68:13 Passaic [1] - 49:20 past [2] - 29:10, 59:20 Pat [2] - 9:20, 63:6 Paterson [4] - 3:8, 47:3, 49:2, 49:7 Patricia [10] - 1:17, 1:19, 7:19, 7:21, 17:19, 17:21, 47:19, 47:20, 56:17, 56:19 pavers [2] - 51:3, 51:23 PE [10] - 1:17, 1:17, 7:19, 7:19, 17:19, 17:19, 47:18, 47:19, 56:17, 56:17 pedestrian [1] - 26:2 pending [2] - 65:12, 66:18 people [12] - 11:1, 11:3, 11:20, 13:13, 25:1, 37:14, 59:4, 59:17, 59:25, 60:1, 60:25, 61:8 per [1] - 50:12 percent [4] - 27:21, 37:3, 40:24, 41:1 permeable [3] - 50:25, 51:4, 51:23 permission [2] - 29:7, 31:24 permit [2] - 31:13,</p>	<p>52:18 perpendicular [4] - 33:5, 33:11, 33:17, 35:18 person [4] - 11:14, 44:14, 60:20 perspective [1] - 25:20 Phone [5] - 1:24, 7:25, 17:24, 47:24, 56:24 PHYLLIS [13] - 1:22, 7:23, 16:3, 16:20, 17:23, 46:3, 46:20, 47:23, 55:3, 55:20, 56:22, 68:3, 68:20 pick [1] - 28:24 picks [1] - 64:24 piece [1] - 5:4 Place [2] - 18:6, 48:6 place [4] - 16:8, 46:8, 55:8, 68:8 placed [1] - 4:7 Plan [2] - 17:5, 47:5 plan [19] - 19:10, 19:18, 27:11, 27:25, 28:11, 29:4, 30:20, 36:3, 36:5, 36:8, 38:8, 39:3, 40:9, 43:13, 43:20, 49:7, 49:9, 49:15, 49:18 planner [1] - 51:15 Planning [11] - 1:16, 7:18, 17:18, 19:21, 19:22, 19:25, 33:14, 41:9, 47:17, 53:5, 56:16 plans [6] - 30:18, 32:14, 32:16, 32:21, 34:6, 52:10 planting [1] - 50:24 plaque [11] - 20:6, 20:12, 20:18, 20:21, 21:11, 21:17, 21:21, 22:13, 22:16, 22:19, 42:21 Pledge [1] - 5:19 plural [1] - 28:4 Plural [2] - 28:6, 28:7 point [7] - 35:8, 58:23, 59:4, 59:9, 59:17, 62:1, 64:15 portion [2] - 38:23, 51:19 PP [5] - 1:17, 7:19, 17:19, 47:18, 56:17 preexisted [1] - 12:2 preexisting [1] - 12:3 preliminary [14] - 19:10, 27:8, 31:20,</p>	<p>32:9, 36:11, 37:18, 40:1, 43:4, 49:9, 49:23, 51:10, 52:6, 52:9, 52:24 prepared [5] - 16:22, 38:3, 46:22, 55:21, 68:22 prerogative [1] - 22:2 present [3] - 4:2, 21:4, 60:19 preserve [1] - 36:18 pressure [4] - 13:19, 30:1, 59:24, 59:25 pretty [1] - 40:15 previously [1] - 51:1 prior [2] - 42:22, 43:2 Probably [1] - 11:18 probably [6] - 13:7, 25:20, 26:4, 37:17, 37:25, 67:3 probiem [10] - 26:23, 28:19, 33:24, 34:1, 37:8, 40:3, 43:25, 44:15, 58:13, 62:25 problems [1] - 12:9 proceedings [4] - 16:7, 46:7, 55:7, 68:7 process [8] - 10:4, 23:13, 29:17, 37:7, 58:18, 59:5, 59:8, 64:11 professionals [4] - 20:13, 21:5, 25:23, 49:21 progress [2] - 25:6, 43:9 project [6] - 25:6, 25:10, 33:14, 40:25, 41:22, 43:9 projects [1] - 41:3 promise [1] - 39:18 promised [1] - 31:19 prompted [1] - 9:24 proof [2] - 52:19, 52:20 proofs [1] - 19:16 properly [1] - 41:4 property [2] - 33:16, 33:21 proposed [4] - 20:12, 26:19, 63:14, 63:19 proposing [4] - 22:4, 22:15, 25:3 prosecute [1] - 65:15 prosecuted [1] - 64:5 provide [1] - 40:23 provided [2] - 4:3,</p>
--	--	---	---	--

<p>4:6 provision [1] - 51:19 provisions [1] - 4:4 PSE&G [2] - 31:10, 49:17 public [3] - 4:3, 13:23, 13:25 Public [9] - 4:4, 16:5, 16:20, 46:5, 46:20, 55:5, 55:20, 68:5, 68:20 published [1] - 4:5 purview [1] - 26:4 put [9] - 12:17, 20:6, 20:20, 34:14, 34:16, 36:10, 41:9, 51:24, 67:2 puts [1] - 63:24</p>	<p>46:4, 55:4, 68:4 rear [6] - 49:25, 50:6, 50:11, 51:2, 51:12, 51:21 reason [4] - 28:12, 60:7, 60:8, 62:4 receive [1] - 10:12 received [2] - 49:9, 49:15 recited [1] - 5:19 recommend [1] - 59:2 recommendation [4] - 15:6, 22:24, 23:1, 65:8 Record [1] - 4:7 refile [1] - 63:8 refiling [1] - 62:24 refresh [1] - 49:8 regard [1] - 25:21 Rehabilitation [1] - 17:5 reinforcing [1] - 10:20 related [1] - 36:17 relative [8] - 16:12, 16:14, 46:12, 46:14, 55:12, 55:14, 68:12, 68:14 relevant [1] - 40:5 rely [1] - 10:24 remain [3] - 36:11, 43:5, 52:24 remains [1] - 61:7 remove [1] - 30:1 rendered [1] - 38:25 renovate [1] - 19:11 Report [1] - 44:10 report [11] - 19:20, 24:10, 25:4, 25:5, 38:16, 43:9, 44:8, 44:14, 50:13, 50:15, 66:16 Reporter [8] - 16:4, 46:4, 55:4, 68:4 REPORTER [10] - 1:23, 1:23, 7:24, 7:24, 17:23, 17:24, 47:23, 47:24, 56:23, 56:23 reports [3] - 24:11, 27:3, 30:13 request [1] - 50:12 requested [1] - 62:17 requesting [2] - 19:18, 49:14 required [1] - 52:6 requirement [1] - 36:17 requires [2] - 26:4, 31:15</p>	<p>requiring [1] - 34:13 reserve [1] - 22:1 reserved [1] - 12:6 Residential [1] - 17:6 residential [4] - 19:12, 19:25, 47:5, 49:11 resolution [9] - 5:22, 12:5, 14:5, 14:6, 19:24, 27:8, 37:9, 39:22, 58:5 resolving [1] - 13:12 response [1] - 10:2 responsibility [2] - 25:21, 25:23 restaurant [1] - 15:5 reuse [1] - 27:21 review [4] - 20:13, 21:5, 28:2, 42:24 Review [2] - 17:5, 47:5 reviewed [3] - 43:18, 49:22, 51:15 revise [1] - 51:11 revised [2] - 36:4, 36:5 right [26] - 5:11, 9:3, 9:10, 12:10, 12:12, 20:18, 21:19, 22:2, 23:23, 24:2, 26:17, 27:18, 28:15, 29:8, 31:1, 31:4, 32:7, 32:22, 37:10, 37:25, 42:23, 45:20, 58:3, 60:7, 62:11, 67:16 Right [15] - 9:20, 20:22, 24:20, 26:24, 27:12, 30:19, 32:22, 35:20, 35:23, 39:12, 41:7, 53:3, 62:5, 65:4, 67:5 Road [5] - 2:1, 8:2, 18:2, 48:2, 57:1 ROBERT [2] - 18:5, 48:5 Robert [2] - 19:6, 49:4 rocks [1] - 51:3 role [1] - 22:16 roles [1] - 61:6 Roll [2] - 4:9, 45:4 rose [1] - 9:21 rule [1] - 58:18 run [1] - 43:25 running [2] - 20:16, 33:11 RUSSELL [12] - 31:23, 32:14, 32:18, 32:22, 32:25, 36:1, 49:24, 50:6, 50:21,</p>	<p>51:1, 51:5, 52:7 Russell [5] - 1:16, 7:18, 17:18, 47:17, 56:16</p>	<p>seemed [1] - 33:10 send [6] - 22:21, 39:21, 59:6, 63:22, 65:11, 65:13 sending [1] - 32:4 sense [1] - 33:10 sensing [1] - 60:8 sent [1] - 14:20 Separate [1] - 43:11 separate [2] - 41:22, 50:9 serve [2] - 31:10, 49:16 Services [2] - 7:5, 9:13 set [9] - 13:7, 16:9, 40:9, 40:14, 40:23, 41:2, 46:9, 55:9, 68:9 setting [1] - 20:21 Severud [1] - 24:24 sewer [2] - 31:9, 49:19 shaky [1] - 44:1 shall [3] - 36:11, 43:5, 52:24 shed [1] - 51:8 sheet [6] - 27:24, 28:5, 28:10, 28:22, 37:21, 50:9 sheets [5] - 28:4, 29:25, 30:5, 37:5, 43:11 short [2] - 32:1, 33:12 shots [1] - 30:10 should [17] - 5:18, 5:21, 11:17, 14:3, 20:9, 22:11, 28:3, 29:5, 33:2, 33:23, 37:25, 63:19, 63:21, 64:12, 65:10, 65:11 Should [2] - 11:13, 44:8 show [2] - 32:15, 65:18 shown [1] - 34:6 shows [2] - 27:25, 36:6 side [1] - 28:19 sidewalk [4] - 33:5, 33:9, 33:12, 35:11 sign [6] - 7:6, 9:17, 12:1, 32:16, 32:20, 42:25 significance [1] - 20:25 significant [3] - 27:1, 27:9, 29:11 since [2] - 13:2, 34:19</p>
Q			S	
<p>question [9] - 11:9, 12:17, 29:22, 35:5, 36:15, 38:5, 38:6, 50:18, 60:11 questions [1] - 20:4 quick [1] - 36:15 quorum [1] - 5:3</p>				
R				
<p>R [19] - 1:9, 1:15, 1:25, 7:11, 7:17, 8:1, 16:1, 17:11, 17:17, 18:1, 46:1, 47:11, 47:16, 48:1, 55:1, 56:9, 56:15, 56:25, 68:1 raised [1] - 9:15 rather [2] - 35:18, 60:22 RE [3] - 7:3, 17:3, 47:3 re [1] - 37:19 re-incorporated [1] - 37:19 reach [1] - 64:13 Ready [1] - 42:10 ready [3] - 44:25, 45:2, 53:7 really [11] - 11:3, 11:13, 13:17, 25:18, 25:20, 26:3, 26:4, 41:17, 62:18, 64:18, 64:19 REALTIME [5] - 1:23, 7:24, 17:24, 47:24, 56:23 Realtime [4] - 16:4,</p>			<p>S [15] - 1:15, 1:25, 7:17, 8:1, 17:17, 18:1, 47:16, 48:1, 56:15, 56:25 s/Phyllis [4] - 16:18, 46:18, 55:18, 68:18 safe [2] - 11:2, 44:22 said [6] - 11:24, 29:13, 37:13, 37:18, 40:1, 66:10 salute [1] - 5:18 same [2] - 54:6, 59:15 satisfied [2] - 25:9, 52:9 saving [2] - 43:7, 43:23 say [14] - 10:23, 12:21, 14:3, 23:2, 26:7, 29:5, 34:15, 34:16, 39:2, 39:8, 52:16, 65:18, 66:15, 66:17 saying [8] - 13:2, 37:4, 44:7, 61:23, 62:19, 63:23, 64:11, 64:19 says [3] - 19:20, 40:21, 59:6 schedule [1] - 63:22 scheduled [1] - 67:10 school [1] - 35:9 screwing [1] - 13:5 Second [5] - 5:10, 42:15, 65:22, 65:23, 67:19 second [6] - 14:14, 45:2, 53:10, 53:13, 58:1, 67:6 secretary [1] - 65:11 Secretary [5] - 1:19, 7:21, 17:21, 47:20, 56:19 sediment [1] - 31:11 see [15] - 13:23, 21:16, 22:6, 22:7, 22:16, 25:8, 27:15, 28:24, 31:17, 31:18, 35:13, 37:8, 37:12, 38:1, 67:5 seeking [1] - 7:5</p>	

<p>site ^[10] - 19:10, 19:18, 25:14, 27:25, 30:20, 43:20, 49:7, 49:9, 49:15, 52:9</p> <p>Site ^[4] - 7:4, 9:12, 17:5, 47:5</p> <p>situation ^[2] - 11:14, 61:8</p> <p>situations ^[2] - 59:23, 61:4</p> <p>six ^[4] - 19:25, 40:9, 41:10, 51:22</p> <p>size ^[1] - 21:11</p> <p>SKIRVIN ^[6] - 9:12, 10:8, 14:20, 14:24, 15:3, 15:10</p> <p>Skirvin ^[2] - 7:4, 9:12</p> <p>slight ^[1] - 50:23</p> <p>slow ^[1] - 20:16</p> <p>small ^[1] - 12:2</p> <p>snowballs ^[1] - 39:16</p> <p>so ^[22] - 11:6, 13:12, 14:21, 20:1, 22:10, 25:11, 26:6, 28:24, 30:4, 31:2, 32:10, 32:18, 34:9, 38:23, 40:3, 40:8, 41:17, 44:22, 61:6, 62:10, 64:9, 66:11</p> <p>So ^[47] - 5:20, 10:16, 12:10, 13:9, 13:16, 14:8, 14:12, 19:1, 19:4, 20:17, 20:18, 22:14, 25:13, 26:25, 31:14, 31:22, 32:8, 33:9, 33:19, 33:21, 36:1, 36:7, 36:13, 41:21, 42:2, 44:25, 49:1, 50:8, 51:21, 52:22, 53:6, 59:1, 59:13, 59:19, 60:10, 61:9, 61:22, 62:5, 62:7, 62:8, 62:22, 64:7, 64:14, 65:5, 65:21, 65:24, 67:7</p> <p>soil ^[1] - 31:11</p> <p>Soil ^[1] - 49:20</p> <p>solution ^[1] - 66:25</p> <p>solve ^[1] - 31:2</p> <p>some ^[14] - 11:3, 11:11, 29:7, 30:1, 37:6, 42:1, 42:3, 43:25, 51:9, 51:23, 58:23, 59:23, 59:25, 60:7</p> <p>somebody ^[5] - 9:2, 12:13, 35:11, 58:21, 61:22</p> <p>somehow ^[1] - 28:18</p>	<p>someone ^[1] - 5:6</p> <p>something ^[10] - 12:6, 12:25, 29:7, 29:11, 29:14, 30:24, 32:10, 34:11, 44:2</p> <p>Something ^[1] - 5:23</p> <p>sometimes ^[1] - 60:19</p> <p>Sometimes ^[2] - 29:18, 34:18</p> <p>sooner ^[2] - 32:19, 32:23</p> <p>sorry ^[4] - 20:15, 31:4, 38:20, 43:12</p> <p>sort ^[1] - 24:24</p> <p>space ^[1] - 19:13</p> <p>spaces ^[2] - 19:13, 49:13</p> <p>speak ^[1] - 43:22</p> <p>SPECIAL ^[2] - 1:3, 56:3</p> <p>species ^[2] - 51:14</p> <p>specific ^[2] - 26:16, 64:11</p> <p>specifically ^[1] - 43:6</p> <p>spirit ^[1] - 41:18</p> <p>spoken ^[1] - 32:2</p> <p>spot ^[1] - 37:25</p> <p>square ^[3] - 19:12, 47:6, 49:12</p> <p>stand ^[2] - 9:11, 24:5</p> <p>standalone ^[1] - 19:25</p> <p>standard ^[1] - 12:5</p> <p>Star ^[1] - 4:7</p> <p>Star-Ledger ^[1] - 4:7</p> <p>starts ^[1] - 35:15</p> <p>State ^[8] - 16:5, 16:20, 46:5, 46:20, 55:5, 55:20, 68:5, 68:20</p> <p>state ^[1] - 60:6</p> <p>stating ^[1] - 20:22</p> <p>status ^[1] - 25:6</p> <p>stay ^[3] - 24:8, 24:13, 24:14</p> <p>stenographically ^[4] - 16:8, 46:8, 55:8, 68:8</p> <p>step ^[1] - 62:13</p> <p>Steve ^[1] - 14:18</p> <p>still ^[12] - 11:25, 12:16, 13:1, 22:11, 23:4, 23:7, 32:10, 32:11, 35:21, 38:23, 50:25, 51:4</p> <p>stones ^[1] - 35:2</p> <p>stop ^[2] - 12:24, 62:23</p>	<p>stormwater ^[2] - 31:12, 49:18</p> <p>story ^[2] - 47:5, 49:10</p> <p>STREET ^[1] - 7:3</p> <p>street ^[2] - 41:7, 41:15</p> <p>Street ^[9] - 1:6, 3:6, 3:7, 7:9, 17:3, 17:9, 19:7, 47:9, 56:6</p> <p>strengthen ^[1] - 39:17</p> <p>strongly ^[1] - 13:9</p> <p>structural ^[4] - 24:9, 25:1, 25:23, 26:17</p> <p>structurally ^[1] - 25:12</p> <p>Structure ^[1] - 17:6</p> <p>structure ^[4] - 25:22, 27:10, 36:18, 43:10</p> <p>stuff ^[2] - 6:3, 26:3</p> <p>subcommittee ^[1] - 37:13</p> <p>submit ^[5] - 20:11, 25:3, 25:4, 27:3, 43:8</p> <p>submitted ^[9] - 19:16, 19:23, 36:8, 38:11, 38:14, 43:1, 50:9, 52:18, 53:4</p> <p>subsequent ^[1] - 33:19</p> <p>subsequently ^[1] - 33:15</p> <p>substantial ^[1] - 26:18</p> <p>substituted ^[1] - 51:14</p> <p>suburban ^[1] - 40:20</p> <p>such ^[4] - 16:14, 46:14, 55:14, 68:14</p> <p>Suez ^[2] - 31:10, 49:16</p> <p>suggest ^[2] - 19:1, 25:17</p> <p>suggested ^[2] - 33:8, 34:20</p> <p>suggesting ^[2] - 21:2, 25:16</p> <p>suggestion ^[1] - 21:8</p> <p>summarize ^[1] - 50:21</p> <p>super ^[1] - 36:18</p> <p>supposed ^[2] - 28:1, 40:13</p> <p>supposedly ^[1] - 32:3</p> <p>sure ^[9] - 26:12, 30:21, 36:16, 36:20, 40:2, 40:5, 40:12, 43:23, 60:11</p>	<p>Sure ^[3] - 9:9, 11:10, 42:20</p> <p>survivable ^[1] - 51:13</p> <p>suspend ^[2] - 61:20, 66:12</p> <p>suspenders ^[2] - 30:14, 30:16</p> <p>suspending ^[2] - 61:24, 66:18</p>	<p>Thank ^[6] - 15:10, 39:19, 42:7, 45:18, 45:19, 54:3</p> <p>Thanksgiving ^[2] - 54:4, 54:5</p> <p>That's ^[2] - 39:6, 44:19</p> <p>that's ^[1] - 40:3</p> <p>THE ^[4] - 1:3, 1:4, 56:3, 56:4</p> <p>their ^[17] - 14:4, 20:13, 21:5, 23:17, 25:5, 25:7, 32:24, 41:3, 43:2, 44:21, 44:22, 59:17, 61:6, 63:17, 64:17, 65:15, 66:12</p> <p>them ^[20] - 12:24, 14:4, 23:13, 23:17, 34:14, 39:4, 52:16, 58:22, 58:24, 59:1, 60:4, 62:13, 62:23, 63:10, 63:22, 63:24, 64:8, 65:13</p> <p>then ^[29] - 6:3, 10:1, 10:9, 10:19, 12:22, 12:24, 19:1, 22:21, 24:21, 27:16, 28:2, 28:21, 28:23, 29:3, 30:23, 35:4, 39:10, 39:11, 39:14, 50:9, 58:22, 61:25, 63:25, 65:10, 65:19, 66:12, 66:16, 66:21, 66:22</p> <p>Then ^[3] - 12:17, 27:12, 43:21</p> <p>there ^[40] - 9:4, 10:1, 10:17, 10:18, 10:20, 11:21, 11:25, 12:13, 13:2, 13:24, 20:3, 20:8, 24:2, 24:11, 25:25, 27:1, 27:8, 29:7, 32:10, 32:15, 34:18, 35:6, 35:8, 40:8, 40:11, 43:15, 49:24, 50:18, 51:22, 58:14, 59:4, 59:5, 59:16, 59:22, 62:20, 64:16, 67:3, 67:15</p> <p>There ^[3] - 9:16, 11:11, 19:13</p> <p>there's ^[5] - 11:16, 13:23, 28:18, 40:12, 62:21</p> <p>Therefore ^[1] - 41:1</p> <p>these ^[13] - 30:21, 37:5, 58:25, 59:20, 60:6, 60:18, 60:24, 61:3, 61:15, 61:17, 62:3, 62:20, 64:13</p>
T				
<p>T ^[30] - 1:15, 1:22, 7:17, 7:23, 16:1, 16:3, 16:18, 16:20, 17:17, 17:23, 46:1, 46:3, 46:18, 46:20, 47:16, 47:23, 55:1, 55:3, 55:18, 55:20, 56:15, 56:22, 68:1, 68:3, 68:18, 68:20</p> <p>tacit ^[1] - 64:17</p> <p>take ^[8] - 5:21, 9:25, 26:18, 30:10, 34:15, 40:1, 65:6</p> <p>Take ^[1] - 53:14</p> <p>taken ^[4] - 16:7, 46:7, 55:7, 68:7</p> <p>taking ^[1] - 37:20</p> <p>talk ^[6] - 12:14, 31:1, 37:9, 39:22, 62:21, 65:18</p> <p>talking ^[8] - 26:16, 28:18, 34:8, 36:21, 37:5, 38:8, 58:15, 58:17</p> <p>technical ^[1] - 38:16</p> <p>technically ^[1] - 58:14</p> <p>Tell ^[4] - 14:18, 21:12, 64:2</p> <p>tell ^[10] - 9:11, 11:6, 13:4, 15:8, 39:23, 44:16, 61:16, 62:14, 63:25, 64:4</p> <p>telling ^[3] - 24:13, 36:8, 65:13</p> <p>tells ^[1] - 5:23</p> <p>ten ^[5] - 15:8, 40:22, 40:24, 41:1, 49:12</p> <p>termination ^[1] - 61:24</p> <p>terms ^[2] - 27:9, 52:1</p> <p>test ^[2] - 38:9, 38:15</p> <p>testified ^[1] - 30:23</p> <p>testimony ^[1] - 11:12</p> <p>than ^[4] - 34:10, 35:18, 40:22, 60:22</p>				

<p>They ^[15] - 33:16, 33:17, 35:12, 36:8, 41:5, 52:5, 52:7, 62:14, 62:16, 63:4, 63:6, 63:7, 63:9, 63:15, 63:16</p> <p>they ^[68] - 10:1, 10:3, 10:21, 11:13, 11:21, 12:1, 12:20, 12:25, 21:18, 21:25, 22:6, 22:8, 23:2, 23:8, 24:25, 25:16, 30:7, 30:19, 31:18, 31:19, 32:5, 32:23, 33:15, 36:19, 38:22, 39:2, 39:3, 39:9, 41:1, 41:6, 41:8, 41:9, 42:2, 44:7, 44:16, 52:6, 59:10, 61:18, 61:19, 62:7, 62:8, 62:10, 62:12, 62:15, 62:18, 62:25, 63:1, 63:2, 63:8, 63:17, 63:25, 64:3, 64:4, 64:5, 65:14, 65:15, 65:16, 65:17, 66:11, 66:12, 66:16, 66:21, 66:23</p> <p>They're ^[1] - 62:15</p> <p>thing ^[16] - 12:13, 20:5, 23:16, 26:16, 27:19, 33:1, 37:15, 37:21, 38:18, 38:19, 39:9, 39:10, 39:11, 59:15, 59:17, 66:11</p> <p>things ^[6] - 5:21, 27:5, 27:20, 34:18, 37:4, 60:6</p> <p>think ^[41] - 9:21, 10:3, 11:2, 11:21, 12:8, 12:21, 19:20, 22:3, 23:11, 24:23, 24:24, 25:9, 25:11, 26:14, 26:25, 27:6, 27:7, 27:19, 28:9, 28:22, 29:8, 30:25, 31:20, 33:3, 33:23, 33:25, 37:16, 37:22, 37:24, 41:18, 42:2, 45:1, 49:24, 50:24, 59:3, 63:11, 63:21, 65:9, 66:3, 66:14</p> <p>this ^[46] - 10:21, 11:13, 12:9, 12:21, 14:4, 16:13, 20:10, 24:4, 24:13, 26:4, 27:1, 28:22, 29:5, 29:13, 30:25, 31:14, 31:24, 31:25, 33:3, 33:13, 33:19, 34:17, 37:6, 37:12, 37:20,</p>	<p>37:22, 37:24, 38:25, 39:5, 41:2, 46:13, 49:6, 51:18, 55:13, 59:8, 60:1, 61:1, 61:12, 62:1, 63:11, 64:5, 64:11, 65:13, 65:16, 66:11, 68:13</p> <p>This ^[9] - 16:22, 25:16, 27:19, 30:4, 33:7, 40:25, 46:22, 55:21, 68:22</p> <p>those ^[3] - 4:2, 19:17, 41:9</p> <p>thought ^[2] - 44:22, 51:1</p> <p>three ^[2] - 31:21, 51:22</p> <p>Three ^[1] - 43:8</p> <p>threshold ^[1] - 33:18</p> <p>through ^[1] - 23:12</p> <p>thumb ^[1] - 58:18</p> <p>thumbs ^[1] - 23:3</p> <p>time ^[16] - 11:24, 16:8, 33:3, 33:10, 39:4, 44:1, 46:8, 55:8, 58:23, 59:3, 63:1, 63:3, 63:5, 63:7, 68:8</p> <p>told ^[3] - 10:18, 13:11, 60:25</p> <p>tonight ^[2] - 13:12, 14:21</p> <p>Tony ^[1] - 37:11</p> <p>too ^[4] - 12:21, 25:11, 33:2, 40:2</p> <p>took ^[2] - 9:25, 10:19</p> <p>top ^[1] - 40:16</p> <p>totally ^[1] - 41:3</p> <p>touched ^[1] - 10:5</p> <p>track ^[1] - 60:4</p> <p>traffic ^[1] - 32:4</p> <p>transcript ^[8] - 16:7, 16:22, 46:7, 46:22, 55:7, 55:21, 68:7, 68:22</p> <p>translate ^[1] - 28:20</p> <p>transportation ^[1] - 32:4</p> <p>trees ^[2] - 51:13, 51:23</p> <p>true ^[5] - 16:6, 46:6, 55:6, 64:6, 68:6</p> <p>trust ^[1] - 63:10</p> <p>try ^[4] - 28:25, 39:17, 59:7, 63:24</p> <p>Try ^[1] - 65:2</p> <p>trying ^[3] - 23:11, 39:25, 41:19</p> <p>Tuesday ^[5] - 1:4, 7:5, 17:5, 47:5, 56:4</p> <p>turn ^[1] - 13:4</p>	<p>turned ^[1] - 61:2</p> <p>turning ^[1] - 34:21</p> <p>turns ^[1] - 13:17</p> <p>two ^[12] - 6:2, 12:4, 12:7, 14:2, 21:14, 30:10, 31:20, 37:13, 42:25, 51:22, 60:2, 61:3</p> <p>Two ^[5] - 13:13, 18:6, 21:14, 43:4, 48:6</p> <p>Two-by-four ^[1] - 21:14</p> <p>two-year ^[1] - 14:2</p>	<p>29:17, 52:1, 59:5</p> <p>Use ^[1] - 17:6</p> <p>utilized ^[1] - 51:13</p> <p style="text-align: center;">V</p> <p>Variances ^[1] - 7:6</p> <p>variances ^[2] - 19:10, 49:10</p> <p>vehicular ^[1] - 26:2</p> <p>versus ^[1] - 26:9</p> <p>very ^[3] - 10:4, 11:25, 12:6</p> <p>violation ^[1] - 10:1</p> <p>visit ^[1] - 25:14</p> <p>void ^[1] - 39:1</p> <p>vote ^[6] - 14:9, 14:10, 14:14, 31:16, 53:15, 66:5</p> <p>voted ^[2] - 5:13, 13:14</p> <p>voting ^[1] - 36:7</p>	<p>34:14, 35:8, 37:20, 46:22, 49:23, 50:8, 50:9, 50:11, 50:14, 50:23, 50:25, 51:2, 51:11, 51:17, 52:9, 52:19, 52:20, 55:21, 60:20, 60:25, 61:1, 65:24, 68:22</p> <p>Washington ^[5] - 1:6, 7:9, 17:9, 47:9, 56:6</p> <p>way ^[12] - 9:16, 12:19, 13:9, 14:23, 25:2, 34:5, 34:17, 34:21, 35:6, 37:17, 51:6, 66:20</p> <p>we're ^[3] - 5:15, 26:22, 31:17</p> <p>We're ^[4] - 29:21, 58:1, 60:16</p> <p>we've ^[1] - 26:11</p> <p>Weaver ^[10] - 1:12, 4:20, 7:14, 17:14, 45:9, 47:13, 53:20, 56:12, 65:25, 66:3</p> <p>WEAVER ^[43] - 4:21, 13:19, 21:7, 21:10, 21:14, 22:7, 22:12, 22:17, 22:20, 22:23, 23:2, 23:22, 26:7, 28:3, 28:6, 29:18, 38:4, 38:7, 38:13, 38:17, 38:21, 39:8, 39:13, 39:19, 42:16, 43:12, 43:15, 44:9, 44:15, 44:19, 45:4, 45:10, 53:8, 53:21, 62:7, 62:10, 62:16, 62:22, 64:15, 64:20, 65:1, 65:22, 67:19</p> <p>website ^[1] - 4:6</p> <p>weight ^[1] - 22:2</p> <p>welcome ^[1] - 15:12</p> <p>Well ^[17] - 5:15, 5:18, 9:1, 12:12, 12:19, 22:3, 24:23, 25:15, 28:12, 33:25, 44:15, 44:21, 50:19, 58:13, 59:21, 61:10, 61:15</p> <p>well ^[3] - 35:4, 51:19, 66:17</p> <p>went ^[3] - 10:10, 33:15, 41:5</p> <p>were ^[19] - 4:6, 9:16, 10:19, 10:20, 10:21, 19:9, 19:13, 24:18, 25:2, 28:17, 30:12, 32:5, 38:7, 40:8, 49:24, 50:22, 58:11, 60:19</p>
		<p style="text-align: center;">U</p> <p>Uh ^[3] - 9:23, 50:17, 51:25</p> <p>Uh-huh ^[3] - 9:23, 50:17, 51:25</p> <p>ultimately ^[1] - 25:18</p> <p>uncertain ^[1] - 36:24</p> <p>under ^[5] - 26:3, 31:18, 31:19, 38:23, 63:24</p> <p>underlying ^[1] - 25:9</p> <p>underpinnings ^[1] - 26:17</p> <p>understand ^[2] - 34:10, 59:12</p> <p>understanding ^[1] - 25:2</p> <p>unique ^[2] - 12:6, 30:4</p> <p>unit ^[2] - 20:1, 49:11</p> <p>units ^[9] - 19:12, 40:23, 40:25, 41:10, 41:25, 42:1, 42:4, 47:6, 49:11</p> <p>unless ^[2] - 60:6, 62:25</p> <p>until ^[1] - 22:8</p> <p>unturned ^[1] - 35:2</p> <p>up ^[20] - 9:11, 24:8, 24:13, 24:14, 26:20, 28:24, 29:6, 29:12, 29:13, 33:4, 34:12, 35:15, 37:14, 49:1, 59:18, 59:25, 64:25, 65:17, 65:18, 67:3</p> <p>us ^[23] - 9:11, 9:18, 11:12, 12:9, 12:25, 13:1, 13:11, 22:11, 22:13, 22:22, 22:23, 22:25, 23:21, 27:13, 29:14, 30:13, 34:10, 36:8, 39:3, 44:17, 62:14, 64:2, 67:6</p> <p>use ^[4] - 25:19,</p>	<p style="text-align: center;">W</p> <p>wait ^[1] - 9:1</p> <p>Wait ^[2] - 38:4, 58:1</p> <p>waiting ^[4] - 60:13, 60:15, 61:21</p> <p>walking ^[1] - 35:11</p> <p>wall ^[4] - 7:6, 30:25, 44:1, 44:23</p> <p>walls ^[2] - 26:22, 40:2</p> <p>want ^[29] - 9:7, 13:22, 15:6, 21:13, 22:1, 25:23, 27:24, 29:14, 29:17, 29:24, 30:4, 32:23, 33:16, 33:17, 33:18, 35:1, 37:11, 39:4, 42:18, 50:12, 59:23, 59:24, 60:11, 61:7, 62:15, 62:18, 62:19, 64:21</p> <p>wanted ^[6] - 35:7, 36:15, 36:20, 51:7, 52:19, 52:20</p> <p>wants ^[1] - 53:6</p> <p>warning ^[3] - 33:8, 33:20, 34:16</p> <p>was ^[50] - 4:5, 9:25, 10:4, 10:17, 11:21, 12:3, 12:13, 12:17, 13:11, 13:14, 13:15, 14:6, 14:21, 16:22, 19:19, 20:7, 20:16, 20:20, 24:24, 28:18, 30:23, 32:3, 32:9, 33:3, 33:4, 33:7,</p>	

<p>weren't ^[1] - 10:18 What's ^[1] - 41:11 whatever ^[2] - 42:23, 60:2 wheels ^[1] - 44:11 When ^[2] - 19:23, 65:17 when ^[13] - 20:7, 26:10, 27:20, 32:16, 33:21, 37:8, 37:17, 39:21, 40:21, 43:22, 44:1, 58:19, 64:12 where ^[8] - 11:6, 25:8, 28:20, 59:4, 59:17, 60:24, 61:8, 62:21 which ^[10] - 9:25, 19:7, 21:1, 29:7, 39:10, 41:23, 58:10, 61:12, 63:1 while ^[1] - 61:20 who ^[6] - 9:11, 11:12, 11:20, 14:8, 14:10, 60:20 whole ^[5] - 35:8, 37:6, 37:15, 38:16, 51:22 why ^[3] - 13:5, 28:12, 64:5 Why ^[1] - 9:10 will ^[46] - 12:25, 13:1, 13:3, 13:7, 19:4, 21:1, 24:4, 25:4, 27:3, 27:7, 28:1, 28:22, 28:24, 30:10, 30:19, 30:21, 31:10, 35:10, 35:12, 35:15, 35:17, 35:21, 36:3, 36:18, 37:9, 38:25, 39:17, 49:16, 51:13, 51:24, 52:22, 59:11, 59:12, 59:13, 59:16, 63:12, 63:15, 63:16, 63:17, 63:25, 65:16, 66:15, 66:16, 67:3 will-serve ^[2] - 31:10, 49:16 with ^[42] - 4:3, 9:20, 10:6, 10:21, 11:3, 12:23, 13:6, 13:11, 16:22, 21:2, 23:13, 24:18, 25:1, 25:21, 26:14, 27:16, 27:17, 30:22, 32:2, 32:5, 32:9, 33:24, 34:1, 34:12, 37:7, 37:13, 37:14, 44:11, 44:16, 46:22, 49:19, 49:20, 52:3, 52:9, 52:12, 52:17, 55:21, 59:11,</p>	<p>64:16, 66:18, 67:3, 68:22 within ^[2] - 33:9, 58:21 won't ^[3] - 34:19, 66:21, 66:23 Wonder ^[1] - 19:8 wonderful ^[1] - 54:4 Wonderlofts ^[2] - 17:4, 42:14 word ^[1] - 23:11 work ^[7] - 12:18, 12:19, 12:24, 27:22, 30:5, 30:7, 36:25 works ^[1] - 12:10 worried ^[1] - 10:17 Would ^[1] - 5:6 would ^[39] - 4:1, 10:23, 11:22, 11:25, 12:8, 13:5, 19:1, 20:6, 20:9, 20:11, 23:12, 25:3, 25:13, 26:1, 26:5, 26:7, 26:8, 30:22, 30:23, 36:13, 38:3, 39:2, 39:4, 39:8, 42:13, 52:5, 59:2, 59:5, 59:6, 60:1, 60:6, 60:9, 61:25, 63:4, 63:7, 65:9, 66:17 wouldn't ^[3] - 13:24, 30:3, 63:8 Wouldn't ^[1] - 63:2 write ^[3] - 13:1, 13:3, 64:8 written ^[2] - 29:12, 58:9</p>	<p>10:8, 10:14, 14:6, 19:3, 20:19, 21:9, 22:20, 23:22, 24:1, 24:6, 29:9, 31:9, 32:13, 32:17, 34:7, 35:25, 36:3, 39:23, 40:10, 40:15, 42:6, 44:13, 45:3, 45:6, 45:8, 45:10, 45:12, 45:14, 45:16, 50:16, 52:7, 52:13, 53:12, 53:17, 53:19, 53:21, 53:23, 53:25, 54:2, 67:5 yet ^[6] - 20:8, 21:2, 30:5, 52:19, 58:2, 64:5 you're ^[1] - 52:3 Yup ^[1] - 34:23</p>
Z		
<p>zone ^[3] - 31:24, 31:25, 32:15 ZONING ^[7] - 1:1, 1:3, 7:1, 17:1, 47:1, 56:1, 56:3 zoning ^[7] - 9:18, 21:4, 28:21, 28:23, 32:12, 37:14, 44:12</p>		
X		
<p>X ^[11] - 1:2, 1:4, 3:1, 7:3, 7:7, 17:3, 17:7, 47:3, 47:7, 56:2, 56:4 XI01333 ^[4] - 16:20, 46:20, 55:20, 68:20</p>		
Y		
<p>yard ^[5] - 49:25, 50:6, 50:11, 51:2 yeah ^[2] - 5:17, 22:12 Yeah ^[4] - 23:19, 35:24, 44:9, 65:20 year ^[3] - 14:2, 60:1, 61:12 years ^[3] - 12:7, 60:2, 63:11 yes ^[3] - 29:17, 50:2, 51:19 Yes ^[42] - 9:3, 9:5,</p>		