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TOWN OF WESTFIELD

PLANNING BOARD

IN RE

(SPECIAL MEETING)
PLANNING BOARD REORGANIZATION

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:
:
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TRANSCRIPT OF PROCEEDINGS
ADOPTED AS MEETING MINUTES

Monday, January 4, 2023

Municipal Building
425 East Broad Street
Westfield, New Jersey
Commencing at 7:00 p.m.

1 B E F O R E:

2

MICHAEL ASH, CHAIRMAN

3

MICHAEL LAPLACE, VICE-CHAIRMAN

4

MAYOR SHELLEY BRINDLE, MAYOR DESIGNEE

5

COUNCILMAN MICHAEL DARDIA, COUNCIL LIAISON

6

MATTHEW CEBERIO, MEMBER

7

ANASTASIA HARRISON, MEMBER

8

ROSS GOLDSTEIN, MEMBER

9

ASIMA JANSVELD, MEMBER

10

MICHAEL DUELKS, FIRE DEPARTMENT CHIEF

11

ALEXANDRA CARRERAS, FIRST ALTERNATE
(LATE ARRIVAL)

12

13

ANN FREEDMAN, SECOND ALTERNATE

14

15

DON SAMMET, TOWN PLANNER/BOARD SECRETARY

16

17 A B S E N T:

18

DAVID BATTAGLIA, TOWN ENGINEER

19

A P P E A R A N C E S:

20

ASHENFELTER, TREMBULAK, MCDONOUGH, GOLIA &
TREVENEN, LLP

21

BY: ALAN TREMBULAK, ESQ.

22

Attorney for the BOARD

23

24

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1		
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3		
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6	COUNCILMAN MICHAEL DARDIA	6
	ROSS GOLDSTEIN	6
7	CHIEF MICHAEL DUELKS	6
	ALEXANDRA CARRERAS	15
8		
	NOMINATIONS FROM THE FLOOR:	
9	CHAIR - MICHAEL ASH	6
	VICE-CHAIR - MICHAEL LAPLACE	8
10		
	APPOINTMENT OF SECRETARY:	
11	MARIA ROSE BREIEN	10
12		
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13	ALAN TREMBULAK, ESQ	10
14		
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	MICHAEL LAPLACE	11
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16	MICHAEL CEBERIO	11
17		
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1 - - - - -
2 P R O C E E D I N G S
3 - - - - -

4 MR. SAMMET: Good evening, everyone.
5 Happy New Year.

6 BOARD MEMBERS: Happy New Year.

7 MR. SAMMET: Welcome to the new and
8 improved Council Chambers. The microphones are
9 all working. You all know how they work now; push
10 the button on; the red light means it's one and
11 it's working. Let's start it up.

12 In compliance with the Open Public
13 Meetings Act in the State of New Jersey, adequate
14 notice of this meeting was provided in the
15 Westfield Leader and by posting a copy on the
16 bulletin board right here in town hall. First
17 I'll lead us in the Pledge of Allegiance, and then
18 we'll have the roll call. Please stand.

19 (Whereupon, the Pledge of Allegiance
20 was recited.)

21 MR. SAMMET: Roll call from my left
22 to right. Chief Duelks.

23 CHIEF DUELKS: Present.

24 MR. SAMMET: Ms. Freedman.

25 MS. FREEDMAN: Here.

1 MR. SAMMET: Mr. Goldstein.

2 MR. GOLDSTEIN: Here.

3 MR. SAMMET: Mr. Ceberio.

4 MR. CEBERIO: Here.

5 MR. SAMMET: Mr. Ash.

6 CHAIRMAN ASH: Here.

7 MR. SAMMET: Mr. LaPlace.

8 MR. LAPLACE: Here.

9 MR. SAMMET: Mayor Brindle.

10 MAYOR BRINDLE: Here.

11 MR. SAMMET: Councilman Dardia.

12 COUNCILMAN DARDIA: Here.

13 MR. SAMMET: Ms. Carreras is absent.

14 And Ms. Jansveld.

15 MS. JANSVELD: Here.

16 MR. SAMMET: Thank you. We have
17 some reappointed members for the Board. So
18 congratulations on your new terms. Your new
19 terms, if you accept them, we have
20 Councilman Dardia, Chief Duelks, Ms. Carreras --
21 who is not presently here -- Mr. Goldstein, and
22 Mayor Brindle that have to be sworn in.

23 MR. TREMBULAK: We can do this
24 collectively I guess. If the members who are
25 being appointed or reappointed please stand and

1 raise your right hands. Repeat after me.

2 (Whereupon, MICHAEL DARDIA,
3 MICHAEL DUELKS, ROSS GOLDSTEIN, AND
4 MICHELLE BRINDLE, having been duly sworn, were
5 appointed/reappointed as a Member of the Westfield
6 Planning Board.)

7 MR. TREMBULAK: Welcome back.

8 (Applause.)

9 MAYOR BRINDLE: I would like to add,
10 on a personal note, thank you for your service and
11 for serving another term. Thank you.

12 MR. SAMMET: It's going to be an
13 exciting year, everybody. So next we have if
14 there are any nominations from the floor for our
15 officers namely the Chair and Vice-chair, or if
16 there was a nominating commitment form, which I'm
17 not sure that there was, that committee can put
18 forward recommendations as well for Chair and
19 Vice-chair. Any nominations from the floor for
20 Chairman of the Board?

21 MS. HARRISON: I'd like to nominate
22 Michael Ash for Chair.

23 MR. SAMMET: Ms. Harrison has
24 nominated Michael Ash. Is there a second?

25 MR. LAPLACE: Second.

1 MS. FREEDMAN: I'll second it.

2 MR. SAMMET: I think Mr. LaPlace
3 beat you on that one.

4 MS. FREEDMAN: He's quicker.

5 MR. SAMMET: I'll do the roll call.

6 MR. SAMMET: Chief Duelks.

7 CHIEF DUELKS: Yes.

8 MR. SAMMET: Ms. Freedman.

9 MS. FREEDMAN: Yes.

10 MR. SAMMET: Mr. Goldstein.

11 MR. GOLDSTEIN: Yes.

12 MR. SAMMET: Mr. Ceberio.

13 MR. CEBERIO: Yes.

14 MR. SAMMET: Mr. LaPlace.

15 MR. LAPLACE: Yes.

16 MR. SAMMET: Mayor Brindle.

17 MAYOR BRINDLE: Yes.

18 MR. SAMMET: Councilman Dardia.

19 COUNCILMAN DARDIA: Yes.

20 MR. SAMMET: Ms. Harrison.

21 MS. HARRISON: Yes.

22 MR. SAMMET: Ms. Jansveld.

23 MS. JANSVELD: Yes.

24 MR. SAMMET: Thank you.

25 And, Alan, I'm not sure if

1 Michael votes for himself.

2 MR. TREMBULAK: He can.

3 MR. SAMMET: Michael Ash, Chair?

4 CHAIRMAN ASH: No.

5 (Laughter.)

6 MR. SAMMET: We'll give him a moment
7 to contemplate because his acceptance will be the
8 next thing. Are there any nominations for
9 Vice-chair on the Planning Board?

10 MS. FREEDMAN: Yes. I would like to
11 nominate Michael LaPlace.

12 MR. SAMMET: Ms. Freedman nominates
13 Mr. LaPlace.

14 CHAIRMAN ASH: Second.

15 MR. SAMMET: Seconded by
16 Chairman Ash. I'll call the roll this time from
17 right to left. Ms. Jansveld.

18 MS. JANSVELD: Yes.

19 MR. SAMMET: Ms. Harrison.

20 MS. HARRISON: Yes.

21 MR. SAMMET: Councilman Dardia.

22 COUNCILMAN DARDIA: Yes.

23 MR. SAMMET: Mayor Brindle.

24 MAYOR BRINDLE: Yes.

25 MR. SAMMET: Mr. LaPlace.

1 MR. LAPLACE: Yes.

2 MR. SAMMET: Chairman Ash.

3 CHAIRMAN ASH: Yes.

4 MR. SAMMET: Mr. Ceberio.

5 MR. CEBERIO: Yes.

6 MR. SAMMET: Mr. Goldstein.

7 MR. GOLDSTEIN: Yes.

8 MR. SAMMET: Ms. Freedman.

9 MS. FREEDMAN: Yes.

10 MR. SAMMET: And Chief Duelks.

11 CHIEF DUELKS: Yes.

12 MR. SAMMET: Next on the agenda is
13 the acceptance. Mr. Ash and Mr. LaPlace, do you
14 accept your positions as Chair and Vice-chair?

15 CHAIRMAN ASH: Yes.

16 MR. LAPLACE: Yes, only if he does.

17 MAYOR BRINDLE: Thank you, both.

18 MR. SAMMET: Congratulations to the
19 both of you for serving. I can step down now,
20 Mr. Chair.

21 (Applause.)

22 CHAIRMAN ASH: Thank you. I'd also
23 like to join in with the Mayor with gratitude for
24 everyone who's coming back. This is an early
25 night and will be the last one for a while.

1 Next, we have the appointment of
2 secretary. Is that also by nomination?

3 MR. SAMMET: I think in the past the
4 Board has nominated that position.

5 CHAIRMAN ASH: Okay. I would
6 nominate Maria Breien. Do we need a vote?

7 MR. SAMMET: We need a second.

8 CHAIRMAN ASH: Is there a second for
9 Ms. Breien?

10 CHIEF DUELKS: Second.

11 MR. SAMMET: All in favor.

12 BOARD MEMBERS: Aye.

13 MR. SAMMET: Any opposed.
14 Congratulations.

15 CHAIRMAN ASH: Next, we have the
16 adoption of resolutions for the 2023 Planning
17 Board attorney. One is for ordinary, and one is
18 for extraordinary service. Well, take these
19 together.

20 MR. TREMBULAK: We need a motion.

21 CHAIRMAN ASH: We need a motion to
22 approve.

23 MR. LAPLACE: I will make that
24 motion to approve Mr. Trembulak.

25 MR. CEBERIO: I'll second.

1 CHAIRMAN ASH: Second from
2 Matt Ceberio. All those in favor.

3 BOARD MEMBERS: Aye.

4 CHAIRMAN ASH: Any opposed? Any
5 abstentions. Okay. Thank you very much.

6 MAYOR BRINDLE: Welcome back.

7 (Applause.)

8 CHAIRMAN ASH: Next, we have The
9 Site Plan Review Committee. Do we have any
10 volunteers?

11 COUNCILMAN DARDIA: I'd like to
12 volunteer.

13 CHAIRMAN ASH: All right. We need
14 -- how many do we have? Four?

15 MR. SAMMET: In 2022, it was
16 Councilman Dardia, Mr. Ceberio, Ms. Harrison, and
17 Vice-chair LaPlace.

18 CHAIRMAN ASH: Let's ask the
19 question; does everybody want to continue in that
20 role?

21 MR. LAPLACE: Yes.

22 MS. HARRISON: Yes.

23 MR. CEBERIO: Yes.

24 COUNCILMAN DARDIA: Yes.

25 MAYOR BRINDLE: Good answer.

1 CHAIRMAN ASH: We don't need to vote
2 on that?

3 MR. SAMMET: No. Those are
4 appointments by you, Mr. Chair.

5 CHAIRMAN ASH: Okay. So appointed.
6 Thank you again.

7 Next, we need a Planning Board
8 member for the Historic Preservation Commission.

9 MR. GOLDSTEIN: I'd like to nominate
10 Ann Freedman.

11 MS. FREEDMAN: Thank you.

12 CHAIRMAN ASH: You're welcome to it.
13 Thank you. We need a Planning Board liaison to
14 the Tree Preservation Commission. Who is it
15 currently now?

16 MS. JANSVELD: That's me. And I
17 would like to see if anyone else would be
18 interested in taking it on this year. I would
19 recommend it's someone who has time during the day
20 because it tends to be things during the work day.

21 CHAIRMAN ASH: Is it in-person or is
22 it all virtual?

23 MS. JANSVELD: All virtual.

24 MAYOR BRINDLE: Toss a coin.

25 CHAIRMAN ASH: Well, what was is --

1 MAYOR BRINDLE: Is that monthly? Do
2 they meet monthly?

3 MS. JANSVELD: It's monthly, and it
4 is both review -- well, somewhat of a review of
5 applications for trees that are being approved or
6 considered for removal, and it's also looking at
7 some other ways to be proactive about tree
8 preservation in our town. There's a lot of
9 planning around an Arbor Day event which is really
10 fun and cool. We talk about the newsletter.

11 CHAIRMAN ASH: Going once? All
12 right. I'll do it.

13 (Laughter.)

14 MR. SAMMET: Chairman Ash?

15 CHAIRMAN ASH: Yeah.

16 MR. GOLDSTEIN: Thank you.

17 MAYOR BRINDLE: Thank you.

18 CHAIRMAN ASH: Next, we will swear
19 in our town engineer and town planner.

20 MR. TREMBULAK: I don't think the
21 engineer is here tonight, so we can do that at the
22 next meeting. Don, we'll swear in. Don, please
23 raise your right hand.

24 DON SAMMET, having been duly sworn,
25 was appointed as the Town Engineer for Westfield

1 Planning Board.)

2 MR. TREMBULAK: Thank you.

3 MR. SAMMET: Thank you.

4 CHAIRMAN ASH: Thank you. And
5 finally, we have our schedule of meetings for
6 2023, and they are posted on the website. Do we
7 have to accept these dates?

8 MR. TREMBULAK: I think you need
9 more or less of a resolution adopting the meeting
10 dates.

11 CHAIRMAN ASH: All right. In your
12 packet are the meeting dates for 2023, and I'll
13 entertain the motion to accept these dates as
14 published.

15 MR. CEBERIO: I'll make that motion.

16 CHAIRMAN ASH: Thank you. May I
17 have a second?

18 MAYOR BRINDLE: Can I just make one
19 comment? The April 3 meeting is also school
20 spring break. So I just want to bring that up for
21 those who might be away for that.

22 CHAIRMAN ASH: Is there a second to
23 approve these dates?

24 COUNCILMAN DARDIA: Second.

25 CHAIRMAN ASH: Thank you. All those

1 in favor say "aye."

2 BOARD MEMBERS: Aye.

3 CHAIRMAN ASH: Any opposed? Any
4 abstentions? Okay. We will publish these meeting
5 dates in...

6 MR. SAMMET: We'll send them to the
7 official newspapers, and we'll post them on the
8 bulletin board here in our town hall.

9 CHAIRMAN ASH: Thank you. I'll move
10 to adjourn our reorganization meeting. All those
11 in favor?

12 BOARD MEMBERS: Aye.

13 CHAIRMAN ASH: All right. Our
14 organization meeting is adjourned.

15 (Whereupon, ALEXANDRA CARRERAS,
16 joins the meeting proceedings.)

17 MR. SAMMET: Can we swear in
18 Ms. Carreras?

19 MR. TREMBULAK: Please raise your
20 right hand.

21 ALEXANDRA CARRERAS, having been duly
22 sworn, was reappointed as a member of the
23 Westfield Planning Board.

24 (Whereupon, the special meeting
25 adjourns and moves into regular session.)

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TOWN OF WESTFIELD
PLANNING BOARD

IN RE :
PUBLIC HEARING :
: :
: :

TRANSCRIPT OF PROCEEDINGS
ADOPTED AS MEETING MINUTES

Monday, January 4, 2023

Municipal Building
425 East Broad Street
Westfield, New Jersey
Commencing at 7:30 p.m.

1 B E F O R E:

2

MICHAEL ASH, CHAIRMAN

3

MICHAEL LAPLACE, VICE-CHAIRMAN

4

MAYOR SHELLEY BRINDLE, MAYOR DESIGNEE

5

COUNCILMAN MICHAEL DARDIA, COUNCIL LIAISON

6

MATTHEW CEBERIO, MEMBER

7

ANASTASIA HARRISON, MEMBER

8

ROSS GOLDSTEIN, MEMBER

9

ASIMA JANSVELD, MEMBER

10

MICHAEL DUELKS, FIRE DEPARTMENT CHIEF

11

ALEXANDRA CARRERAS, FIRST ALTERNATE

12

ANN FREEDMAN, SECOND ALTERNATE

13

14

DON SAMMET, TOWN PLANNER/BOARD SECRETARY

15

16

A B S E N T:

17

DAVID BATTAGLIA, TOWN ENGINEER

18

19 A P P E A R A N C E S:

20 ASHENFELTER, TREMBULAK, MCDONOUGH, GOLIA &
TREVENEN, LLP

21

BY: ALAN TREMBULAK, ESQ.
Attorney for the BOARD

22

23 HOAGLAND, LONGO, MORAN, DUNST & DOUKAS
BY: ANTHONY IACocca, ESQ.

24

Attorney for the APPLICANTS MCDONALD

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I N D E X
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STATEMENT BY THE CHAIRMAN	19
APPROVAL OF MINUTES: DECEMBER 5, 2022	20
ADOPTION OF RESOLUTIONS: NONE	
OTHER BUSINESS: REQUEST FOR EXTENSION PB 12-20 STOP & SHOP SUPERMARKET COMPANY, LLC 195, 203, 219 & 233 ELM STREET BLOCK: 2505, LOTS: 4, 5, 6 & 7	20

- - -
N E W A P P E A L S
- - -

PB 22-10 (MINOR SUBDIVISION) MARTHA AND PATRICK MCDONALD 450 SPRINGFIELD AVENUE BLOCK: 2505, LOT: 2.01 REPRESENTED BY ANTHONY IACOCCA, ESQ	31
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WITNESS	PAGE
TJ RICCI	32
MARTHA MCDONALD	39

EXHIBIT	DESCRIPTION	PAGE
A-1	GOOGLE ARIEL IMAGE DATED JANUARY 4, 2023	33

	48
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**MOTION TO APPROVE APPLICATION*

1 - - - - -
2 P R O C E E D I N G S
3 - - - - -

4 CHAIRMAN ASH: Welcome back to our
5 regular meeting on January 4, 2023, of the
6 Westfield Planning Board. Notice of this meeting
7 has been published in the newspapers of record and
8 posted at town hall. We have saluted the flag.
9 Let's just get right into the approval of the
10 minutes. We have minutes from our regular meeting
11 on December 5, 2022.

12 MR. SAMMET: I have absent that
13 evening Mr. Chair -- yourself -- Chief Duels and
14 Ms. Carreras.

15 CHIEF DUELKS: Correct.

16 MR. SAMMET: Is there a motion to
17 approve the minutes from December 5, 2022?

18 MR. LAPLACE: Motion to approve.

19 MR. SAMMET: By Vice-chair LaPlace.
20 Is there a second?

21 COUNCILMAN DARDIA: Second.

22 MR. SAMMET: Second by Councilman
23 Dardia. I'll do the roll call.

24 Ms. Freedman.

25 MS. FREEDMAN: Yes.

1 MR. SAMMET: Mr. Goldstein.

2 MR. GOLDSTEIN: Yes.

3 MR. SAMMET: Mr. Ceberio.

4 MR. CEBERIO: Yes.

5 MR. SAMMET: Mr. LaPlace.

6 MR. LAPLACE: Yes.

7 MR. SAMMET: Mayor Brindle.

8 MAYOR BRINDLE: Yes.

9 MR. SAMMET: Councilman Dardia.

10 COUNCILMAN DARDIA: Yes.

11 MR. SAMMET: Ms. Harrison.

12 MS. HARRISON: Yes.

13 MR. SAMMET: And Ms. Jansveld.

14 MS. JANSVELD: Yes.

15 MR. SAMMET: Thank you.

16 CHAIRMAN ASH: There are no

17 resolutions on the agenda tonight. There are no

18 carried applications. We have other business; a

19 request for an extension, PB 12-20, Stop & Shop

20 Supermarket, LLC, 195, 203, 219 & 233 Elm Street,

21 Block: 2505, Lots: 4, 5, 6 & 7. Alan?

22 MR. TREMBULAK: I can give the Board

23 some background on this. I think you probably

24 have in your packets a letter from the attorney

25 for Stop & Shop, and it gives the law firm date of

1 December 2, 2022, requesting a third one-year
2 extension of the site plan approval for the Stop &
3 Shop. Now, this was a site plan that was granted
4 by this Board almost nine years ago in January of
5 2014. Subsequently, there was an appeal filed to
6 the Superior Court which really prevented the
7 Applicant from moving forward. The appeal was
8 decided in June of 2017. You know, under the
9 state law when -- there's a misconception that a
10 site plan approval expires. A site plan approval
11 never expires, but what expires is the period of
12 protection that an application obtains by getting
13 site plan approval. Once you have site plan
14 approval, the Applicant is protected from any
15 zoning changes that were zoned with the property
16 that might be enacted subsequently. The period of
17 projection is two years. So you're protected for
18 two years, and the Municipal Land Use Law provides
19 that an Applicant can request up to three,
20 one-year extensions of that two-year protection
21 period. In this case, the Applicant automatically
22 got an extension based upon the New Jersey Permit
23 Extension Act that was enacted and provided
24 several times, most recently as the result of
25 Covid, which kind of tolled the running of these

1 periods. But they basically got the benefit of
2 the extension granted by the state law, and they
3 have previously applied for two, one-year
4 extensions, both of which have been granted. And
5 now, they're applying for the third and final
6 one-year extension that this Board has authority
7 to grant under the Municipal Land Use Law that
8 it's really a matter that's totally up to the
9 Board's discretion.

10 And again, it wouldn't mean that
11 they couldn't go forward with this project, they
12 could. But if the Board didn't give them the
13 extension, they would be subject to any zoning
14 changes that might be enacted that could affect
15 this property.

16 MR. SAMMET: Alan, if I may, Just
17 one thing. Westfield's local Land Use Ordinance
18 does contain a provision that the site plan would
19 expire if they don't -- haven't obtained building
20 permits.

21 MR. TREMBULAK: Yeah. I don't think
22 that's been -- because it's inconsistent with
23 state law. I know it says differently, but I
24 don't think the ordinance could overrule what the
25 Municipal Land Use Law provides. So again,

1 they're requesting for a one-year extension. It's
2 totally within the Board's discretion to approve
3 that or to not approve it. It's been quite a
4 while, obviously, since the application was
5 approved nine years ago.

6 MS. HARRISON: We've had significant
7 Master Plan conversations and discussions, and
8 that is a fringe area that is highly sought after
9 for potential redevelopment or just improvements.
10 Does the plan that has been approved fall in line
11 with our current Master Plan rules and guidelines,
12 or is it completely different? And I know that's
13 subjective.

14 MR. TREMBULAK: I'm talking -- I
15 can't really answer that because that was nine
16 years ago, so I don't know the specifics of the
17 approval. I don't know what Don...

18 MR. SAMMET: Well, the answer is it
19 is. There's no recommendation for a zone district
20 change over there, and it certainly is a retail
21 use. I wouldn't say that what's there is
22 inconsistent with our current Master Plan goals or
23 objectives.

24 MR. GOLDSTEIN: Is there any reason
25 why the town wouldn't want the eventual extension

1 of that or whatever that project becomes to be
2 consistent with whatever the current zoning
3 regulations are? Like I'm trying to understand
4 what the benefit would be to continuing to extend
5 it in perpetuity if -- not that there's any
6 impeding -- there's about to be a zoning change
7 because if there is, why would we not want to
8 follow that zoning change?

9 MR. LAPLACE: There isn't a zone
10 change recommendation.

11 MR. SAMMET: Right. There isn't
12 presently a zoning change recommendation.

13 MAYOR BRINDLE: I mean I think
14 really -- if I could speak to that. I've had
15 conversations with Stop & Shop for the last three
16 years and I think what we would really want is a
17 brand new, improved, expanded Stop & Shop in that
18 location. I think a grocery store would be great
19 and be warranted. And we were having very
20 productive conversations with them just prior to
21 Covid. And then, obviously, have that kind of
22 shut everything down and what was going on with
23 the grocery markets. And quite frankly, and this
24 is more speculative, but there was -- just the
25 attention from their corporate office has been on

1 other you know higher priorities since Covid.
2 It's a bit frustrating I'll tell you. I think
3 they're a little conflicted about how much of
4 investing their preference is for these very big
5 grocery stores that are thinking thousands of
6 square feet. I think they've concluded the max
7 they can put there is 2,900 square feet. So they
8 had a really reasonable plan that they had
9 presented before them. But I go into Stop & Shop
10 taking pictures of the vacant shelves and I text
11 it to the guy and say FYI this is what's happening
12 in Westfield.

13 My only thing is -- and this is just
14 maybe some opinion -- is that is there any action
15 we can take to incentivize them to take action,
16 or, you know, not continue to incentivize them not
17 to act on it? Is there any we can do in that
18 regard?

19 MR. TREMBULAK: Well, I think you
20 denied this request, that would sort of force them
21 into perhaps move quickly to avoid the possibility
22 of future zoning changes that might prevent them.

23 MAYOR BRINDLE: Could we amend it to
24 six months; the extension, so that -- I don't know
25 -- at least it gives us time rather than deny it

1 tonight about some kind of extension?

2 MR. TREMBULAK: I think you can.

3 MS. HARRISON: When is it up?

4 MR. TREMBULAK: It actually ran out
5 in December. So one year essentially would take
6 them to next December.

7 MAYOR BRINDLE: Or can you -- is
8 there a way to say it's one year, but this is it?

9 MS. JANSVELD: But it is it.

10 MR. TREMBULAK: Under the statute,
11 they're only entitled to three. So this would be
12 the last one.

13 MAYOR BRINDLE: So this is it.

14 MR. TREMBULAK: But I think if you
15 wanted to do six months, I don't see any reason
16 why you couldn't do that.

17 MAYOR BRINDLE: Well, if this is the
18 last year and there's no more after this, six
19 months or 12 months probably won't be materially
20 different. And I think it's very clear by -- I
21 don't know, the "neglect" for lack of a better
22 word. The neglect is kind of telling.

23 MR. LAPLACE: I just wanted to add
24 some thoughts. I too have been waiting for that
25 site to be redeveloped. I would point out that

1 this Planning Board approved this project and then
2 granted extensions for this project, and I believe
3 this is the only full-service grocery store --
4 although it's a small and outdated one -- in the
5 Town of Westfield. Trader Joe's is a specialty
6 food store, it's not a full grocery store. So I
7 think we don't want to lose the only grocery store
8 that we have left. This town has a bad history of
9 losing grocery stores; and I'll leave it with
10 that. There are sad, sad stories there. So I
11 really want to -- personally, I don't think I want
12 to send a message that we don't want to extend
13 this and work with them, and certainly to a
14 different timetable, and let them know that we
15 feel this urgency.

16 MAYOR BRINDLE: I think if we extend
17 it at least it prompts another about this
18 conversation and that it would be one more year
19 and that's about it, and they won't seem surprised
20 by it.

21 MS. HARRISON: And they would have
22 to file a building permit before December of this
23 year?

24 MR. TREMBULAK: That's correct.

25 MAYOR BRINDLE: That is pretty

1 quick, actually.

2 MR. LAPLACE: Could we also put in
3 if we were to extend and grant a third extension
4 we could put in a message saying that the Town
5 feels that the redevelopment of this should be a
6 priority?

7 MR. TREMBULAK: We can say that and
8 make it clear that this is the final extension.

9 MAYOR BRINDLE: Yeah. And that
10 we're anxious to work with them and continue their
11 presence in Westfield.

12 CHAIRMAN ASH: Can we say it's a
13 final extension? (Crosstalk.) (Indiscernible) --
14 a different Board.

15 MR. TREMBULAK: Well, the statute
16 says that the Planning Board may extend a period
17 of protection for extensions in one year, but not
18 to exceed three extensions. So, I mean they'd
19 have to make an argument under another section of
20 the statute, perhaps.

21 CHAIRMAN ASH: Right. Maybe their
22 response is to second that statute.

23 MR. TREMBULAK: Yeah.

24 CHAIRMAN ASH: To be mindful of
25 that.

1 MR. TREMBULAK: Um-hmm. Um-hmm.

2 CHAIRMAN ASH: Okay.

3 MR. CEBERIO: How many years have
4 those other outlying buildings been vacant?

5 MS. HARRISON: Ten. Twelve.

6 MR. SAMMET: Probably five or six
7 years.

8 MS. HARRISON: More than that.

9 MR. SAMMET: More than that?

10 MS. HARRISON: I think so. I think
11 they've been vacant probably closer to 10 years.

12 MR. LAPLACE: I think it's also
13 important for us in terms of fairness to keep in
14 mind that this was challenged by a competitor, a
15 developer not wanting to move forward with it.
16 And they've been struggling trying to get is past
17 appeals.

18 MR. TREMBULAK: It's standard
19 practice with supermarkets. It leaves the
20 competition out as long as they can.

21 So then, does the Board grant a
22 one-year extension with the --

23 CHAIRMAN ASH: With the caveat that
24 --

25 MR. TREMBULAK: -- understanding

1 that it's the final extension as per the state
2 statute?

3 CHAIRMAN ASH: Do we need to vote?

4 MR. TREMBULAK: We probably need a
5 motion.

6 CHAIRMAN ASH: A motion to grant a
7 final extension to the Application PB 12-20 for
8 the reasons discussed on record and with the
9 reference to the limitation and the statute
10 identified by the Board attorney.

11 MR. SAMMET: And that would be to
12 December 24, 2023, is my understanding.

13 CHAIRMAN ASH: Yes. I'll move that.
14 Do we have a second?

15 MR. CEBERIO: I'll second.

16 MR. SAMMET: Chairman Ash, seconded
17 by Mr. Ceberio.

18 Chief Duelks.

19 CHIEF DUELKS: Yes.

20 MR. SAMMET: Ms. Freedman.

21 MS. FREEDMAN: Yes.

22 MR. SAMMET: Mr. Goldstein.

23 MR. GOLDSTEIN: Yes.

24 MR. SAMMET: Mr. Ceberio.

25 MR. CEBERIO: Yes.

1 MR. SAMMET: Chair Ash.

2 CHAIRMAN ASH: Yes.

3 MR. SAMMET: Vice-chair LaPlace.

4 MR. LAPLACE: Yes.

5 MR. SAMMET: Mayor Brindle.

6 MAYOR BRINDLE: Yes.

7 MR. SAMMET: Councilman Dardia.

8 COUNCILMAN DARDIA: Yes.

9 MR. SAMMET: Ms. Harrison.

10 MS. HARRISON: Yes.

11 MR. SAMMET: Ms. Carreras.

12 MS. CARRERAS: Yes.

13 MR. SAMMET: Ms. Jansveld.

14 MS. JANSVELD: Yes.

15 CHAIRMAN ASH: All right. Our one
16 application this evening PB 22-10 Martha and
17 Patrick McDonald, 450 Springfield Avenue,
18 Block: 1905, Lot: 2.01.

19 MR. IACOCCA: Good evening. My name
20 is Anthony Iacocca. I'm an attorney at Hoagland
21 Longo Moran, Dunst and Doukas in New Brunswick. I
22 represent Patrick and Martha McDonald of
23 450 Springfield Ave. I'm actually law partners
24 with Patrick for the past 20 years. So I hope
25 this application will go well or I'll have to hear

1 it. This is an application for a minor
2 subdivision and a variance. I have Mr. TJ Ricci
3 of Stonefield Engineering of Rutherford who will
4 testify as a professional planner. And I would
5 request that Mr. Ricci be sworn in so he can
6 provide his credentials and background so the
7 Board could consider his qualifications.

8 CHAIRMAN ASH: Okay. Good evening,
9 Mr. Ricci.

10 TJ RICCI, having been duly sworn,
11 was examined and testified as follows:

12 CHAIRMAN ASH: Would you give the
13 Board briefly some of your qualifications?

14 MR. RICCI: Sure. TJ Ricci. I'm a
15 licensed professional planner in the State of New
16 Jersey. A member of the American Institute of
17 Certified Planners. I have testified before
18 45-plus Boards throughout the state, many of which
19 were in Union County. Approximately five years'
20 experience. Senior planner at Stonefield
21 Engineering and Design.

22 CHAIRMAN ASH: Okay. Does the Board
23 have any questions? No? Mr. Iacocca, is the
24 proffer as a planner and an engineer?

25 MR. IACOCCA: Yes. I would request

1 the Board accept Mr. Ricci as a professional
2 planner for this application.

3 CHAIRMAN ASH: We so accept.

4 MR. IACOCCA: Thank you.

5 MR. RICCI: Just to make a
6 correction on the record. Just to be clear, I'm
7 testifying tonight as a professional planner. Can
8 you guys see this exhibit right here or should I
9 move it? (Indicating.) I know it's kind of low.
10 I guess if anyone can't see it and I need to
11 adjust this, let me know.

12 Basically, we'll introduce this as
13 an exhibit. This was not submitted as part of the
14 submission package. So if we can mark this A-1.

15 (Whereupon, Applicant's Exhibit A-1,
16 GOOGLE ARIEL IMAGE, DATED JANUARY 4, 2023, was
17 marked for identification.)

18 MR. RICCI: This is an aerial
19 exhibit prepared by our office, Stonefield
20 Engineering and Design, dated January 4, 2023.
21 And, basically, what this shows is the subject
22 property itself over a Google aerial and the
23 surrounding parcels.

24 So what we have is the subject
25 property. You can see in yellow right here

1 (indicating) Block: 1905, Lot 2.01. It's one
2 lot, it's oddly shaped when you look at it. One
3 thing that you notice about it is it's a lot
4 larger than the surrounding properties,
5 specifically, the other similarly -- or the other
6 zoning properties that are also the same zone
7 along Springfield Avenue. This is the RS-16;
8 Single-family Residential Zone. And basically,
9 what that is, is it's zoned for single-family
10 uses, minimal lot size 16,000 square feet. This
11 lot right here is one lot. (Indicating.) The lot
12 in yellow is 47,942 square feet. So it's much
13 larger than the minimum lot size.

14 So, as you've heard, this is an
15 application for a minor subdivision. This was a
16 piece of property that actually was once
17 subdivided in the past. I believe it was in the
18 earlier 90s that was actually merged by the tax
19 assessor because they merge lots of common
20 ownership. So basically what we're here doing
21 tonight is to kind of reinstate that subdivision
22 line to get this back to two single-family houses.

23 Basically, I will put the aerial
24 down to just briefly present the subdivision plan.
25 This was submitted to the Board. It's a

1 subdivision plan dated October 11, 2022, prepared
2 by our office, Stonefield Engineering. So what
3 you have is proposed Lot A and Lot B. So the
4 minimum as far as lot size, as I said, was 16,000
5 square feet; and, Lot A is going to be 21,505
6 square feet; and, Lot B is 26,437 square feet.

7 Now, Lot B contains the Applicant's
8 existing home. So it's only developed on the
9 north portion of this site. Basically, when you
10 draw this subdivision line down -- you know, when
11 you see both at the same time, it makes sense.
12 Like I said, it was subdivided. Which the only
13 improvements were the home, driveway, the garage
14 located on the north area of the site. There's
15 nothing developed on the south area.

16 So in doing so, in proposing this
17 subdivision, we actually do need a c(1) variance.
18 But we don't need it for lot area. There's a
19 requirement in the ordinance called "minimum
20 average lot width." And basically what that says
21 is within 169-feet of the frontage for corner lots
22 you have to have at least 16,000 square feet of
23 lot area. It's kind of confusing, but basically
24 what it means is if you drew a line from this
25 frontage along Springfield 169-feet back, it lands

1 roughly 2/3 to the back of the site, that this
2 area has to be 16,000 square feet (indicating) in
3 addition to the lot area totaling 16,000 square
4 feet. The reason that we can't comply with that
5 is because of the shape of the lot. It's got this
6 curve. If you think about it, if this was squared
7 off, we'd gain kind of this corner back along
8 Springfield and we'd exceed that threshold for
9 having that 16,000 square feet within the front
10 lot line. So I just want to make note these do
11 comply with the minimum lot area sizes. I know
12 that some people come and propose a subdivision
13 and try to chop up a compliant lot and make
14 non-compliant lots. These are still considered
15 oversized lots per the zoning ordinance
16 definition. Like I said, approximately it's going
17 to be 21,000 square feet and 26,000 square feet.
18 So still significantly sized.

19 So the Municipal Land Use Law grants
20 these "c" variances based on two criteria; the
21 c(2) benefits versus detriments, and the c(1)
22 hardship criteria. In a c(1) one hardship, you
23 can grant variances based on narrowness,
24 shallowness, and shape of lot. I think this is a
25 very standard c(1) case. You know basically, the

1 hardship with the site is the fact that we are
2 located on this curve. So then when that
3 requirement does get applied to this site, we do
4 lose that lot area because we're almost more of a
5 triangular lot. If we were actually to move the
6 frontage back and we still had that 169-feet and
7 we were squared, we'd actually comply. So I think
8 this is a c(1) case. I don't think that in doing
9 so there's going to be substantial detrimental
10 impacts to the surrounding properties. This is a
11 single-family zoned piece of land. I think that's
12 the Applicant's intention to sell the property and
13 you know eventually someone will construct a
14 single-family property. I think also -- bringing
15 back up the aerial that we've marked as A-1 --
16 when you look at it, it just makes sense. You can
17 see, some of these properties next to us along
18 Springfield Avenue basically I think what we're
19 proposing here is more in line with the lot sizes
20 in the RS-16 zone to basically be able to develop
21 another house on that corner lot.

22 Looking through the Master Plan, I
23 know that there has been a sensitivity to people
24 -- applicants, trying to develop non-permitted
25 uses. I've (indiscernible) the uses in

1 single-family districts. That hasn't been the
2 intention here. The intention here is just to
3 subdivide and basically become more in compliance
4 with the zoning. And I think that's demonstrated
5 by the presentation, basically, the lot sizes here
6 being presented.

7 So that concludes the direct
8 testimony of the c(1) variance that we plan to
9 seek. I'm happy to go through any letters or
10 comments and take any questions.

11 CHAIRMAN ASH: All right. Thank
12 you.

13 MR. IACOCCA: Thank you, Mr. Ricci.
14 The Applicant is also in receipt of the town
15 engineer's report dated January 3, 2023; and my
16 client will comply with those conditions. And we
17 also are in receipt of the town planner's report
18 dated December 28, 2022; and my client will agree
19 to those conditions as well. I have Mr. and
20 Mrs. McDonald here if you have any questions of
21 the application.

22 MS. FREEDMAN: Yes. I have a few
23 general questions about the site. I was there as
24 recently as this afternoon. It's on a hill;
25 right? The lot is on a hill, so you can't see

1 your house. Your house is beautiful in the
2 picture, but you can't see the house from the
3 road. And I'm just wondering what you envision
4 for the lot. Would you envision the hill being
5 reduced?

6 MS. MCDONALD: I wouldn't envision.
7 I would think that the person --

8 CHAIRMAN ASH: We'll have to swear
9 you in to provide actual testimony.

10 MARTHA MCDONALD, having been duly
11 sworn, was examined and testified as follows:

12 MS. MCDONALD: I don't know what the
13 rules are for someone removing the grading of the
14 property. I would think that someone would know
15 that's an asset, as you said. It sits above the
16 road because then you're above the traffic. It is
17 surprising. It surprised me when I saw the
18 property for the first time. The elevation is an
19 asset. So I would hope they would leave it alone.
20 At that point, I don't think then we could have
21 control before you. I would not envision them --
22 I can't imagine what someone else would do, but I
23 would hope that would be something they would want
24 to preserve because of its? Desirability.

25 MS. FREEDMAN: Right. I just have a

1 question about the driveway. I know in the report
2 it talks about the shared driveway across
3 easements. But the driveway is very slim. It
4 looks like it's, I don't know, 10- or
5 12-feet-wide; how would that work?

6 MS. MCDONALD: It's worked. We've
7 lived there for over 30 years and we've had fire
8 trucks and ambulances and we have, you know, four
9 kids with their friends and cars. We have big
10 families; both of us. We just hosted a Christmas
11 dinner for 30 people, and it works. Sometimes we
12 do have to do a little bit of traffic control when
13 it gets that big. But for general usage, I mean
14 it's just like anyone having a party. It looks
15 narrow, but it really serves us well.

16 MS. FREEDMAN: Okay. Thank you.

17 MS. MCDONALD: You're welcome.

18 CHAIRMAN ASH: Does the private
19 driveway -- how many other properties does it
20 serve?

21 MS. MCDONALD: Currently three; ours
22 and two of our neighbors.

23 MS. HARRISON: I have a question for
24 the engineer. How would you determine your
25 setback lines with your 65-foot setback at the

1 corner of the turn and then it goes down; how did
2 you determine that?

3 MR. RICCI: It's pretty bizarre. I
4 had a feeling that would come up. So, basically,
5 the lot frontage is defined as the halfway point,
6 it's the halfway point in the curve. So you
7 basically -- in a drawing program, we take this
8 line and offset the frontage, and then this one
9 would be the side, right, because it's the halfway
10 point of this point, and then you basically
11 connect them in.

12 MS. HARRISON: The house that is
13 there now appears to have front yard towards the
14 driveway, which is the inner-rear yard. What is
15 the anticipation for this house?

16 MR. RICCI: I mean at this time, we
17 are just proposing the subdivision. I don't want
18 to say that when they come back for site plan
19 approval they could have something different than
20 what's proposed now because right now it's just
21 the line. I would anticipate that they are going
22 to maintain this cross-access easement. There's
23 this little kind of private driveway that would
24 serve the new lot, the Applicant's lot, and then
25 these other two homes right here (indicating) and

1 also face that way. Also considering the fact
2 that we are on this curve, it's a very dangerous
3 curve. And like one of the Board members
4 mentioned, it's a very steep slope. You really
5 wouldn't want to put a driveway; it's steep down
6 and on a curve. I anticipate they would maintain
7 the same access design.

8 MS. HARRISON: Can we put that in
9 our request that the only access is off of the
10 existing shared drive and not from any other point
11 along Springfield Avenue?

12 MR. TREMBULAK: Well, there's no
13 proposal at this point to construct a house on the
14 property, and I think that would we'd have to wait
15 until they came in for permits. Now, it is a
16 county road too, so they need county approval. I
17 think they'd have a hard time getting county
18 approval for a driveway curb cut on that curve.

19 MR. LAPLACE: Particularly, on a
20 curve. They usually don't like any curb cuts.

21 MR. TREMBULAK: And especially when
22 there's alternative access already provided. I
23 can't imagine the county would approve that.

24 MS. HARRISON: So we can't put that
25 on it that access can only be from the exiting

1 curb cut?

2 MR. LAPLACE: Vehicular.

3 MS. HARRISON: Vehicular, yes.

4 CHAIRMAN ASH: I guess the new lot
5 would legally be entitled to use the private
6 driveway with the frontage.

7 MR. IACOCCA: Just for clarification
8 my clients are looking simply to subdivide the lot
9 and sell the vacant lot with the approval to a
10 third party. We have no idea what they would
11 build, but whatever they will build, will have to
12 be in conformance with the resolution of approval
13 and the conditions.

14 With regards to the private
15 driveway; it's a private driveway, and I know that
16 there is a two right-of-way access easements of
17 record that's recorded in the public record, which
18 I'm going to review to see what provides in terms
19 of access, repair, and maintenance. And I know
20 when talking to Patrick this morning, that the
21 neighbors recently had the driveway repaved
22 recently, which is great because it shows
23 cooperation on the neighbors to take care of the
24 private driveway. The town engineer's report
25 provides that this private driveway needs to be

1 replaced with a cross easement; access easement.
2 And that easement will confirm, memorialize,
3 access to the three lots. It will provide that
4 the property owners are required to repair and
5 maintain the driveway, and further will provide
6 maintenance obligations that belong to the
7 neighbors. So the condition in the town
8 engineer's report is that the cross-access
9 easement replace the existing driveway access
10 easement of record; which we intend to do. And
11 once that's in place, if the property sold to a
12 third party, whatever they build will have to come
13 before the Board and request approval of where
14 they're going to cut into the new lot. We don't
15 know where this could be, but that's subject to
16 the Board's discretion at the time of the
17 application.

18 MR. TREMBULAK: But that wouldn't
19 come before the Board on a single-family house.
20 It would be site plan approval. But would have to
21 be reviewed by the engineering department; grading
22 and drainage, and, obviously, the building
23 department.

24 CHAIRMAN ASH: And the buyer of that
25 lot, Lot A, would have to do their own due

1 diligence to see if they have the rights to use
2 that private driveway.

3 MR. IACOCCA: That's correct. And
4 the client's intent is to sell the property
5 potentially to a third party that would comply
6 with the resolution of approval. They're not
7 looking to sell to an applicant that's going to
8 build a building. They're looking for an
9 applicant that will build a home consistent with
10 the neighborhood pursuant to the resolution.

11 CHAIRMAN ASH: Any other members of
12 the Board have questions?

13 MR. GOLDSTEIN: With the agreement
14 that they have to share the repair and maintenance
15 of the private drive, would that be part of the
16 sale regardless of if and when they build
17 something?

18 MR. IACOCCA: It would. It would be
19 the easement that gets recorded in the public
20 record. So once it's recorded, it will be picked
21 up by a title search company whenever there's a
22 sale of any three lots. So this easement will be
23 of public record and recorded in the county
24 clerk's office with deeds and mortgages. So it
25 will bind the three properties. So there should

1 be no issue there.

2 CHAIRMAN ASH: Anyone else? Anyone
3 here from the public who wishes to ask questions
4 of the planner or the property owner? Seeing
5 none. Do you have any other testimony this
6 evening?

7 MR. IACOCCA: No further testimony.

8 CHAIRMAN ASH: Okay. Thank you.

9 MR. IACOCCA: Thank you, Board
10 members. If there're no questions, I would ask
11 the Board for approval of the application of a
12 minor subdivision variance, thank you.

13 CHAIRMAN ASH: There's been a
14 commitment to comply with the conditions of the
15 January 3, 2023, memo from our town engineer, and
16 the memo from Mr. Sammet. Are there any comments
17 or additional items you'd like to point out,
18 Mr. Sammet?

19 MR. SAMMET: No, just that -- and
20 this we be for the subdivision -- but anyone who
21 constructs a new home on a newly created lot would
22 be subject to the town's Affordable Housing
23 Development ordinance, and removal of any trees on
24 that lot would require review and approval from
25 the Tree Preservation Commission. Other than

1 that, the applicant has addressed everything in my
2 report, and I think we're good. We're
3 reestablishing lots that once existed. It's going
4 to be consistent with the neighborhood and the
5 character.

6 CHAIRMAN ASH: I would just note
7 that there should be minimal disturbance to trees.

8 (Laughter.)

9 MAYOR BRINDLE: Well done.

10 MR. GOLDSTEIN: That went right to
11 his head.

12 CHIEF DUELKS: You're starting off
13 pretty good.

14 CHAIRMAN ASH: Any other comments?
15 Yes, Mr. LaPlace.

16 MR. LAPLACE: I just want to note
17 that I think this is a very reasonable subdivision
18 application. It's a uniquely shaped site; it
19 would result in two lots that would not be
20 undersized in regards to the zoning ordinance.
21 And I like the fact that the existing house is
22 going to be preserved. I like that for a lot of
23 reasons; sustainable development and other good
24 things. I think the shared driveway is something
25 we should be encouraging in Westfield for

1 environmental and for other reasons. For a lot of
2 good reasons, I think this is a sensible
3 subdivision application and I'll support it.

4 CHAIRMAN ASH: Thank you. Anyone
5 else? Okay, seeing no other comments from the
6 Board; I agree with the comments from Vice-chair
7 LaPlace, and I will make a motion to approve
8 incorporating the conditions of our town
9 engineer's report and the comments of Mr. Sammet's
10 report.

11 MR. SAMMET: Motion by Chairman Ash.
12 Is there a second?

13 MR. CEBERIO: I'll second.

14 MR. SAMMET: Second by Mr. Ceberio.
15 Chief Duelks.

16 CHIEF DUELKS: Yes.

17 MR. SAMMET: Mr. Sammet.

18 MR. GOLDSTEIN: Yes.

19 MR. SAMMET: Mr. Ceberio.

20 MR. CEBERIO: Yes.

21 MR. SAMMET: Chairman Ash.

22 CHAIRMAN ASH: Yes.

23 MR. SAMMET: Vice-chair LaPlace.

24 MR. LAPLACE: Yes.

25 MR. SAMMET: Mayor Brindle.

1 MAYOR BRINDLE: Yes.

2 MR. SAMMET: Councilman Dardia.

3 COUNCILMAN DARDIA: Yes.

4 MR. SAMMET: Ms. Harrison.

5 MS. HARRISON: Yes.

6 MR. SAMMET: Ms. Jansveld.

7 MS. JANSVELD: Yes.

8 MR. SAMMET: Ms. Carreras.

9 MS. CARRERAS: Yes.

10 MR. SAMMET: And Ms. Freedman.

11 MS. FREEDMAN: Yes.

12 MR. SAMMET: Thank you. Approved
13 with conditions.

14 MR. IACOCCA: Thank you very much.

15 CHAIRMAN ASH: Any other business?
16 Seeing none; motion to adjourn.

17 MR. GOLDSTEIN: Second.

18 CHAIRMAN ASH: All in favor.

19 BOARD MEMBERS: Aye.

20

21 (The meeting was adjourned at
22 8:05 p.m.)

23

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