

CITY OF JACKSONVILLE
DOWNTOWN INVESTMENT AUTHORITY
DDRB APPEAL HEARING OF 2016-015

Proceedings held on Wednesday, August 16, 2017,
commencing at 2:06 p.m., Ed Ball Building, Conference
Room 1002, 1st Floor, 214 North Hogan Street,
Jacksonville, Florida, before Diane M. Tropa, a Notary
Public in and for the State of Florida at Large.

BOARD MEMBERS PRESENT:

JAMES BAILEY, Chairman.
JACK MEEKS, Vice Chair.
OLIVER BARAKAT, Board Member.
BRENNAN DURDEN, Board Member.
CRAIG GIBBS, Board Member.
RON MOODY, Board Member.
MARC PADGETT, Board Member.

ALSO PRESENT:

AUNDRA WALLACE, DIA, Chief Executive Officer.
GREG ANDERSON, City Council Member.
FRED JONES, DDRB Member.
GUY PAROLA, DIA, Redevelopment Manager.
JIM KLEMENT, DIA, Development Coordinator.
JASON TEAL, Office of General Counsel.
KAREN UNDERWOOD-EILAND, Executive Assistant.

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1 P R O C E E D I N G S
August 16, 2017 2:06 p.m.

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3 THE CHAIRMAN: Folks, thank you for your
4 patience. There might have been some confusion
5 on the location, so I hung out upstairs,
6 waiting for those that showed up there, and I
7 think we've got most people here.

8 Let me do something real quickly here. We
9 begin this meeting with a pledge. And
10 apparently, we don't have a flag in here, so
11 we're going to have a -- why do I have a
12 picture of Marc on my phone?

13 And I don't see that we can get an
14 American flag on here, so we're going to --
15 does anybody have a phone -- have a flag on
16 their phone that they could do? For some
17 reason, Marc's picture won't go away.

18 Okay. We're going to -- okay. We start
19 this meeting with a pledge to the flag, so if
20 everyone would please face the flag.

21 (Recitation of the Pledge of Allegiance.)

22 THE CHAIRMAN: I want to thank everybody
23 for their patience and coming today.

24 I'd like to make a few introductions.

25 Councilman Anderson, thank you for being

1 here today.

2 I think everybody knows Jason Teal, our
3 General Counsel.

4 And then do we have any media in the room?

5 AUDIENCE MEMBERS: (Indicating.)

6 THE CHAIRMAN: Okay. David and Derrick.

7 Okay. Please let us know if there's
8 anything you need.

9 I don't know, I think a couple of you have
10 been through this appeal process in the past.
11 This is -- okay. We'll get there.

12 This is the second appeal that the DIA has
13 heard. And I'm going to go through those in
14 just a second. Well, let me go ahead and do
15 it.

16 At the end of this hearing -- and there is
17 a schedule. You will follow the schedule.
18 We're going to stay as close as we can to this
19 schedule. We have to, actually, but what we're
20 trying to do is, evaluating this appeal of the
21 DIA, which was a decision by the DDRB.

22 And I think we have Mr. Jones here that's
23 going to discuss the DDRB's findings for us,
24 but is it consistent -- these are the things
25 that we are to be looking for today:

1 Is it consistent and compatible with all
2 proposed development and redevelopment within
3 the BID Plan.

4 Is it consistent with and provides
5 mitigation as may be required by the
6 Consolidated Downtown DRI Development Order and
7 Transportation Concurrency Exception Area
8 Implementation Plan.

9 And three, while considering the
10 design-related issues of the application,
11 whether the project is in compliance with the
12 Downtown District Regulations, the Downtown
13 Design Guidelines and all related approved
14 design certificates, guidelines and standards,
15 subject always to the ultimate authority of the
16 DIA to interpret the BID Plan, the Downtown
17 Overlay Zone and the Downtown Design
18 Guidelines.

19 Now, remember, this is a quasi-judicial
20 hearing. We need to go around for each member
21 to disclose any ex-parte discussions they have
22 had.

23 And I will start. I had a phone
24 conversation with Mr. Harden on July 17. I had
25 a meeting with Mr. Diebenow on 7/27 concerning

1 this issue. And I had a phone conversation
2 with Mr. Harden on August 15th.

3 Mr. Meeks.

4 VICE CHAIR MEEKS: I don't have any of
5 those discussions, calls or otherwise to
6 disclose.

7 I would like to just say on the record,
8 though -- and Mr. Teal or Mr. Sawyer, make sure
9 this sounds appropriate to one or both of you.

10 Mr. Harden has recently represented me in
11 a zoning matter, but I don't think that's --
12 that's not something that's going to affect my
13 opinion today, and I don't think I should
14 recuse myself unless you gentlemen have other
15 opinions.

16 MR. TEAL: Through the Chair to Mr. Meeks,
17 I guess a couple of clarification questions in
18 terms of the representation by Mr. Harden.

19 First of all, I don't think that
20 Mr. Harden or his client filed a Notice of
21 Appeal in this matter. I believe that it was
22 filed by Mr. Bean. And so in terms of
23 Mr. Harden's participation, I'm unclear in
24 terms of whether he's just an interested party
25 at this point or whether, you know, he's

1 actually representing a party.

2 But even if that was being the case, you
3 know, the question for you, in terms of whether
4 you would be conflicted out, there's mandatory
5 conflicts, and then there's kind of the
6 appearance of impropriety type of conflicts.

7 But whether or not the decision that is
8 presented to this body today, and your
9 participation in this meeting today, whether
10 Mr. Harden's representation of you either, A,
11 has influenced your opinion about this
12 particular item, or, B, whether or not you have
13 any direct financial interest or any -- I guess
14 anyone related to you has a direct financial
15 interest in the outcome of this case, you know,
16 that -- I guess if you could just disclose that
17 information and then we'll, I guess, decide
18 from there on whether or not there's an issue.

19 VICE CHAIR MEEKS: Well, A, Mr. Harden's
20 representation is not going to affect my
21 opinion today. And, B, I have no financial
22 interest in this.

23 MR. TEAL: Okay. Then I think that
24 resolves the issue. I don't see that there's
25 an issue of a conflict there.

1 THE CHAIRMAN: Okay. Mr. Gibbs.

2 BOARD MEMBER GIBBS: I had meetings with
3 Mr. Bean, Mr. Diebenow and Mr. Harden.

4 THE CHAIRMAN: Okay. Mr. Barakat.

5 BOARD MEMBER BARAKAT: I had a phone
6 conversation with Mr. Keith Tickell, a phone
7 conversation with Jason Isaacson, and meetings
8 with Mr. Diebenow and Mr. Bean.

9 THE CHAIRMAN: Okay. Mr. Moody.

10 BOARD MEMBER MOODY: I've had a phone
11 conversation with Mr. Harden. I've had a
12 meeting with Mr. Diebenow to discuss factual
13 data.

14 THE CHAIRMAN: Okay. Ms. Durden.

15 BOARD MEMBER DURDEN: On August the 1st, I
16 met with Paul Harden. And on August the 2nd, I
17 met with Steve Diebenow and Mr. Siebert. And I
18 will say for the record that neither -- neither
19 of the meetings will influence my decision or
20 opinion I render today.

21 THE CHAIRMAN: Thank you, Ms. Durden.

22 Mr. Padgett.

23 BOARD MEMBER PADGETT: I had a meeting
24 with Mr. Diebenow and Mr. Siebert.

25 THE CHAIRMAN: Okay. With that, we have a

1 quorum.

2 Now, in this hearing, keep in mind, you
3 cannot go away, come back, participate
4 partially. And I think you will explain all
5 the rules of this, so we'll get to that. What
6 we're going to start with is a staff report
7 from DDRB.

8 Mr. Klement, you've got about five
9 minutes, if you can do it in that period of
10 time.

11 Thank you.

12 MR. KLEMENT: All right.

13 THE CHAIRMAN: And let me stress one
14 thing, make sure everybody's phone is turned
15 off. And I don't care how well-known you may
16 be, we need you to give your name and address
17 as you speak. Okay?

18 Thank you very much.

19 In a microphone. So no one will be
20 addressing unless they have a microphone in
21 front of them.

22 So, sorry, Mr. Klement. If you --

23 MR. KLEMENT: That's all right.

24 (Mr. Klement approaches the podium.)

25 THE CHAIRMAN: Thank you.

1 MR. KLEMENT: Jim Klement, staff to the
2 DDRB.

3 I am presenting a brief summary of the
4 staff report for June 1st, 2017, Ventures
5 residential development request for final
6 review, with deviations, for a project located
7 on the Southbank. The property is referenced
8 as the Hines property.

9 This summary addresses the report prepared
10 for the final review outlining the code used by
11 the DDRB to review the design of proposed
12 projects located in the Downtown Overlay
13 District. It is important to note, this review
14 does not rezone property. The uses proposed
15 presently are permitted uses by right.

16 As such, the charge of the DDRB final
17 review, per code, is to review the proposed
18 project in concert, in context with existing
19 conditions; site constraints; development
20 plans; public meetings for conceptual and final
21 reviews; public workshops; compliance with the
22 DIA Master Plan, including goals, downtown
23 design criteria, the development overlay zone,
24 and the downtown district regulations, which we
25 reference as 656.361.11 through 656.361 through

1 .21, including opportunities for deviations
2 from the design guidelines per Section
3 656.361.22 when requested.

4 The final development plans propose the
5 following: A 300-unit multifamily project,
6 13-story development, with an overall height of
7 approximately 190 feet, 359 parking spaces
8 provided, which includes 10 Riverwalk parking
9 spaces, 53,000 square feet of recreation, open
10 space, and a request for deviations from the
11 design guidelines, which we'll reference and
12 address as we move forward in my report to you.

13 There are 11 design guidelines that are
14 referenced in the Downtown Overlay Zone and the
15 downtown regulations of the Zoning Code
16 applicable to reviews. The intent of the
17 review is to assure development that is in
18 context so as to promote and encourage the
19 revitalization and growth of downtown as a
20 desirable, high-density, mixed-use area that is
21 in keeping with the traditional downtown urban
22 fabric.

23 In this review process, the applicant
24 submitted revisions as recommended and offered
25 by the DDRB. The following is a summary of the

1 applicant's request for final DDRB approval
2 that included mitigated requests for deviations
3 from the following design guidelines:

4 I am going to address just the -- very
5 briefly, the design guidelines that the
6 applicant looked to mitigate and looked relief
7 from.

8 The first one dealt with setbacks, which
9 was to allow an increase to the building
10 setback requirement. The project received a
11 deviation to allow the setback building from
12 the Prudential Drive setback.

13 The second item that the applicant looked
14 for was to -- relief from the river view and
15 height of buildings. The project received a
16 deviation to allow a building height for a
17 190-foot structure.

18 The third deviation dealt with off-street
19 parking. The project received a deviation to
20 allow a reduction of the parking requirement to
21 provide 349 parking spaces for its project.

22 The fourth deviation dealt with
23 streetscape design standards. The project
24 received a deviation to allow an alternate
25 streetscape design along the Prudential Street

1 frontage.

2 The fifth and last deviation dealt with
3 waterfront design regulations. The project
4 received a deviation to allow a reduction to
5 allow a 25-foot setback for portions of the
6 building fronting the St. Johns River.

7 Staff reviewed each of the requests, along
8 with revised site plans, alternative designs,
9 supplemental information supporting the
10 requests provided by the applicant and
11 mitigating alternative design solutions.

12 Staff notes, the development guidelines
13 are not meant to be totally prescriptive but
14 qualitative and reflective of a design-oriented
15 approach to review and approval of projects.

16 As such, staff reviewed the request for
17 the deviations, in support of the deviations,
18 using the criteria for deviations, and being
19 reminded that the DDRB can deviate from
20 established development guidelines when
21 projects cannot meet the design criteria but do
22 mitigate and/or provide an acceptable
23 alternative design as well as addressing the
24 criteria for granting a deviation.

25 Staff recommended approval of the five

1 deviations. And there were some additional
2 conditions, A through F, that dealt with some
3 specific design of the waterfront Riverwalk and
4 aspects of that part of the project.

5 With that, I'll conclude my report, sir.

6 THE CHAIRMAN: Thank you, Mr. Klement.

7 Before we go on to the DDRB process --
8 and, Mr. Jones, I'd like to ask Mr. Teal to
9 explain this process a little more detailed,
10 please.

11 MR. TEAL: Thank you, Mr. Chairman.

12 Through the Chair to the Board, I know
13 that some of you have been here for appeals in
14 the past, but to kind of set the stage, the
15 purpose of this appeal is -- this is a standard
16 appeal that is allowed -- or is authorized in
17 the Zoning Code for the Downtown Overlay.
18 Specifically, 356.361.17 that authorizes
19 appeals from DDRB decisions to the DIA.

20 And those are what are called de novo
21 hearings. What that means is, in essence,
22 you're starting over. You do have available to
23 you the record that was submitted and presented
24 to the DDRB, but the parties are not going to
25 be limited to only that information. So it's

1 not just a review of the items that were
2 presented to DDRB. It could include additional
3 materials or different -- additional arguments
4 or additional evidence that's provided to you.

5 This is a quasi-judicial hearing. What
6 that means is that your decision must be based
7 only on information that you receive --
8 competent substantial evidence is the legal
9 standard -- that you receive at this hearing
10 today. So the parties will be providing you
11 with evidence that you can consider to make
12 your decision.

13 One thing I want to make clear is that the
14 staff's report is considered competent
15 substantial evidence. So the staff's report to
16 you -- and I believe that Mr. Klement has
17 already provided that. And you've already seen
18 the staff report where they do make a finding
19 that this particular project, with the
20 conditions that were assigned to this
21 particular project, do meet all of the
22 requirements in the Zoning Code for this
23 particular project.

24 That's only a recommendation and is one
25 bit of evidence that you can receive.

1 Obviously, the parties have a difference of
2 opinion, some of them as to whether or not that
3 evidence should be followed. They will have to
4 provide additional evidence to you to overcome
5 what the staff report does tell you.

6 Just so you know, in terms of where you
7 fit into all of this is that your decision
8 today is subject also to appeal to the
9 Jacksonville City Council. And so you're kind
10 of the intermediate step in terms of the
11 appellate process. And so I just wanted to
12 make you aware that the next step from you is
13 not to go to court, but the next step is -- is
14 to go to the City Council.

15 And I also say that for the benefit of
16 Council Member Anderson who is in attendance
17 today.

18 The Downtown Zoning Overlay does provide
19 criteria for you to review, I believe, in your
20 packet. And if you don't have it, I've got
21 extra copies of 656.361.22, which is the
22 criteria that you need to consider in terms of
23 whether or not to grant a deviation request
24 from the Downtown Overlay.

25 I will tell you for background purposes

1 that the Downtown Zoning Overlay, the intent
2 was that deviations were to be the norm. In
3 other words, it's a restrictive code, but the
4 intent of the Council, when it did it, was to
5 authorize deviations because they wanted more
6 projects to come before the Downtown
7 Development Review Board for review as opposed
8 to, you know, somebody just automatically
9 getting approval and, therefore, DDRB wouldn't
10 have the ability to weigh in, you know, through
11 DDRB to you guys as well.

12 So don't feel like there's something wrong
13 or improper about somebody making a request for
14 a deviation. That is something that they are
15 legally authorized to do.

16 You do have the criteria. I believe it's
17 A through E. So five criteria that you have to
18 consider and that each of the deviation
19 requests must meet.

20 Mr. Klement went through the five requests
21 for deviations. Those are separate requests.
22 So you'll consider them separately. So each
23 one of those separate requests must meet the
24 five criteria. And so you will take them up
25 kind of individually and looking at them

1 individually in order to determine whether or
2 not they meet those.

3 I am here, obviously. If anybody has any
4 questions at any point procedurally or
5 otherwise, feel free to request. And we will
6 be advising you, you know, through this
7 process.

8 Thank you, Mr. Chairman.

9 THE CHAIRMAN: Thank you, Mr. Teal.
10 Mr. Meeks.

11 VICE CHAIR MEEKS: Since you said you have
12 extra copies -- I've got about 3 pounds of
13 information behind me -- rather than going back
14 into that, if you can provide those, that would
15 be most helpful.

16 MR. TEAL: Absolutely.

17 BOARD MEMBER BARAKAT: Mr. Chairman, while
18 he's doing that, I need to declare a conflict
19 of interest due to relationships I have with
20 both parties. I checked this with the City's
21 ethics officer last week, and she confirmed,
22 and I will be signing the appropriate paperwork
23 accordingly.

24 THE CHAIRMAN: And with that, Mr. Teal,
25 Mr. Barakat can participate in the discussion.

1 He can opine, but he can't vote?

2 MR. TEAL: Correct. He can participate
3 fully, as if he was voting, just when it comes
4 time to vote he will recuse himself at that
5 time. And then I will remind you when you're
6 announcing -- whatever ultimately the vote is,
7 I'll remind you to announce that Mr. Barakat
8 recused himself.

9 THE CHAIRMAN: And he also counts for the
10 quorum.

11 MR. TEAL: He does count for the quorum.

12 THE CHAIRMAN: Okay. Very good.

13 Now, before we open this public hearing,
14 I'd like to ask Mr. Jones, who is chairman of
15 the DDRB, to give us about a ten-minute --
16 well, you aren't right now, are you?

17 MR. JONES: Not right now --

18 THE CHAIRMAN: Okay.

19 MR. JONES: -- I'm not -- technically not
20 the chair. Mr. Joe Loretta --

21 THE CHAIRMAN: Okay.

22 MR. JONES: -- has assumed that role, but
23 during --

24 THE CHAIRMAN: If you will --

25 MR. JONES: -- this process I was the

1 chair.

2 THE CHAIRMAN: Okay. You've got a mic.
3 If you will state your name and address. And
4 you've got a few minutes to tell us the process
5 and how you got to this point.

6 MR. JONES: Thank you, sir.

7 Frederick Jones, 1300 Kings Road, Neptune
8 Beach Elem- -- Neptune Beach, Florida 32266.
9 Neptune Beach Elementary, I'm sorry about that.
10 My kid goes there.

11 Again, I think it would be helpful to --
12 just to discuss, really, kind of the function
13 and the role of the Downtown Overlay and the
14 DDRB.

15 We never really see ourselves as a yes/no.
16 We see ourselves as a value-added agency to
17 help projects move through the process and,
18 really, to ensure that we're getting
19 high-quality, mixed-use development downtown.

20 And again, our role specifically is to
21 assist the DIA in its review of development and
22 redevelopment within this overlay zone, which
23 was specifically established to promote and
24 encourage the revitalization and growth of
25 downtown as a desirable, high-density,

1 mixed-use area. So that's codified. And so
2 that really becomes kind of our -- our charge.

3 The other -- as another backdrop to -- to
4 our role with the City is that in 2014, the DIA
5 adopted a new Community Redevelopment Area plan
6 and a business investment strategy. And in
7 this plan, there were seven primary goals in
8 supporting objectives and benchmarks, designed
9 each to measure the progress on downtown
10 development.

11 So the first one here is one -- you may
12 have read this. This is to reinforce downtown
13 as the city's unique epicenter for business,
14 history, culture, education and entertainment.

15 B, to increase rental and owner-occupied
16 housing downtown, targeting key demographic
17 groups that are seeking a more urban lifestyle.

18 C, to simplify the approval process for
19 downtown development and improve developmental
20 and agency coordination.

21 D, to improve walkability, bikeability and
22 connectivity to adjacent neighborhoods and the
23 St. Johns River while creating highly walkable
24 nodes.

25 E, establish a waterfront design framework

1 to ensure a unique experience and sense of
2 place.

3 F, maintain a clean and safe 24/7 downtown
4 for residents, workers and visitors.

5 And the last goal, to use planning and
6 economic development policies to promote design
7 for healthy living.

8 So really, with that, that really becomes
9 kind of the backdrop for every decision that we
10 make; are we ultimately achieving those goals,
11 recognizing that there are a lot of challenges.

12 And I think this whole process, from the
13 beginning, was very -- highly iterative. I
14 know when we first received this application it
15 came in as a conceptual. And we ended up
16 making a recommendation to go through a
17 workshop so that we could improve the design
18 outcomes of this particular site.

19 I know we had some issues with what we
20 felt was an obtrusive garage that was fronting
21 the river, and we just continued to go back to
22 the drawing board. So I think through this
23 whole process, it was always about, not a yes
24 or no, but how can we make this a really unique
25 project for this site and recognizing that this

1 particular parcel has some unique constraints
2 to it. And we needed to figure out a best way
3 to work through that.

4 One of the things that came out of that
5 process during -- I think this was the period
6 between -- we had an October hearing, and I
7 think in January, we had another -- the
8 workshop, we had townhomes that were added to
9 the front row which were facing the Riverwalk.
10 And really, this was to help embellish the
11 architectural character and to minimize that
12 sort of obtrusive feel along the river.

13 One of the most important things that came
14 out of this, which ties right back into Item D,
15 about improving walkability and bikeability,
16 that we're getting a new Riverwalk access.
17 Initially, as you know, as you're going through
18 there, right now it's very difficult. I didn't
19 even think you could walk back there. And so
20 now, we're getting a 20-foot Riverwalk
21 extension through this process and through this
22 project, which, I think, is really much a value
23 add.

24 In addition, one of the concerns that we
25 had when we saw this -- there's a very long,

1 linear strip that connects to Prudential Drive.
2 We saw that as an opportunity to really enhance
3 the opportunity for a multiuse-trail along
4 that. And again, if you also look at some of
5 the bigger initiatives that the City's been
6 undertaking, particularly its Bicycle and
7 Pedestrian Master Plan, it cites the ability to
8 connect to Prudential Drive and to really look
9 at ways that would connect folks better to
10 San Marco. And the develop- -- the project
11 included a new 12-foot multiuse trail. This
12 provides connection directly to Prudential
13 Drive, again, building upon the other efforts
14 that we have going on.

15 And particularly, Councilwoman Boyer had
16 some public access improvements on the
17 Southbank envisioned as part of a multiuse
18 loop. So we saw this as an opportunity to
19 connect directly to that. So we're getting a
20 project that's building upon the public
21 interest in terms of projects that we'd like to
22 see happen.

23 Some of the other issues that we had
24 encountered during this process were parking.
25 And I think, again, it's important to note --

1 and I know Mr. Klement had brought this up, and
2 Mr. Teal -- that it's not about minimizing the
3 standards, but it's about providing a range of
4 acceptable mitigation within this dynamic urban
5 context that we have in downtown, consistent
6 with the guidelines.

7 Again, ultimately, we want to have a good
8 project for downtown. We want to see cranes
9 happening in downtown Jacksonville. And to the
10 extent that we avoid getting hung up in low --
11 lowest common denominator issues related to
12 off-street parking and setbacks, we felt that
13 there are ways around that.

14 So again -- and when it comes to parking,
15 you know, we ended up with -- the developer
16 ends up with about 1.2 spaces per unit, which
17 really exceeds the amount of parking that
18 we've -- that we've approved for many other
19 projects over the past 18 months. I think, in
20 particular, the Vestcor project, the Lofts at
21 Monroe, has almost less than one space per
22 unit.

23 Our thought process in that -- and at
24 least mine, as the chair, is that, you know,
25 parking in downtown is a different animal than

1 parking in a suburban location. And if
2 anybody's ever read The High Cost of Free
3 Parking, by Donald Shoup -- I would suggest you
4 read it. It's a big -- but it comes down to --
5 it boils down to three things.

6 You know, one, charge the off-street
7 parking so that you have at least whatever
8 amount that is -- so that you have enough
9 spaces for people to at least find -- use the
10 amount that you're generating from parking back
11 into the public area; and two, to not have any
12 off-street parking requirements.

13 And I think it's important to note that we
14 want the market to decide what's enough. And I
15 think, in this particular case, you know, the
16 developer is not going to come and say we don't
17 need any parking at all. They're going to look
18 at their market, they're going to look at their
19 comps, and they're going to say, this works for
20 this site, this works for what we think is
21 going to -- our tenants here.

22 I think that it would be premature to
23 assume that they would underpark their site.
24 So I think, again, it's -- it's really allowing
25 the market to decide what's an appropriate

1 amount.

2 In the case of Intuition, we didn't even
3 require any off-street parking, just -- just as
4 a -- as a note there.

5 And again, I think we just felt that
6 there's a lot of flexibility here in terms of
7 the parking requirements and the setbacks; that
8 we're ending up with a product -- I mean, from
9 what came to us in August and to what we ended
10 up getting in June, we ended up getting a much
11 improved project on a site that is very
12 challenging.

13 And keep in mind, in 2005, if I'm not
14 mistaken, Hines -- the Hines project that was
15 proposed here, I think that was for almost two
16 towers. It probably would have been the
17 tallest in the city. And I think there were
18 riparian rights for 125 boat slips. So I think
19 that the impacts are certainly much less and
20 much more consistent with what the market here
21 locally would bear.

22 So with that, I think that's -- that
23 really becomes -- that was really our rationale
24 and process through this. Again, we -- we
25 wanted to work with the owner to ensure that we

1 could have a high-quality product, as the
2 number one goal, to meet, really, the seven
3 primary goals of the Downtown Investment
4 Authority CRA.

5 THE CHAIRMAN: Thank you, Mr. Jones.

6 And you will be here during this entire
7 hearing for any questions later because, at
8 this point, we're going to open this public
9 hearing.

10 During this public hearing, there will be
11 no questions from the DIA board. We have to
12 refrain from our questions until the end of
13 this meeting.

14 So, Mr. Teal, is that correct; after this
15 open hearing -- after this public hearing, we
16 will close the public hearing, and then we can
17 engage in dialogue with the parties?

18 MR. TEAL: Through the Chair to the Board,
19 if there's something that a party says that's
20 unclear --

21 THE CHAIRMAN: Sure.

22 MR. TEAL: -- you can ask for
23 clarification, those types of interactions, but
24 the purpose of this next process is for them to
25 convey information to you. That's not to mean

1 that you can't then call them up later if you
2 have questions that you want to explore further
3 with them, but your questions at this point
4 should be limited to, hey, I didn't hear what
5 you said, or I didn't understand, you know,
6 something like that, you know, those kinds of
7 clarification-type questions.

8 THE CHAIRMAN: Okay. Thank you.

9 Now, we're going to go through this
10 process. And the appellant will have
11 15 minutes. The appellee will have 20 minutes.
12 We're going to have a public hearing. And it
13 looks like, at this point, we have about seven
14 of them. We will hear those at three minutes
15 apiece. We will have a five-minute rebuttal
16 period, then we'll close this public hearing
17 and open up for questions.

18 So everyone must be here and must stay
19 with this process the entire time,
20 understanding -- and I guess I can -- there's
21 four directions we can go when we're concluding
22 this. It's to grant the appeal, which
23 overturns the DDRB decision; grant the appeal
24 with conditions, which is modifying the DDRB
25 decision; we can deny the appeal and uphold the

1 DDRDB decision; or we can remand the application
2 to DDRB for further proceedings.

3 Whichever way we go, the -- well, we'll go
4 from there. At this point --

5 VICE CHAIR MEEKS: Mr. Chairman, can you
6 clarify that? Since we have five items, I
7 think -- is each item, then, taken
8 individually, that we could have the actions
9 you just described for each of the items?

10 THE CHAIRMAN: No. It will be done as
11 one.

12 MR. TEAL: Mr. Chairman, let me clarify.

13 When I mentioned that you take the
14 deviation requests separately, you will take
15 them and vote on them separately, but then you
16 will vote on the project as a whole, depending
17 on, you know, how you voted on -- you know,
18 which will include the deviation requests.

19 And then when you vote on the project as a
20 whole; i.e., the appeal as a whole, then you
21 will have the choices that the chairman just
22 read off as -- as to this -- appeal of this
23 project, which contains these sub-items, the
24 deviation requests.

25 What do you want to do with it? Do you

1 want to approve it, do you want to approve it
2 with modifications, do you want to deny it, or
3 do you want to send it back to DDRB for
4 additional discussion?

5 VICE CHAIR MEEKS: If I might ask this,
6 please.

7 THE CHAIRMAN: Yes.

8 VICE CHAIR MEEKS: Just to make sure I
9 understand that, if, theoretically, then, I or
10 we were satisfied with one particular item as
11 it's presented to us but not with another,
12 you're telling me that we take it all as a
13 group?

14 MR. TEAL: Correct.

15 THE CHAIRMAN: Okay. With that, this
16 public hearing is now open. We'd like to
17 ask -- and just for clarification, the GV-IP
18 Jacksonville Owner, LLC, filed the appeal for
19 DDRB 2017-15 [sic] application.

20 So, at this time, the appellant will make
21 their presentation of 15 minutes.

22 (Mr. Diebenow approaches the podium.)

23 MR. DIEBENOW: Mr. Chairman --

24 THE CHAIRMAN: I don't know. Something's
25 mixed up.

1 MR. DIEBENOW: -- Steve Diebenow, 1
2 Independent Drive, Suite 1200, here on behalf
3 of the applicant, the appellee in this case.

4 THE CHAIRMAN: Let me get Mr. Teal's --

5 MR. DIEBENOW: I just want to let you know
6 that, because we have relaxes Rules of Evidence
7 and all that, I'm not going to -- if Mr. Harden
8 says something that I object to, which I can't
9 imagine that he will, but if he does, I'm not
10 going to object while he's speaking. I'm going
11 to wait until after he's done. Again, I just
12 want to make that clear --

13 THE CHAIRMAN: Very good.

14 MR. DIEBENOW: -- so that it's a more
15 seamless presentation for the board.

16 THE CHAIRMAN: Appreciate that. Thank you
17 very much, Mr. Diebenow.

18 Okay. Mr. Harden.

19 (Mr. Harden approaches the podium.)

20 MR. HARDEN: Let me ask a couple of
21 questions too --

22 THE CHAIRMAN: Sure.

23 MR. HARDEN: -- before I get started.

24 The way it's been explained is that
25 Aetna -- by the way, I represent the Aetna

1 building owners, but I also represent Baptist
2 Medical Center, which also appeared below.

3 While I'm deemed the appellant here, as
4 Mr. Teal has noted, this is a de novo hearing.
5 Mr. Diebenow still has the burden of proof,
6 even though -- even though I'm -- I'm the
7 appellant. And I'm going to focus in more on
8 legal issues and some of the things that Jason
9 has talked about.

10 So I want to make it clear that you're
11 not -- you still have to judge each of the
12 deviations by each of the criteria. And if I
13 say nothing, and he doesn't make his case, you
14 still should not grant the deviation.

15 Just so -- because I'm going first, it
16 makes it -- it makes it a little bit awkward,
17 unless you want to go first, Steve.

18 MR. DIEBENOW: I'm good.

19 MR. HARDEN: Okay.

20 All right. With that said, I'm Paul
21 Harden. I represent the owners of the Aetna
22 building and the Baptist Medical Center folks
23 who appeared at the hearing below.

24 Both the Aetna building and Baptist
25 Medical are located on a peninsula, on the

1 Southbank of Jacksonville, which has very
2 limited infrastructure. That peninsula is
3 blocked off four or five times a day by train
4 traffic, and all of the traffic inside that
5 train is captured there.

6 Baptist Medical Center is committed to its
7 location on the Jacksonville Southbank, with
8 Wolfson Children's Hospital, The Women's
9 Pavilion, Anderson, and the original hospital.
10 The Aetna building, of course, is an existing
11 building that's been there for many, many
12 years. Neither Baptist nor Aetna were built
13 with substantial or similar deviations as are
14 requested today by the Ventures project.

15 And while I'm saying that, let me make it
16 clear that we're not opposed to the Hines
17 property being developed, but respectfully
18 request it not be given deviations to which it
19 is not entitled.

20 I guess you noticed that the former
21 chairman of the DDRB never mentioned any of the
22 five criteria is what they talked about, it was
23 their goal to try to get a project going. And
24 I understand that goal, but that doesn't take
25 away from the legal requirements that you're

1 required to follow and, quite frankly, they
2 were required to follow, but none of those five
3 criteria were mentioned in their consideration.

4 So we're -- we're not opposed to
5 development on the site. What we're opposed to
6 is the deviations to which they are neither
7 entitled nor, respectfully, need to develop the
8 site.

9 The site currently allows them to build a
10 60-foot-tall building with 50-foot setbacks and
11 requires that they meet the parking
12 requirements. And it's not a multitude of
13 requirements, a top and a bottom, as Mr. Jones
14 indicated. There is a requirement in the code.
15 There's a requirement on height. There's a
16 requirement on parking. There's a requirement
17 on setbacks. So they are not entitled to
18 change the rules that are in the code unless
19 the five criteria are met.

20 The document that Jason gave you I have
21 blown up in front of you because I'm going to
22 be referencing it.

23 I guess you probably have a copy of this,
24 Steve? I'll favor you with an extra copy I
25 have.

1 Ventures is seeking to force -- and let me
2 make sure you understand this -- a 100-unit-
3 per-acre project on this site. It's not a very
4 large piece of property. It's 3 acres. It's
5 slightly less than 3 acres. It's slightly more
6 than a hundred units per acre on the proposed
7 site.

8 In order to build this hundred-unit-
9 per-acre project, they are asking for multiple
10 deviations, the five that you've heard about.
11 The three that I am going to focus on today
12 are:

13 First, the height limit request from
14 60 feet to 190 feet, greater than a 300 percent
15 increase in height.

16 Second, they're asking you to allow them
17 to build their project with half of the
18 required parking. And again, it's not a guess
19 about what we think the market will -- will
20 need on the site. There is a requirement in
21 the code. And to deviate from that code, they
22 have to meet each of the criteria on that
23 document that Jason handed out to you that I
24 have in front of you.

25 Third, they're asking for lower of

1 setbacks, from 50 to 25 feet, to cut the
2 setbacks in half. And let me -- let me talk
3 about this briefly before I get going.

4 On the height requirement in the CCG-1
5 category, you can do that by right. You can go
6 from 60 feet to 190 feet, 130 feet extra on the
7 top, but to do that you have to move your
8 setbacks in. So there is a methodology to do
9 this; not increase your setbacks, but for every
10 3 feet you go up, you have to move your setback
11 in. So they'd have to move starting at 50
12 feet.

13 Now, they're asking you to not make it go
14 back, but make it go further out. They have a
15 way to do that, to go up in the height, but in
16 order to meet the other goals of the Zoning
17 Code, you have to move that setback out 1 for
18 every 3 feet. So there's a methodology to do
19 it, but they're ignoring that. They're asking
20 you not just to not have to do the 1 for 3 but
21 to give us 25 feet back.

22 The granting of waivers, or deviations as
23 they're called in the Downtown Overlay, is
24 unlike any task that you undertake in your role
25 and quite unlike any task the DDRB typically

1 takes. Most of the time, you're trying to
2 pitch projects. You're trying to get activity
3 downtown or, as the gentleman said, bring
4 cranes to the site.

5 The deviation consideration, however, is a
6 quasi-judicial function. It's a much different
7 function than you normally have. The deviation
8 in a quasi-judicial function requires that you
9 only grant the deviation if each and every one
10 of the code provision criteria are met. And
11 it's in front of you, because you have it on
12 the piece of paper Jason handed out.

13 You may grant a deviation from any of the
14 requirements -- and this is important -- if a
15 positive finding, based upon substantial,
16 competent evidence to each of the following
17 criteria is met.

18 So there's five criteria. You can't meet
19 14 of the 15 and grant the three. You have to
20 meet all 15 of the 15. And in all due respect,
21 there is no competent substantial evidence that
22 they met any of the criteria. And I'm going to
23 walk through those in a second.

24 So I urge you to take seriously -- I know
25 you take seriously your role as a DIA member,

1 but seriously your role as a quasi-judicial
2 officer because, as you move up the chain to
3 the City Council, they deal with it all the
4 time, but next to a circuit judge and next to
5 the Court of Appeals, then -- they look at this
6 as a quasi-judicial proceeding.

7 And, as I say, the criteria are intended
8 to be met, but they're also intended to be
9 strict. So if you say, boy, that's hard to do;
10 sure, it's hard to do because the code sets
11 forth certain standards. And to deviate from
12 those, then you -- you have to meet each of the
13 criteria.

14 The criteria as Jason pointed out or set
15 forth -- or Mr. Teal, sorry -- set forth in
16 Section 656.361.22, again, the ordinance
17 provision I have in front of me, I think each
18 of you have it in front of you, I want to walk
19 through, briefly, each of those criteria and
20 make sure you understand that they are strict
21 and they are difficult.

22 And when you're trying to compare whether
23 or not they've got competent substantial
24 evidence to meet them, what the document
25 says -- the first is that there are practical

1 or economic difficulties in carrying out the
2 strict letter of the requirement.

3 So what they have to say is, there's a
4 practical difficulty or economic difficulty
5 with us building a 60-foot building on that
6 site. I don't know how you prove that.

7 There's an economic difficulty in us
8 meeting the parking requirements. Well, the
9 economic difficulty is, we don't want to build
10 it. That's not an economic difficulty. That's
11 just, we want to make more money on the
12 project.

13 The second one is, the request is not
14 based exclusively upon the desire to meet -- to
15 reduce the cost of developing the site but
16 accomplish some result that's in the public
17 interest. So you have to prove something that
18 they're doing to go -- that they need to do.
19 They need to go to 190 feet instead of 60 feet
20 to meet the public interest. So they can't
21 meet the public interest at 60 feet.

22 We can't meet the public interest by
23 meeting the parking requirements. We want you
24 to give us a deviation. We can't meet the
25 public interest by building at the 50-foot

1 setback that you require. These are hard
2 burdens to meet. And I think the fact of the
3 matter is, the record doesn't show any
4 competent substantial evidence on that matter.

5 The third one is that the proposed
6 reduction or deviation will not substantially
7 diminish property values in the area
8 surrounding the site and will not substantially
9 interfere or injure the rights of others whose
10 property would be affected by the deviation.

11 Now, this is important: They have to
12 prove that this deviation doesn't injure the
13 Aetna building. They're allowed to have a
14 60-foot-high building. They want to go another
15 130 feet in the air. That's another nine
16 floors up in the air. And what that does is
17 block the view of the river, of the Aetna
18 building for those additional nine -- nine
19 stories.

20 How does that not, as a matter of fact, a
21 matter of law, injure the rights of the Aetna
22 building? We'll go through each of those in a
23 second.

24 The fourth one is that the proposed
25 reduction will not be detrimental to the public

1 health, safety and welfare and result in the
2 creation of nuisances. So that's a little more
3 difficult one to explain away.

4 The fifth one is that the effect of the
5 proposed reduction furthers the objectives and
6 goals of the BID Plan.

7 Now, this gentleman went through all seven
8 of those goals. What they have to prove under
9 the fifth one is that the goals are furthered,
10 that you're doing better under those goals.
11 The goals are enhanced or furthered. Instead
12 of building a 60-foot building, I build a
13 190-foot building, I'm furthering the goals.
14 That not having enough parking furthers the
15 goals.

16 So it's not that the goals are -- are met
17 by building at 190, but they do better by going
18 from 60 to 190 feet. Again, it's a very
19 difficult burden. And I suggest to you,
20 there's no competent substantial evidence on
21 that matter in the record.

22 I'm going to go quickly through the -- as
23 Mr. Klement indicated, they wrote a report, but
24 it was based on the report that the applicant
25 provided on each of the criteria. And I'm

1 going to kind of -- Jim, I don't know where we
2 are on time.

3 THE CHAIRMAN: I was going to say,
4 8 minutes, at this point, of 15. A little
5 better -- more than halfway.

6 MR. HARDEN: Okay.

7 MR. KLEMENT: Are you timing it?

8 THE CHAIRMAN: Yes. I'm sorry. I
9 started. So ...

10 MR. HARDEN: Okay.

11 MR. KLEMENT: We're going with your clock,
12 sir.

13 THE CHAIRMAN: Okay.

14 MR. HARDEN: Okay. Steve, I'm going to
15 have to ask for an extension of time. And I'll
16 give you a little -- Mr. Diebenow and I are
17 colleagues. We'll both -- I think we'll get
18 along fine.

19 MR. DIEBENOW: I think 30 seconds will be
20 fine, not including --

21 MR. HARDEN: Are you enjoying my
22 presentation?

23 MR. DIEBENOW: We're including this time
24 in it, too, right?

25 MR. HARDEN: Yes, we are.

1 MR. DIEBENOW: Okay.

2 MR. HARDEN: I will need a few more
3 minutes, quite frankly, I'm sorry, because
4 there are so many deviations they are asking
5 for.

6 What I'm going to do is talk about a memo
7 that the applicant filed to try to explain how
8 they meet these criteria because I think it
9 sheds light on the fact that they don't meet
10 them.

11 The first one is, as to the setbacks,
12 whether there are practical or economic
13 difficulties, they say, The proposed deviation
14 from the setbacks is in response to constraints
15 and the density and parking requirements that
16 make the proposed development viable.

17 So what they're saying is, we don't make
18 quite as much money if we don't get the
19 deviation. If you'll note, that's not one of
20 the five criteria. And -- and, frankly, you
21 see that a lot. And I know that some of the
22 folks who are on the other side of me on this
23 project have told you, we can't do this
24 project, it's not viable if -- if we don't get
25 the deviations.

1 Well, I'm sorry to say, because I'm
2 normally on the other side of the table, I'm
3 not -- that's not one of the criteria that
4 you're entitled to consider.

5 The second one, on the setbacks, they
6 said, The request is not based upon the desire
7 to reduce the cost but accomplishes some public
8 interest.

9 Here it says, "It will accomplish a public
10 interest, including the widening and extension
11 of the Southbank Riverwalk for dedicated public
12 use."

13 So what they're saying is, the public
14 interest that is -- is pitched by the
15 deviation -- and they use this same answer on
16 each of the five deviation requests. So I'll
17 just kind of lump them all together. We're not
18 going to build a Riverwalk unless you give us
19 the deviation.

20 Well, that's not the public -- you can
21 have the Riverwalk built and be in the public
22 interest by building a 60-foot building with
23 50-foot setbacks that meets the parking
24 requirements.

25 So the fact that they're saying, we'll

1 build the Riverwalk for you -- which, by the
2 way, Baptist and the Aetna building folks are
3 having to give land for the Riverwalk, too, as
4 you go on down. We're the next two pieces
5 down. We're not asking for deviations to our
6 buildings to do that. So I respectfully don't
7 think saying it's in the public interest to get
8 the Riverwalk built -- that doesn't have
9 anything to do with wanting to go 190 feet or
10 getting the setbacks into the 25 feet.

11 The third one is, "The setbacks will not
12 substantially interfere or injure the property
13 rights of others." So I'm going to, again,
14 lump all of these together, all three of the
15 ones that I'm focused on.

16 And I'm not trying -- you have a lot of
17 discretionary activities in this approval on
18 the design and that sort of stuff. I'm not
19 focusing -- I'm focusing strictly on the legal
20 requirements of the -- of the deviations.

21 I know you have discretion on the others,
22 but anyway, it is not possible to say that
23 building with not enough parking on the site
24 doesn't affect the rights of the other folks in
25 the area.

1 At the same time that they're asking for a
2 deviation to go to half the parking, Baptist,
3 about a driver and a 9-iron away -- or for
4 Mr. Moody, a 3-wood and another 3-wood -- is
5 building a 2,200-space parking garage. Now, I
6 want you to think about it. We're building a
7 2,200-space parking garage while they're trying
8 to cut their parking in half. You don't think
9 that impinges on Baptist's property rights?

10 And again, you've got 190 feet, which
11 takes out the view of another nine stories of
12 the view of the Aetna building. That impinges
13 upon their property rights. I just don't see
14 how you present competent substantial evidence
15 to the contrary.

16 The fifth one of the criteria below is
17 that it develops -- that it furthers the
18 objectives and policies. And the gentleman
19 from the DDRB went through those policies and
20 objectives, but here is the question:

21 Maybe the building does promote the
22 objectives, but what you have to prove is that,
23 I need this deviation because it will further
24 promote. So what they're saying is, if I build
25 a 190-foot building as opposed to a 60-foot

1 building, or I build a parking garage with half
2 the parking I need, I will reinforce downtown
3 as a unique epicenter better than I have if
4 it's a 60-foot building. Well, that's just not
5 true.

6 The second one is, increase the
7 rental-occupied housing downtown. You can
8 build a hundred units at 60 feet, and you'll
9 increase the -- the rental and owner-occupied
10 housing downtown. So the 60-foot building --
11 or, you know, come in for a 70-foot, you know,
12 or 75 feet.

13 There's a project on Lomax, just down the
14 river from these folks, that they're building.
15 They went to 70 feet in the CCG-1 and built 120
16 units on the site. And it's a -- it's even a
17 larger piece of property. And that -- that
18 provides additional housing, and you don't
19 need -- so you don't further it by adding the
20 additional 130 feet.

21 Simplify the approval process for downtown
22 development. Well, I don't know that asking
23 for five deviations simplifies the downtown --
24 or furthers, simplifies the downtown approval
25 process.

1 The fourth one, improve walkability,
2 bikeability. How in the world does building an
3 extra nine stories or coming in off -- and
4 making it closer to the river increase the
5 walkability over the 50 foot setback and the
6 60-foot-high building?

7 Establish a waterfront design frame to
8 ensure a unique experience and sense of place.
9 What the waterfront area in the code says is,
10 you don't want tall buildings crammed up close
11 to the river. So instead of building 60 feet,
12 50 feet off, they're going to build 190 feet
13 25 feet off. That does not, by anyone's
14 imagination, establish a waterfront design
15 frame for -- yes.

16 THE CHAIRMAN: Let me interrupt you just a
17 second to confirm with Mr. Diebenow that he is
18 willing to extend some time equally for his
19 presentation or, Mr. Harden, your choice would
20 be to take it off your rebuttal at the end.

21 So, Mr. Diebenow, are you good?

22 MR. DIEBENOW: That's fine. How much time
23 are we talking about?

24 THE CHAIRMAN: How much time you need?

25 MR. HARDEN: I don't -- I didn't time my

1 speech.

2 MR. DIEBENOW: Well, are we up to time
3 now?

4 THE CHAIRMAN: Yes, this is 15 minutes.
5 You'd like five more -- or three minutes?

6 MR. DIEBENOW: Three minutes is fine.
7 Whatever you want.

8 MR. HARDEN: Give me five more minutes.

9 THE CHAIRMAN: Five more minutes.
10 Okay. Thank you, Mr. Harden. Thank you,
11 Mr. Diebenow.

12 MR. HARDEN: So I won't go through all
13 seven of them because I'm getting short on time
14 here, but the fact of the matter is that going
15 up to 190 feet, while it may promote the goals,
16 it doesn't further promote the goals, which is
17 what you have to prove to go from 60 to 190
18 feet.

19 I was going to go through each criteria on
20 all three of them, but, obviously, I'm running
21 out of time. So I ask you to judge the
22 deviation request as the ordinance requires.
23 It's your obligation as a quasi-judicial
24 officer to enforce the strict criteria of the
25 Zoning Code.

1 Surrounding property owners, such as mine,
2 my clients, are entitled to rely on the code
3 and entitled to rely on the requirements to
4 deviate from that code, which are very
5 difficult.

6 After I reviewed the Ventures application,
7 I asked Michael Herzberg, who has worked in the
8 area of planning with the City for 25 years, to
9 analyze the requests of the deviation. And I
10 have provided you with a copy of his report.

11 Mr. Herzberg's report is also competent
12 substantial evidence in the form of expert
13 opinion, as Mr. Teal indicated. The staff
14 report -- and I want -- Mr. Teal -- I mean,
15 Mr. Herzberg goes through each of the criteria
16 in his report. I'm not going to go through
17 those because I'm short on time, but I do want
18 to talk about some of his comments with regard
19 to the three -- the intent of the three areas
20 where they're seeking setbacks.

21 Section 656.361.11, Setbacks, this section
22 promotes open spaces for public congregation
23 and recreation. So now you're coming 25 feet
24 closer into that area where they are supposed
25 to congregate. It prohibits severe elevation

1 changes or walls adjoining public corridors,
2 which is what you're going to get at 190 feet,
3 25 feet off the setback.

4 Entryways and steps are to be wide and
5 welcoming. After reviewing the DDRB
6 application package, Mr. Herzberg opined, "It's
7 evident that the proposed development does not
8 meet this criteria." So the goal of the
9 setbacks is not met. So it's not just the
10 strict letter of the law, but the intent and
11 the spirit.

12 Height, 656.361.14, this section is one of
13 the most important components of the entire
14 Downtown Overlay. It specifically intends to
15 promote building forms and massing that is
16 respectful to the content. It intends
17 buildings to step up from the river in defined
18 height zones. So -- which is what you would
19 get -- at the 60 feet, you'd get -- 50 feet
20 off, you'd get 60 feet, then you'd go to the
21 higher buildings as you come back.

22 The section states that the preservation
23 of the river shall -- now, this is not
24 permissive. The preservation of the river
25 shall be maintained by adherence to 656.361.14.

1 That's the height requirement. Heights of
2 buildings and structures shall adhere to
3 656.361.14.

4 So, respectfully, I'm not sure you can
5 even get a height variance or a height
6 deviation if you follow what the BID says, but
7 it does allow for it if you go up higher and
8 move the setbacks back further.

9 And then he explains the CCG-1 limitation.

10 And then, finally, the off-street parking.
11 The Downtown Overlay does permit districts to
12 be exempt from off-street parking, as the DDRB
13 gentleman said. The subject property, however,
14 is not included in those areas, but even in
15 the -- where the overlay permits the remaining
16 downtown districts to reduce their required
17 parking 50 percent, to otherwise minimum
18 required, except -- this is a big except --
19 except for all new residential uses
20 constructed.

21 So the code itself says you've got places
22 where we're going to give you exemptions and
23 we're going to let you go lower. The one place
24 they don't let you is in a residential code
25 area. It is mandatory that you not have --

1 that you not limit the parking in -- or lower
2 the parking in a residential area.

3 The parties involved in creating the
4 Downtown Overlay -- this is Mr. Herzberg's
5 words -- understood the residential uses in
6 parking are intensive, especially in the city
7 of Jacksonville.

8 We are asking you to require that they
9 meet the provisions of the code. And if they
10 don't, they meet each and every one of the
11 criteria of 656.361.11 -- .22 that you have in
12 front of you. We ask you to hold them to that
13 standard. We don't want to stop them from
14 developing their property. We want them to
15 develop it in coordination with what the
16 ordinance code provides.

17 There's no practical or economic
18 difficulty in building a 60-foot-tall building.
19 The people on Lomax did it and put a hundred --
20 120 units there. It's right on the river.
21 They built, also, the Riverwalk at that
22 location.

23 There's no practical or economic
24 difficulty other than we don't want to build
25 enough parking spaces. And, really, if you

1 think about it, the parking requirement comes
2 because they're going 190 feet and adding 300
3 units. Otherwise, they would only need 200
4 parking spaces on the site.

5 The only public interest at the Ventures'
6 site will be the construction of the Riverwalk.
7 They can construct the Riverwalk and do that in
8 the public interest and still build a building
9 that meets the Zoning Code's requirements.

10 More importantly, there is no competent
11 substantial evidence. It can only be based on
12 competent substantial evidence.

13 (Timer notification.)

14 MR. HARDEN: You know, we think it's
15 better to do it this way. So we respectfully
16 request you deny the deviations. And if you
17 want to allow them to go forward with the
18 project without the deviations, we have no
19 objection.

20 Thank you.

21 THE CHAIRMAN: Thank you, Mr. Harden.

22 MR. HARDEN: I'm sorry I took so long,
23 Steve.

24 THE CHAIRMAN: Okay. Thank you.

25 Appreciate that.

1 We're not taking questions or comments at
2 this point, but -- Mr. Diebenow, are you
3 prepared? You'll have 25 minutes to present.

4 (Mr. Diebenow approaches the podium.)

5 MR. HARDEN: Do you want us to take that
6 back?

7 MR. DIEBENOW: No. I've just never seen
8 it.

9 MR. HARDEN: I handed it to you.

10 MR. DIEBENOW: Oh, yeah. I just wanted to
11 see what else was on it. I didn't see what
12 this was. You have all sorts of fancy
13 highlighting and writing.

14 MR. HARDEN: Well, I said that when I said
15 every one of the specific criteria.

16 MR. DIEBENOW: All right. My name is
17 Steve Diebenow, 1 Independent Drive, Suite
18 1200. I'm here on behalf of the applicant, who
19 is the appellee.

20 With me today is Sean Siebert, who is the
21 developer, as well as a number of other folks
22 whose affidavits were submitted to you along
23 with our materials regarding this appeal.

24 Right off the bat, I want to touch on a
25 few things that Mr. Harden talked about. First

1 of all, he said that the DDRB didn't look at
2 the criteria based on the comments that
3 Mr. Jones made. That's not correct. They
4 looked at all the criteria. And that's
5 reflected in the record below.

6 Mr. Jones' summary of that is not the
7 end-all/be-all of what happened at the DDRB.
8 What happened at the DDRB meeting speaks for
9 itself. They went through all the criteria, a
10 meticulous effort, and they voted on each
11 individual criteria individually before the
12 DDRB.

13 Secondly, he said that these things are
14 really strict and it's meant to be hard.
15 Mr. Herzberg's report says that these code
16 provisions are meant to be prescriptive. You
17 have to follow them to the word.

18 Let me read you what it says in the code.
19 656.361.1, which is the introduction to the
20 overlay, says, "The development guidelines are
21 not meant to be totally prescriptive." It's
22 the very first phrase in the entire code.

23 It goes on to say, "Therefore, the intent
24 of the DDRB guidelines is to provide an initial
25 framework to review projects from and allow

1 consideration of alternative designs needed to
2 accommodate unique site and design limitations
3 of a site, building or structure when
4 appropriate."

5 That's not me making it up. That's
6 exactly what it says in the code. So the
7 notion that that DDRB didn't apply the rules
8 and that the rules are prescriptive and you
9 can't deviate from them is completely false.

10 Secondly, I think that Mr. Harden may
11 have conveniently ignored all the record -- all
12 the information we put in the record. And if
13 you go through -- we definitely do have the
14 burden of proof. The staff report is competent
15 substantial evidence. That's already been
16 stated by your -- by your lawyer.

17 And if you go through the individual
18 criteria line by line and you look at the
19 memorandum that I attached as Exhibit 1 to our
20 material, it's the very first exhibit in that
21 big binder of material, I go through each
22 criteria and point out in the affidavits of the
23 various experts where they testified that we
24 meet the criteria.

25 So, for example, under the build-to and

1 setback lines, there are six affidavits
2 submitted in support of Criteria A. There's
3 six affidavits supported for B. There's seven
4 supported for C. There's six for D. And
5 there's two for E.

6 In other words, every one of the experts
7 that we have, that we've introduced to you,
8 that we've shared their CVs and materials, have
9 all testified independently, based on their own
10 expertise within their individual disciplines,
11 that we meet each criteria. And that's not
12 just for the first deviation request, the
13 build-to and setback lines, but it's also for
14 all five of the deviations that we're seeking.

15 What is not at issue today, what is not at
16 issue today are several things. First of all,
17 the BID policies 1, 2, 3, 6 and 7 are not at
18 issue. BID policies 1, 2, 3, 6 and 7 haven't
19 been talked about at all. They're not talked
20 about in Mr. Herzberg's testimony. They're not
21 talked -- Mr. Harden didn't speak about them at
22 all.

23 Similarly, Mr. Harden said that he was
24 going to focus on three issues, height,
25 parking, waterfront design. Now, his testimony

1 kind of went back and forth and all over the
2 place, which is fine, but if you look at the
3 memo that I have introduced as my very first
4 memorandum, it summarizes exactly where the
5 testimony is that rebuts each one of those
6 statements that Mr. Harden made.

7 Let's talk about setbacks. And he read an
8 excerpt from our original application. Look,
9 if you don't grant a deviation on this site for
10 setback from Prudential Drive, this site isn't
11 ever going to be developed, I don't care what
12 it is. A Jollibee can't go on this site, you
13 know, a Chili's, a medical office building.
14 There isn't anything that can go on this site
15 unless you give a setback -- or a deviation,
16 rather, from the setback from Prudential Drive.
17 The fact that they are even arguing it is
18 remarkable because, if you don't grant it,
19 nothing else can happen on the site.

20 They also talked about -- you know, saying
21 that there was no evidence -- they said that
22 there was going to be a diminution in property
23 value. First of all, they didn't present any
24 evidence to that effect. Those are just
25 conclusory statements that Mr. Harden made,

1 just conclusory statements that Mr. Herzberg
2 made. You know that neither one of them are
3 appraisers.

4 I'm going to take just a moment and ask
5 Courtland Eyrick to come up and just ask him a
6 couple of quick questions.

7 (Mr. Eyrick approaches the podium.)

8 MR. DIEBENOW: While Courtland's coming
9 up, he's an MIA appraiser. All of his -- all
10 of his credentials are in the record.

11 Courtland, were you engaged to do a study
12 on this project?

13 MR. EYRICK: First off, Courtland Eyrick,
14 806 Riverside Avenue.

15 Yes, I was.

16 MR. DIEBENOW: And all the materials that
17 you provided, you prepared, they're the ones
18 that were submitted on the record, correct?

19 MR. EYRICK: That's correct.

20 MR. DIEBENOW: Was there any evidence of
21 property diminution in any way from any of the
22 five criteria?

23 MR. EYRICK: No, there wasn't.

24 MR. DIEBENOW: Is the complete analysis
25 that you provided included in your affidavit --

1 affidavit and the materials that you provided
2 that we submitted on the record?

3 MR. EYRICK: Yes, it is.

4 MR. DIEBENOW: Okay. Thank you.

5 So what you've got on the property
6 valuation issues, you've got an MAI appraiser
7 against nothing, just for example.

8 Similarly, they said there was no public
9 benefit, no public interest. And they ignored
10 the fact that the DDRB found that building a
11 20-foot multiuse path in a 25-foot Riverwalk, a
12 20-foot Riverwalk with a 5-foot setback would
13 be deemed in the public interest.

14 We can talk a lot more about the iterative
15 process, but let me pause there for a second
16 and talk about the 50-foot setback. That's
17 another one of the criteria that they talked
18 about. And I'm kind of going in the order
19 that, at least, I took notes that Mr. Harden
20 spoke on.

21 The 50-foot setback we always knew was an
22 issue. Our first project showed a tower --
23 Hines first project showed a tower, 12 feet,
24 set back from the river. That was what was
25 approved in the early 2000s. Our original

1 submittal to DDRB showed a 15-foot setback. We
2 thought we were doing better than the 12 feet
3 Hines did.

4 When we showed that, the DDRB and various
5 DIA members, members of the public, elected
6 officials, appointed officials that we spoke
7 with, said you really need to move it back. We
8 moved it back 25 feet from the river.

9 When we showed that to DDRB, they said,
10 Well, that's still not good enough because we
11 don't want a screen blocking headlights going
12 into the river. We want you to activate the
13 Riverwalk. So, as a result, we developed a
14 plan that put units fronting on the Riverwalk
15 and further pushed the building back.

16 Now, if we took those units off -- and we
17 had this conversation at DDRB. If we took
18 those units off, that structure would be set
19 back about 43 feet, 8 inches from the river,
20 almost the full 50 feet, but the DDRB decided,
21 as they have the discretion to do, that they
22 would rather us activate that space with units
23 that have folks that actually walk out and go
24 on to the Riverwalk.

25 They also required us to do a park, which

1 is right in the middle of the plan. You guys
2 have all seen the renderings, but again, adding
3 park space, adding Riverwalk, adding the
4 multiuse path is all a public benefit that is
5 throughout our presentation.

6 Mr. Harden says you have to prove that
7 each of these deviations furthers the BID.
8 That's very simple.

9 Brad, if you will come up for just a
10 second.

11 (Mr. Wester approaches the podium.)

12 MR. DIEBENOW: Brad Wester's a planner --
13 while he's coming up -- for 20 years. His
14 credentials are in the record.

15 And Brad, after you introduce yourself,
16 I'm going to ask you one question.

17 MR. WESTER: Brad Wester, 1 Independent
18 Drive, Suite 1200, Jax, Florida.

19 MR. DIEBENOW: So Brad, with regard to
20 whether or not these deviations furthered the
21 BID, could you just give a couple of talking
22 points or a couple of points that are included
23 in your testimony but maybe emphasizing today
24 on how we further the BID.

25 MR. WESTER: Yes. I'll go into a couple

1 of topics generalized for the BID. One is a
2 diverse mix of land uses. This is the
3 residential project that will provide a diverse
4 mix of land uses and further the residential
5 initiatives by the BID, the BID Plan.

6 They have specific goals, benchmarks to
7 provide up to 350 dwelling units per year for
8 the residential aspects. They also talk about
9 it being a viable and vital residential area,
10 acceptable land uses anywhere in the downtown.

11 And, furthermore, the marketplace, not
12 regulations, shall be the primary force and the
13 driving for the mixture of land uses. I think
14 we further that.

15 MR. DIEBENOW: So again, remember -- and
16 he was reading straight from the code --
17 straight from the BID, rather. The marketplace
18 determines.

19 Thank you, Brad.

20 MR. WESTER: Okay.

21 MR. DIEBENOW: The marketplace determines,
22 not regulations.

23 So, Sean, if you could come up for a
24 moment. Sean Siebert. Sean is the developer.

25 (Mr. Siebert approaches the podium.)

1 MR. DIEBENOW: If you will introduce
2 yourself and tell them where you live.

3 MR. SIEBERT: Sure. Sean Siebert, 101
4 Arnau Court, St. Augustine, Florida.

5 MR. DIEBENOW: All right. So Sean is the
6 developer.

7 Sean, you've examined this project many
8 different ways as a multifamily project,
9 correct?

10 MR. SIEBERT: That's correct, yes.

11 MR. DIEBENOW: Could you just briefly talk
12 about the different ways that you examined this
13 as, you know, 5-over-1, 5-over-2, and why you
14 ended up where you are?

15 MR. SIEBERT: Sure.

16 Early on, the first thing we did was take
17 a look at the Florida Building Code that's
18 applicable to the city of Jacksonville and
19 discovered that the only applicable height
20 structure that was permissible would be a
21 5-over-1 structure.

22 The challenge with that is, we can only
23 basically generate about 123 units of density
24 and have a parking issue. Couple that with
25 issues with construction costs and operating

1 inefficiencies makes the deal economically
2 infeasible relative to what prototypical equity
3 investors would look for in a secondary market
4 like Jacksonville.

5 MR. DIEBENOW: And you looked at not only
6 that version, but you looked at multiple
7 iterations of different types of development
8 from the multifamily world that could go on
9 this site, correct?

10 MR. SIEBERT: Absolutely we did, yes.

11 MR. DIEBENOW: Is this project the
12 smallest possible multifamily development that
13 can fit on this site that makes -- that meets
14 the criteria and that is -- again, in the words
15 of the code, in the words of the BID, would be
16 accepted by the market?

17 MR. SIEBERT: Yes, that's correct. What
18 we've presented within the DDRB package that
19 was approved on June 1st is the lowest possible
20 structure that we could go with.

21 MR. DIEBENOW: Okay. Thank you, Sean.

22 So again, I think that, again, from our
23 perspective, the code says you have to show
24 that there are economic difficulties or
25 practical difficulties.

1 The setback one's really easy. If you
2 don't grant a setback, nothing can be built on
3 the site. That's a practical difficulty.

4 The economic difficulties are a little --
5 they require a little bit more examination.
6 And so if you look at the materials
7 submitted -- again, seven affidavits from seven
8 experts in different disciplines -- we outline
9 how there are economic difficulties in meeting
10 each of these five deviations.

11 Mr. Harden goes on to talk about height.
12 He says that in CCG-1, you're allowed to go up
13 1 foot for every 3 feet you're set back.
14 Again, that just completely ignores the fact
15 that this property is downtown, that it's
16 subject to the overlay, that it's subject to
17 the BID.

18 He's applying the suburban parking
19 regulations downtown, which is great. And yes,
20 it does say that you don't -- you know, you
21 have to meet Part 6 if you're a new apartment
22 or you're a new hotel, but it also says you can
23 get deviations if you meet the criteria.

24 For parking -- and, again, throughout our
25 materials, there are multiple statements,

1 again, from multiple locations that -- or
2 multiple experts, that we're not providing any
3 parking that's any less than what's already
4 been approved locally, but more than that, that
5 in their experience, there won't be any people
6 parking off site.

7 In other words, if you go through the
8 analysis of parking in Mr. Wester's affidavit,
9 he shows you that out of the seven multifamily
10 projects we examined on a dwelling-unit
11 basis -- that is, how many parking spots do we
12 provide per dwelling unit -- that we're right
13 in the middle. There's three of them that are
14 lower than us. There are three of them that
15 are higher than us.

16 He goes on and analyzes them by a bedroom
17 analysis. In other words, how many parking
18 spaces do we provide per bedroom. And you'll
19 find out that three of the developments that
20 have that information readily available park at
21 a ratio lower than us. They park at fewer
22 cars, fewer parking spaces per bedroom than we
23 do, and one is higher.

24 Now, that's all really interesting, but
25 the other thing is, is that all of our experts

1 have testified that, in their experience, based
2 on all of their projects, nobody is going to
3 park off site. And we also know that because
4 all the parking in the area is controlled, and
5 it's opposite of ours.

6 If you look at Mr. Petrone's testimony,
7 for example, with regard to traffic, our
8 traffic is opposite from what happens
9 throughout the peninsula. And that's why that
10 mix of uses that Brad talked about is so
11 important. This is another reason why this
12 project is in the public interest.

13 In the morning, most traffic comes to the
14 peninsula to go to work. Our traffic will be
15 leaving. In the evening, most traffic will be
16 leaving, and our traffic will be arriving.
17 And, as a result, our traffic, because it's
18 opposite, actually will benefit the overall
19 system that's working there. And I'm not
20 testifying to that, that's all in the
21 affidavit. You can just look at Mr. Petrone's
22 affidavit and find that out yourself.

23 Mr. Petrone, if you'd come up for just a
24 second. I have a couple quick questions for
25 you.

1 (Mr. Petrone approaches the podium.)

2 MR. DIEBENOW: How am I doing on time,
3 Mr. Chairman?

4 THE CHAIRMAN: You're about halfway.
5 You're doing fine. So you're at 13 --
6 14 minutes.

7 MR. DIEBENOW: And I have?

8 THE CHAIRMAN: Twenty-five.

9 MR. DIEBENOW: Twenty-five. Okay.
10 So, Mr. Petrone, introduce yourself, if
11 you could.

12 MR. PETRONE: Wayne Petrone, 9822 Tapestry
13 Park Circle, Suite 205.

14 MR. DIEBENOW: Now, Mr. Petrone, did you
15 prepare the traffic study that's been submitted
16 in this matter?

17 MR. PETRONE: Yes.

18 MR. DIEBENOW: Okay. And we prepared two
19 traffic studies, right; one for 300 units and
20 one for 280 units, right?

21 MR. PETRONE: Yes.

22 MR. DIEBENOW: Under either scenario, does
23 our traffic cause a nuisance for any of our
24 next-door neighbors or anybody else on the
25 peninsula?

1 MR. PETRONE: No.

2 MR. DIEBENOW: And your full analysis is
3 in the record, in the materials that we've
4 provided, correct?

5 MR. PETRONE: Yes.

6 MR. DIEBENOW: Thank you.

7 So again, we've got a traffic engineer who
8 has done two traffic studies, who just
9 testified, and also further supplemented by his
10 affidavit and the traffic studies that he did,
11 that we're not going to cause a nuisance from
12 traffic.

13 On the other side, you have Mr. Harden's
14 comments, not a traffic engineer. You have
15 Mr. Herzberg's comments, not a traffic
16 engineer. No evidence in the record to support
17 that traffic is going to somehow cause a
18 nuisance on the peninsula.

19 I'm going to pause there for just a second
20 and give you a quick aside. In our original
21 application and what was approved by DDRB, we
22 got 300 units approved, 300 dwelling units
23 approved.

24 In the package of material that we
25 submitted -- because this kind of a

1 work-in-progress. We're still designing while
2 we're going through this review process. We
3 submitted a traffic study for 200 -- based on
4 280 units, because we were driving towards
5 getting to 280 units.

6 Unfortunately, we learned, the day that we
7 submitted the material, our preliminary pricing
8 that came back was not helpful at all. It was
9 bad. So, as a result, I was hoping to come
10 here and tell you we were going to just only
11 pursue 280 units. Unfortunately, I can't do
12 that. We're still seeking 300 units to be
13 approved, just like we had at DDRB.

14 However, the good news is that during that
15 design process, we were able to find more
16 parking spaces. So we were able to go from the
17 358 or 359 parking spaces we've talked about
18 below to 381 parking spaces in the materials we
19 submitted. And then our architect informed me
20 this morning that he had forgotten to count the
21 motorcycle parking spots, which we're allowed
22 to have up to 5 percent motorcycle. So we're
23 actually providing 400 parking spaces,
24 including 12 of which we have dedicated to the
25 public. I know the staff said 10. We've

1 committed to do 12.

2 As a result, the bottom line is, although
3 the unit count is still at 300, based on this
4 continuing design work that we've done, we've
5 been able to provide more parking, which
6 improves our parking ratios even further above
7 what was approved by -- by the -- by the DDRB.

8 Streetscape is another one. I don't know
9 why they even filed an appeal over streetscape.
10 Our frontage is about 97 feet. It's all
11 driveway and concrete. The code says you have
12 to plant a tree every 15 feet. If we planted a
13 tree every 15 feet, this site would never get
14 developed, it doesn't matter what's going on
15 the site. So we have to get a deviation from
16 the streetscape in order to develop this
17 parcel.

18 Now, you might think to yourself, well,
19 this is kind of unique. They're doing
20 something unusual. And the building next door,
21 you know, maybe they're caught by surprise by
22 this. There's lots of testimony in there about
23 our interaction with the building owners, the
24 Aetna building owners next door.

25 I want to ask Hal Dodt to come up for just

1 a second.

2 (Mr. Dodt approaches the podium.)

3 MR. DIEBENOW: Hal was the original owner
4 of both the Aetna building and remains an owner
5 of this parcel that's under development today.

6 And, Hal, if you could just introduce
7 yourself.

8 MR. DODT: Good afternoon, members of the
9 Board.

10 My name is Harold Dodt. I reside at 5332
11 Southwest Orchid Bay Drive, in Palm City,
12 Florida.

13 I was the managing -- managing partner of
14 the ownership of the Aetna building from 2004
15 to August of 2012. From August of 2012 to
16 December 31st, when the property -- when the
17 Aetna building itself was sold, I continued to
18 be the on-site supervising asset manager for
19 the property.

20 MR. DIEBENOW: Okay, Hal. And your CV and
21 your background -- if you haven't seen his CV,
22 it's unbelievable. I mean, the guy's been
23 developing things his whole career.

24 Hal, did the owners of the Aetna building,
25 the new owners of the Aetna building, did they

1 know that that project was going to get -- or
2 that a project was going to be developed next
3 door?

4 MR. DODT: Yes, they did. Every -- I was
5 personally involved in every tour for the
6 prospective buyers of the property, and they
7 were all informed that there was a property
8 adjacent to the Aetna building that could
9 potentially be developed in the future.

10 MR. DIEBENOW: Okay. And also, didn't you
11 negotiate a lease, a parking lease, that took
12 into account the fact that those parking spaces
13 would go away when the parcel was developed and
14 that -- that the current owners of the Aetna
15 building negotiated that lease with you?

16 MR. DODT: To be clear, I am -- our group
17 is a partner with Hines in the separate entity
18 that owns the adjoining land next door. And
19 Walter O'Shea directly handled the negotiations
20 of the parking lease, but it's correct to say
21 that there is a parking lease and a reciprocal
22 easement agreement that contemplates the future
23 development of that property. That was
24 negotiated with the current owner.

25 MR. DIEBENOW: Okay. Hal, you also played

1 a big role in putting tenants in that building,
2 tenants such as Baptist, University of Florida,
3 One Call, obviously Aetna. Did you inform the
4 tenants during lease negotiations that the
5 property next door was going to be developed?

6 MR. DODT: Every prospective tenant that
7 entered that building during our ownership from
8 2004 on was informed that we intended to
9 develop the property on a vacant lot next door.
10 It was a critical thing. We also had Hines
11 at -- up at Hartford to discuss this in detail
12 with Aetna in 2005.

13 MR. DIEBENOW: Perfect. Thank you, Hal.

14 MR. DODT: Thank you.

15 MR. DIEBENOW: The final thing I want to
16 talk about is a comment that Mr. Harden said,
17 that everybody else around here has followed
18 the rules, everybody else is doing what they're
19 supposed to do. Everyone else is -- you know,
20 there's not many setbacks or deviations.

21 In fact, it's interesting, in Mr. Bean's
22 letter, he says that the condition of a reduced
23 setback doesn't exist anywhere in proximity to
24 the Aetna building.

25 So Brad, if you could come back up for a

1 second, and bring those drawings, or the -- I
2 may have brought them with me.

3 (Mr. Wester approaches the podium.)

4 MR. DIEBENOW: Brad, if you could just --
5 I'm going to hand this out to the --

6 MR. WESTER: Okay.

7 MR. DIEBENOW: -- to the members. And if
8 you could just describe to them --

9 MR. WESTER: Yeah.

10 MR. DIEBENOW: -- generally what's going
11 on here.

12 MR. WESTER: Okay. One of the arguments
13 is that our building and our development is not
14 consistent nor compatible or in like kind to
15 the other urban form and development within
16 our -- in the peninsula, and that's completely
17 inaccurate.

18 What we're passing around now is
19 essentially a prospective. It's an aerial with
20 our building superimposed on the project site,
21 showing all of the facts; light, air,
22 visibility, views, vistas, access to the river,
23 that we're providing.

24 And I'll let you note, the blue arrows and
25 the blue circles I'd like you to see --

1 Prudential Drive, in 2002, was closed by
2 Baptist. About 363 feet from the river, it was
3 closed for the development of the heart center,
4 completely closed off from the river. Okay?

5 They provided about 5 feet of waterfront
6 setback along the river there, including a
7 terminus of the Riverwalk. You walk there, you
8 have to turn around.

9 The other thing is, in context to the
10 parking garage, the parking garage is, roughly,
11 10 to 15 feet from the Aetna building. They
12 provided a vehicle use area underneath the
13 parking garage through an easement for loading
14 and unloading.

15 So we've -- we exceed the proximity, we
16 exceed the access, the vistas to the river. We
17 exceed the public use criteria for the easement
18 to the river for the Riverwalk and whatnot.
19 And we continually -- you can see the
20 prospective of our building. Light and air and
21 vistas remain.

22 MR. DIEBENOW: Thank you. Thank you,
23 Brad.

24 Hal, if you could come up for one more
25 second.

1 (Mr. Dodt approaches the podium.)

2 MR. DIEBENOW: Brad just mentioned that
3 there was a vehicle use area underground or
4 underneath the building. That's right inside
5 the circle on the aerial that I pointed out.
6 That build- -- those buildings are between 10
7 to 15 feet apart from each other; that is, the
8 Aetna building and the Baptist property.

9 Hal, were you involved in the negotiations
10 of that condition existing when you owned the
11 Aetna building?

12 MR. DODT: No. That -- that is an
13 existing condition that we inherited when we
14 purchased the building. My property manager
15 informed me that, prior to our ownership, they
16 cooperated with the hospital in terms of
17 planning that area because that's the delivery
18 area and the trash pick-up area for the Aetna
19 building.

20 MR. DIEBENOW: And you -- did you
21 negotiate easements, though, that allowed the
22 use of that property between the two buildings?

23 MR. DODT: Again, to be -- to be fully
24 accurate, that -- that was negotiated before
25 our ownership existed.

1 MR. DIEBENOW: Thank you.

2 THE CHAIRMAN: Mr. Diebenow, you have
3 about two minutes.

4 MR. DIEBENOW: Two minutes? Okay.

5 I guess with the remainder of my time,
6 what I want to do is, I want to point out to
7 you -- I'm going to go through the criteria.
8 This might be a little painful, but I want to
9 make sure that the record is extremely clear.

10 If you look at Memorandum Number 1, which
11 is the summary that I provided, and you go down
12 each of the criteria, starting with, on Page 1,
13 the build-to/setback lines, under each
14 requirement that has to be met for the
15 deviation, under Letter A, the Affidavit of
16 Sean Siebert as Exhibit 10, Page 8; Walter
17 O'Shea is Exhibit 19, Page 7; Hal Dodt is
18 Exhibit 24 on Page 5; Andrés Rubio is
19 Exhibit 32 on Page 4. The Affidavit of Richard
20 Welch is actually Exhibit 36, not 35. There's
21 a typo there. So that's on Page 3. And then
22 Brad Wester is Exhibit 39, Page 4.

23 If you go down every single one of those
24 criteria and just follow through -- I'm not
25 going to read the whole memo back to you, but

1 if you just follow through and scan down,
2 again, under Letter B, C, D and E, all
3 underneath the setbacks, you have testimony
4 from experts that are available here to answer
5 questions, talk about anything that you want.

6 Under river view and heights, which starts
7 on Page 5 of my memo, again, under Criteria A,
8 B, C, D and E, testimony by each expert under
9 each criteria explaining why and how those
10 individual criteria are met.

11 Again, on Page 6, Number 3, off-street
12 parking, again, A, B, C, D and E. There's
13 between six --

14 (Timer notification.)

15 MR. DIEBENOW: -- and eight affidavits,
16 similarly, on Criteria 4 -- or Deviation 4 and
17 Deviation Number 5.

18 With that, we appreciate your time. We're
19 available to answer any questions and look
20 forward to the conversation after Mr. Harden
21 concludes.

22 THE CHAIRMAN: Okay. Thank you,
23 Mr. Diebenow. Appreciate your time.

24 Now, if there's no objection, Mr. Teal,
25 there is no reason we cannot have a five-minute

1 break? Everyone take -- we've been here an
2 hour and a half now. So before we start public
3 comment, I do recommend no one speak to each
4 other from this panel. Do not talk, but we can
5 at least take a five-minute break. We're going
6 to come back in five minutes and start again
7 with public comment.

8 MR. HARDEN: Mr. Chairman, I still have a
9 five-minute rebuttal?

10 THE CHAIRMAN: And then you'll have a
11 five-minute rebuttal after that.

12 MR. HARDEN: Okay. You're going to do it
13 after the public comment?

14 THE CHAIRMAN: Yes.

15 MR. HARDEN: Okay. Thank you.

16 THE CHAIRMAN: Yes, we'll have the public
17 comment --

18 MR. HARDEN: Thank you.

19 THE CHAIRMAN: -- which will take about
20 20 minutes. I don't want to start the public
21 comment and get too late. And then you'll have
22 the rebuttal for five minutes, and then we'll
23 have -- we'll close the public hearing and have
24 discussion.

25 With that, we start this break.

1 Thank you.

2 (Brief recess.)

3 THE CHAIRMAN: Okay. Thank you for
4 returning. This meeting is back in session.

5 At this time, we are going to have --
6 we're going to have public comment. We've got
7 different colored cards for -- supporting the
8 appeal is blue and opposed to the appeal is
9 orange. I have five cards here that were
10 submitted to speak. And Mr. Diebenow has
11 indicated that these folks filled out the cards
12 for their testimony and they are not going to
13 speak. Mr. Brad Wester, Sean Siebert,
14 Hal Dodt, Wayne Petrone, and Courtland Eyrick,
15 you're not speaking. You're not asking to
16 speak at the public hearing, right?

17 MR. DIEBENOW: Correct.

18 THE CHAIRMAN: Okay. Very good. That
19 leaves us Mr. Andrés Rubio.

20 And, Mr. Rubio, you will have three
21 minutes to speak.

22 AUDIENCE MEMBER: Thank you, sir.

23 THE CHAIRMAN: Please come up and identify
24 yourself.

25 (Audience member approaches the podium.)

1 AUDIENCE MEMBER: Good afternoon.

2 My name is Andrés Rubio, architect of
3 record. My address is 3060 Peachtree Road,
4 Atlanta, Georgia 30305.

5 I want to make a -- would like to make a
6 correction to try to correct a misperception
7 that can be -- might be generated by some of
8 the statements that Mr. Harden made in terms of
9 the height.

10 I want to make sure that everybody
11 understands that we are not making a 180 feet
12 wall in front of the river. In reality, what
13 we're doing is a design that has a very
14 articulated massing, that provides different
15 tiers, and is set back to enhance the Riverwalk
16 experience.

17 So if you go to any of our exhibits and
18 graphics, you will see that we have -- the
19 height actually steps up as you go back from
20 the river. So I want to make sure that
21 everybody gets that so that nobody gets the
22 perception that we're putting just a
23 190-foot-tall wall in front of the river.

24 We have basically a two-tier Riverwalk
25 that's actually the result of an existing

1 condition. So what we're doing right there,
2 we're kind of fixing a condition that is not
3 very friendly for pedestrians and making it
4 better.

5 Second, we are providing active uses that
6 don't exist at the moment that actually enhance
7 the Riverwalk. We're fixing connectivity, by
8 the way, the way that we see this project. And
9 then we have, on top of that, our amenity deck,
10 that is another step up. And from there, we
11 have our tall element or residential levels.

12 So that's the correction I want to make.
13 I want to make sure that everybody gets that,
14 and we don't get misled by an idea that we are
15 just doing a very massive, tall building that
16 doesn't respond to the scale of the various
17 areas that are around the building.

18 One thing I want to point out here, that
19 also, this is trying to balance, very well, a
20 transition between what we think is the
21 pedestrian scale and what is the actual Aetna
22 building, a very tall structure. While we are
23 trying to respect that, we think that we're
24 building, by working, this articulated massing
25 response and -- and creates a better transition

1 from the Riverwalk back to the tall structure
2 that the Aetna building is.

3 Thank you.

4 THE CHAIRMAN: Thank you, Mr. Rubio.
5 Appreciate it.

6 At this time, Mr. Walter O'Shea.

7 (Audience member approaches the podium.)

8 AUDIENCE MEMBER: Good afternoon, Board.
9 Walter O'Shea, 372 South Mill View Way,
10 Ponte Vedra Beach, 32082.

11 Thank you for the opportunity to address
12 you on this.

13 This site is a unique site. And it's not
14 a unique site because of the geometry, it's a
15 unique site because it is the only property
16 that can provide desperately needed infill
17 residential housing for 6,000 employees,
18 employed by -- in the Aetna building, at
19 Baptist and at Wolfson Children's Hospital,
20 with more employees to come at M.D. Anderson.

21 There is no other property within walking
22 distance. The Strand is a 15- to 20-minute
23 walk, which won't work. This is a unique site
24 because it desperately needs to be residential.

25 Infill residential provides tremendous

1 public benefit, in addition to just the
2 Riverwalk. It will stimulate development of
3 additional retail. It will activate the urban
4 core with residents there 24 hours a day. And
5 it will provide for efficient use of existing
6 infrastructure and transit that's in place
7 already.

8 In regard to traffic, there's one exhibit
9 that when you get a minute you can reference in
10 the book, Exhibit 21, that I would like to
11 point out, because I think it's important to
12 understand the dynamics of traffic in this --
13 in this area.

14 Infill residential is the ideal use for
15 this site because it minimizes the impact on
16 traffic versus any other use; hotel, office,
17 et cetera. As Steve mentioned, the a.m. and
18 p.m. flows are counter to the dominant flows
19 from the office and medical use. So you've got
20 people going in opposite directions. And
21 because of the unique location of this site,
22 the dominant flows do not cross. And that's
23 what Exhibit 21 shows you.

24 The p.m. traffic coming into the
25 residential traffic stays north of the

1 centerline of Prudential Drive; whereas, the
2 p.m. traffic leaving the Aetna building and
3 leaving the hospital stay south of Prudential
4 Drive as they move on their -- on their trips.
5 So it really is ideal in that result.

6 And you see that in the results of the
7 traffic report. The net result on the critical
8 p.m. peak hour of the eight intersections
9 studied is that the average delay will only
10 increase by 2.3 seconds if you assume that none
11 of the residents work at the adjacent
12 buildings. If you assume a 50 percent capture
13 rate, then that average delay drops to less
14 than one-half of a second. That's one-half of
15 a second over eight intersections studied
16 during the critical p.m. peak hour. So it's a
17 negligible impact.

18 Finally, in regard to parking, the design
19 provides about one space per bedroom. And that
20 assumes that 100 percent of the bedrooms are
21 occupied. In reality, that will never occur.
22 In a multifamily building, there's static
23 leasing vacancy that ranges at 5 to 10 percent.
24 And let's be realistic. People travel.
25 There's not going to be 100 percent of the

1 bedrooms occupied. So you're going to end up
2 with excess capacity for parking that will be
3 available. And in the worst case, the adjacent
4 office building will be empty at the time the
5 multifamily building is full. Peak occupancy
6 for parking, for office --

7 (Timer notification.)

8 THE CHAIRMAN: You can conclude your
9 sentence.

10 MR. O'SHEA: Oh, sorry.

11 The peak occupancy for office is from
12 9 a.m. to 4 p.m., while for residential, it's
13 for -- after 7 p.m.

14 THE CHAIRMAN: Okay. Thank you.

15 MR. O'SHEA: Thank you.

16 THE CHAIRMAN: Appreciate it.

17 Okay. With that, we have a blue card.

18 Mr. Juan Mira.

19 (Audience member approaches the podium.)

20 THE CHAIRMAN: How are you?

21 AUDIENCE MEMBER: Good afternoon, members.

22 Juan Mira. I represent GV-IP, the owners
23 of the Aetna building. I'm the asset manager
24 on the assignment.

25 Thank you for your service, first and

1 foremost.

2 I want to just -- on the record, a few
3 comments.

4 We, more than anyone, are pro-development
5 and in favor of socially responsible
6 development. I think the path to growth is
7 something akin to additional cancer centers,
8 new employers coming into the area, adding jobs
9 that will eventually fill, you know, properly
10 designed and planned-for residential projects.

11 We have some significant issues on the
12 peninsula, some of which stem from the trains
13 that we still haven't figured out. We've been
14 at this a long time. If any of you have
15 experienced when one of those trains comes to a
16 standstill, the peninsula gets bogged down.
17 Adding more density before addressing those
18 issues is simply not responsible.

19 To Mr. Dodt's earlier comments -- and,
20 Mr. Dodt, with all due respect, I don't want to
21 say that we purchased the asset blindly. We
22 knew that the site could at some point in the
23 future be developed. The parking -- the
24 license agreement with Hines explicitly calls
25 for that. So we knew that, but we also looked

1 at it within the boundaries of what -- what was
2 called for, the couple of criteria that needed
3 to be met.

4 And, you know, I'd love to dig in further
5 into the appraiser's report -- I,
6 unfortunately, have not looked at that yet --
7 because to say that there is no negative
8 impact, value or otherwise, on the 841
9 Prudential building is simply not accurate.
10 The leasability of anything below the ninth
11 floor is just that much less. And what rates
12 do you get? To say that that doesn't impact
13 our value is just -- is just a flat out lie.

14 Again, we are committed to Jacksonville,
15 as evidenced by our almost two-and-a-half
16 million square feet of investments throughout
17 the greater Jacksonville area. We want to do
18 more. And, again, we are pro-development, but
19 it needs to be responsible. And I respectfully
20 request that you guys take our facts into
21 consideration.

22 Thank you.

23 THE CHAIRMAN: Thank you, Mr. Mira.

24 Okay. Are there any other public
25 speakers?

1 AUDIENCE MEMBERS: (No response.)

2 THE CHAIRMAN: Anybody not fill out a card
3 and would like to speak?

4 AUDIENCE MEMBERS: (No response.)

5 THE CHAIRMAN: Okay. With that, we are
6 going to go back to the appellant rebuttal.

7 Mr. Harden, you have five minutes.

8 (Mr. Harden approaches the podium.)

9 MR. HARDEN: Steve left a list of criteria
10 here because he didn't care about it.

11 MR. DIEBENOW: Is five minutes going to be
12 enough?

13 MR. HARDEN: No, it probably will not be.
14 So thank you for your -- thank you for your
15 indulgence.

16 Paul Harden, representing the appellant.

17 The fellow from Miami, the architect, I'm
18 sorry, I didn't catch your name, but if he
19 wants us to look at any of these pictures, look
20 at this picture and see if that's a wall on the
21 riverfront. It's 25 feet off the riverfront at
22 that location. So I think his picture belies
23 what he says.

24 Again, I want you to focus back on your
25 role as a quasi-judicial officer. Look at the

1 five criteria. Mr. Diebenow says look at the
2 affidavits. Well, I looked at the affidavits,
3 and I went through as quickly as I could what
4 they say. The fact that they address it
5 doesn't mean that there is a public interest in
6 building a Riverwalk because I'm going 190
7 feet. I can build that same Riverwalk if I go
8 out 60 feet.

9 All of the items I went through are what
10 they base their positions on the criteria.
11 There is no competent substantial evidence as
12 to any of the criteria.

13 Now, as to no injury to our property, I am
14 not an MAI appraiser. I am not a veterinarian.
15 I know a horse's behind when I see one. If you
16 build a building that blocks nine floors of
17 your adjoining neighbor's property, you're
18 injuring their property rights. I don't know
19 how anybody can say differently as regards to
20 that.

21 With regard to the Prudential river
22 frontage, if you will note, in the beginning I
23 said I'm focusing on three specific issues. It
24 was the 25 feet off the river. I didn't raise
25 the Prudential Drive issue and still don't

1 raise it now.

2 Now, Mr. Wester, who works for
3 Mr. Diebenow's law firm, talked about how it
4 furthers the BID, but what he has to show is,
5 it furthers it different than what they could
6 do if they did the 60 foot. They can have a
7 diverse mix of uses at the 60 foot. The
8 marketplace can respond using the 60 foot.
9 There is no furthering of the bids by getting
10 this deviation, which is the point that they
11 have to meet to meet the criteria.

12 Mr. Seibert, he -- he supported my point,
13 that on the Lomax property that I talked about
14 before, they built 123 -- exactly 123, 5-over-1
15 in that area, and the market responded to it,
16 and they're building it, and they're building
17 it ahead of this project. The fact that they
18 want to make more money doesn't meet the
19 criteria in the code.

20 The CCG-1 comment that Steve made, that
21 it's not applicable in the (inaudible) is just
22 not true. It's right inside the Zoning Code.
23 They could go higher if they wanted. They'd
24 just have to move back on the setback.

25 There is a way to meet it without having

1 to meet each and every one of the criteria, but
2 they're not -- they're not wanting to
3 accommodate the setbacks by moving them in.
4 They want to move them out.

5 It's interesting to note that when they
6 were in front of the DDRB, they said, oh, we've
7 talked to the market, we only need 300 parking
8 spaces. Now they're up to 400 parking spaces.
9 They only got 129 to go and they can get and
10 meet the code.

11 For them to say, well, we don't really
12 need what the code -- what the code requires is
13 inconsistent with why you have a code. The
14 City of Jacksonville did a study and had a
15 determination of what's needed. If you're
16 going to go different than that, you've got to
17 meet the five criteria.

18 It's not based on the fact that we think
19 we don't need it; it's, if you don't meet the
20 code, you've got to go through each and every
21 one of the five criteria and meet those
22 criteria. It's not whether we think it's a
23 better project if you have less parking. If
24 you think that's the case, go change the Zoning
25 Code. Go change the parking requirements in

1 the Zoning Code generally.

2 I didn't really go into the traffic, that
3 wasn't one of the three issues we were dealing
4 with, but it -- it's inaccurate to say the
5 traffic is opposite the hospital. The hospital
6 operates 24 hours a day. There's multiple
7 shifts. There's people operating there all the
8 time.

9 But if you want to know about the traffic
10 issue, look again at Mr. Wester's picture here.
11 You can see, their access is along this
12 railroad track to come up to Palm Avenue. And
13 it comes up right at where the train tracks are
14 located. And every time there's a train coming
15 across there, which is blocked five times a
16 day, there's going to be traffic backed up.

17 It backs up down Palm Avenue -- I mean
18 down Prudential, down Palm Avenue, and backs up
19 all the way to the interstate. And when you
20 have people coming out, at that location it is
21 difficult. Again, that's not one of the beefs
22 that we raised, but I couldn't let it go
23 unrebutted.

24 Mr. Wester talked about the setbacks, the
25 hospital complied with the setbacks of the

1 Zoning Code that were there when we were built.

2 We were built some time ago.

3 I know healthcare is really an imposition
4 to the community, but we are trying to operate
5 a facility on this peninsula with limited
6 infrastructure. We -- because we know that we
7 need parking in the area, you need parking in
8 the area, we're building a 2,200-space parking
9 garage.

10 Where do you suspect the second roommate's
11 going to park their car if there isn't a spot
12 there? It's going to be right across the
13 street.

14 Where do you suspect, when people come in
15 and visit, they're going to park their car to
16 (inaudible) across the street?

17 Where do you suspect people are going to
18 park their car when the ten Riverwalk sites --
19 and remember, it's not just the Riverwalk in
20 front of them, it's the Riverwalk up, as it
21 heads back, on the other side of the bridge,
22 and then the additional footage that Aetna and
23 the hospital are going to operate with the
24 city.

25 THE CHAIRMAN: Mr. Harden.

1 MR. HARDEN: Yes, sir.

2 THE CHAIRMAN: That's five minutes.

3 MR. HARDEN: All right. I'll sit down,
4 unless Steve wants to give me more time.

5 MR. DIEBENOW: I think we're good,
6 Mr. Chairman.

7 THE CHAIRMAN: Okay. With that, this
8 public hearing is closed. And now we will open
9 it up for discussion of the DIA members.

10 Members, we have five deviations. We have
11 four options. We're going to go around the
12 room and ask questions. It does not mean -- if
13 you don't get your questions asked or if you
14 don't -- if you think of one later, we're going
15 to come back.

16 We're going to start with -- Mr. Barakat,
17 why don't you start this, and we'll go through.
18 And if you want to -- Mr. Teal, should we
19 address these by the deviations or just have
20 the conversation first and then -- and let them
21 call up whoever they want to for questions or
22 do them by the --

23 MR. TEAL: Mr. Chairman, that's certainly
24 your discretion.

25 You know, just for the Board's

1 edification, how this will work is -- I
2 mentioned at the outset that each of these will
3 have to be voted on separately. So if the
4 chairman decides to have some discussion before
5 a motion is made on any of these items, you can
6 certainly do that.

7 Once that period is over, then there will
8 need to be a motion on -- for example, on the
9 deviation request for setbacks from the street.
10 There will be a second. Any discussion on it,
11 you can discuss that particular deviation
12 request at that time. There will be a vote
13 taken on that deviation request, and then
14 you'll move on the next.

15 Once the deviation requests are all voted
16 on, then you will have a better picture of what
17 was, I guess, approved for the project as a
18 whole. So then there will be a motion on the
19 project as a whole, incorporating your votes on
20 the separate deviation requests.

21 So we can walk through that when we get
22 closer to -- closer to that period --

23 THE CHAIRMAN: Okay.

24 MR. TEAL: -- if there's still any
25 questions.

1 THE CHAIRMAN: Okay. Let's try it like
2 this: Let's start with Item Number 1, the
3 setback from the street. We'll discuss that.
4 You can ask questions of anyone you like.
5 Everyone is at your disposal.

6 So, Mr. Barakat, addressing the setback
7 from the street deviation, can you -- and I
8 hate to bounce back five times to the same
9 person, so -- I'm trying to simplify this. Can
10 we just go ahead and go through all of them,
11 ask questions as they have them, or is it
12 easier to go back five times to Mr. Barakat and
13 go through each one?

14 MR. TEAL: Again, that's your discretion.

15 THE CHAIRMAN: Okay.

16 MR. TEAL: You know, whatever you think
17 would be the most appropriate.

18 THE CHAIRMAN: Well, we're going to try
19 it. Mr. Barakat, you've got five deviations
20 here. And let's go ahead and address those
21 deviations, while we have you, and then we'll
22 go to the next person.

23 BOARD MEMBER BARAKAT: I don't have any
24 questions as it relates to the setback. I
25 think that's, to me, pretty clear why the

1 appellee was not able to honor the code and
2 requested a deviation.

3 As it relates to the river views and the
4 diminution of property value, I can speak to
5 some history. I think Mr. Dodt referenced that
6 when they owned the property and mentioned to
7 prospective tenants about a potential structure
8 being constructed, which may impede the views
9 and has impact on the desirability of the
10 building, I can -- I can testify that's correct
11 because I represented some clients that were
12 looking at leasing space in that building.

13 The proposed project, at the time, the
14 footprint was different than the proposed
15 project today. The footprint was thinner, from
16 what I recall, but the building was a lot
17 taller. And the spaces available, however,
18 were in the tower of the Aetna building.

19 I think one thing to note today, the
20 spaces that Aetna vacated are in the lower
21 portion of the Aetna tower, on the L-shaped
22 part of the building, where the new project,
23 the new apartment project, would have an impact
24 on the views for certain. So I think the --
25 the point is, the leasing environment for that

1 tower is a little bit different today.

2 You know, as far as the impact on the
3 value of the property, I do think it would
4 impact leasing. At the same time, having
5 development near the site does bring some
6 dynamism to the area. Developing the Riverwalk
7 is an asset. So what the net impact on the
8 lease rate would be, that's very, very tough to
9 say. That's very tough to say, but I do think
10 that is probably the toughest -- in my view,
11 the toughest part of the deviation request out
12 of all of them.

13 As it relates to off-street parking, I
14 have a question for Mr. Diebenow.

15 You've mentioned, Mr. Diebenow -- we are
16 in a position to ask questions currently?

17 THE CHAIRMAN: Yes, absolutely.

18 BOARD MEMBER BARAKAT: There were three
19 projects in downtown that had a lesser parking
20 ratio. Do you know which three those are?

21 MR. DIEBENOW: Yes. So the -- I'm going
22 to speak to the worst-case scenario for our
23 application, which was the 300 units, and then
24 the 405 bedrooms with 381 parking spaces.

25 Do we have more copies of this?

1 I'm going to give you a graphic that
2 depicts them, the seven projects.

3 (Tenders document to Board Member Barakat
4 and to Mr. Harden.)

5 MR. DIEBENOW: So the graphic that I just
6 handed out has the seven projects that we
7 looked at, studied, but, in general, I'll just
8 quickly summarize.

9 220 Riverside has, you know, less parking
10 per -- per dwelling unit and less parking per
11 bedroom.

12 The Strand and the Peninsula have less
13 parking per unit and less parking per
14 bedroom -- I'm sorry. They have more parking
15 per dwelling unit and less per bedroom.

16 The Carling -- I'm not going to summarize
17 it. Just look at the graphic. It's easier.
18 It's easier than me summarizing it. Those are
19 the three that have more on a per-unit basis
20 and three that have less.

21 If you examine it by a bedroom count,
22 which is the other way to look at it, 220
23 Riverside has about .67 parking spaces per
24 bedroom. The Brooklyn, which is the one by
25 Fresh Market, it has about 1.04 parking spaces

1 per bedroom. The Carling and 11E have about
2 .77 parking spaces per bedroom. And the Strand
3 and the Peninsula have about .76 parking spaces
4 per bedroom.

5 So what you have in front of you is a
6 dwelling unit count. What I just read to you
7 is the bedroom count. There's three of them
8 that provide even fewer parking spaces per
9 bedroom than what we're offering to provide.

10 BOARD MEMBER BARAKAT: Okay. You're at
11 1.23 in this graph; is that correct?

12 MR. DIEBENOW: So in that, in that graph,
13 that's -- yeah, that's the 1.23. And what that
14 includes, is that includes 369 parking spaces,
15 so we have deducted 12 for the public, but it
16 does not include the 19 motorcycle parking
17 spaces. So it's a little bit higher than that,
18 but the graphic -- if you add that back in and
19 do that math, it doesn't change where we fall
20 in the lineup. We're still going to be right
21 in the middle.

22 And not only -- it's important to know
23 that not only was that approved, all of the
24 ones that have been built, there's no evidence
25 on the record of anybody parking off site.

1 There's no evidence in the record of anybody
2 causing any problems for anybody nearby, and
3 yet we're parking at a ratio that's right down
4 the middle of what was previously approved.

5 BOARD MEMBER BARAKAT: Okay. Thank you.

6 So to my colleagues, I was trying to see
7 if there was a commonality between those
8 projects that have less parking density, and
9 there doesn't seem to be. You know, 220 is in
10 Brooklyn, a lower density part of downtown.
11 The Carling is right in the center of the city.
12 And the Strand is right on the riverfront. So
13 you have three different characteristics that
14 have less parking density.

15 So it's difficult to say or argue that
16 this density is not in line with market trends
17 regardless of demographics or location within
18 downtown. So I can't make that argument there.

19 That's my only -- since I'm not voting,
20 Mr. Chairman, I'm not going to try to opine too
21 much, but I just have one more comment as it
22 relates to the traffic.

23 And I think, Mr. Harden, you made a
24 comment about traffic density and certain
25 hours. So does the hospital and its

1 employees -- and this includes, to some extent,
2 the employees in the Aetna building. Is it not
3 a rush hour? Is there not a peak time either
4 in the morning or in the afternoon?

5 MR. HARDEN: There's a time where more
6 people are coming out than others, but the peak
7 time related to employees -- there's people
8 coming to the hospital all the time, not just
9 the employees, not just the peak hours.

10 I have some pictures on my phone that I
11 took when a train was backed up there at an off
12 peak, and I happened to be in the Aetna
13 building, in one of the hospital offices, and
14 looked down on it. And as I said, this -- this
15 was at like 10 o'clock in the morning, and the
16 traffic was backed up all the way down
17 Prudential, all the way down Palm, under the
18 interstate, on the other side. So, I mean, one
19 car coming out at that time would be difficult.

20 Look, the traffic is not one of the
21 things, much like the Prudential setback is --
22 that we're raising issues with, but in taking
23 the totality of the project, and I think you
24 ought to think about the traffic issue, but
25 sure, there's a peak time. But because it's a

1 hospital, it's a 24-hour operation, both
2 employees and patients.

3 BOARD MEMBER BARAKAT: Thank you.

4 MR. HARDEN: Can I make a comment on this
5 parking issue?

6 THE CHAIRMAN: Can he?

7 MR. HARDEN: May I? Let me restate that.

8 THE CHAIRMAN: Or ask a question. How
9 about, you might get asked that question, so --

10 MR. HARDEN: Okay. All right.

11 Thank you.

12 THE CHAIRMAN: So let's -- all right.

13 Mr. Barakat, streetscape, waterfront?

14 BOARD MEMBER BARAKAT: No comments on
15 that.

16 THE CHAIRMAN: Okay. And you're not
17 voting, but your -- your opinion and your
18 thoughts and knowledge in this do help.

19 Mr. Gibbs.

20 BOARD MEMBER GIBBS: I, too, like
21 Mr. Barakat, am concerned about the diminution
22 of value. Mr. Harden, what evidence do you
23 have of diminution of value?

24 MR. HARDEN: Well, Mr. Herzberg's
25 affidavit talks about it. And he talks about

1 blocking the views. And Mr. Barakat talked
2 about the -- again, you don't have to be an
3 expert to know that if you block the view, then
4 you don't get to look at the river. There's --
5 and it's not diminution of value. If you look
6 at what it says, it says injure or affect the
7 property rights of somebody else. So it
8 doesn't have to be quantified if there's any
9 injury at all. It doesn't have to be a
10 calculable number on there, but I'm just
11 saying, the common -- I think common sense is,
12 if you block somebody's view of the river, it
13 makes their property less valuable.

14 If somebody built an office building in
15 front of somebody who has a view of the river
16 and you no longer have that, you're not going
17 to have the same rents or value there. So ...

18 BOARD MEMBER GIBBS: With regard to
19 parking, is your client building a parking
20 garage?

21 MR. HARDEN: Yes. We're building two
22 parking garages, but the one that's 2,200 is
23 straight acro- -- if you look at a map here,
24 whatever the -- if you look straight across
25 Prudential Drive, it -- it's almost -- the

1 construction is moving along. We're building a
2 parking deck that's straight across from their
3 entrance, straight across from the Women's
4 Pavilion. So that big building that's going up
5 there has a parking deck.

6 BOARD MEMBER GIBBS: Has your client
7 explored any possibility of leasing those spots
8 to potential residents?

9 MR. HARDEN: Well, it's free parking.
10 It's public free parking already. So we don't
11 charge there. We don't limit who can come in
12 and out of the location. We're building it to
13 accommodate hospital patients and the
14 employees. We're building another parking lot
15 on the other side of M.D. Anderson, which is, I
16 think, 600 spaces.

17 AUDIENCE MEMBER: Yes. I can address that
18 more.

19 MR. DIEBENOW: Yeah, Mr. Tickell is the
20 real estate officer at Baptist. Do you mind if
21 he speaks?

22 BOARD MEMBER GIBBS: Not at all.

23 HARDEN: Thank you.

24 (Audience member approaches the podium.)

25 AUDIENCE MEMBER: Keith Tickell. I'm vice

1 president of strategic assets and real estate
2 at Baptist Health. Address is 841 Prudential
3 Drive.

4 With regard to the parking garage, we've
5 done exhaustive studies with the group called
6 FreemanWhite, they are a hospital planner --
7 they are actually owned by the Haskell Company
8 here in town -- analyzing and projecting future
9 needs on parking.

10 As Paul mentioned, we are building that
11 garage right there, the 2,200 spaces. And it
12 is designed to accommodate patients, visitors
13 and employees. We don't have the spaces to
14 lose. That deck will add, roughly, 500 spaces
15 in capacity to the downtown campus there,
16 because we've got to take down an existing
17 garage. It's at the end of its useful life.
18 That's the current P2 garage on Palm. It's got
19 to come down, so that's why we're doing this
20 construction.

21 It is, without a doubt, one of our biggest
22 challenges for our patients and visitors.
23 That's what we're focused on, and that's why
24 we're so concerned about it. We do not charge
25 for parking. We're trying to provide access to

1 the community. That's why we don't want any of
2 those spaces impacted in any way.

3 MR. HARDEN: Tell them about the other
4 garage.

5 MR. TICKELL: So then there's a second
6 garage that will accommodate M.D. Anderson.
7 Actually, two garages. The building itself
8 will have a 625-space garage that will be part
9 of it, but under the PUD requirement that the
10 City -- we negotiated with the City,
11 unfortunately, the employees for M.D. Anderson
12 have to park on the other side of what is the
13 outpatient center and the JOI building. So
14 we'll be constructing a garage there and
15 building a sky bridge so that those employees
16 can get to work in the cancer center.

17 BOARD MEMBER GIBBS: Thank you.

18 I would -- I would also like to know
19 whether or not Mr. Klement or Mr. Jones heard
20 anything today that may change their opinion.
21 I don't mean to put you on the spot, but you
22 gentlemen have sat through this --

23 MR. JONES: Well, I mean, I will say one
24 thing, and I didn't mention this earlier, that
25 I did -- you know, as a board, when we -- we

1 got to final -- and this was the first time we
2 heard anything of this. So one of the most --
3 the elephant in the room to us was how curious
4 this whole scenario was, that we go through an
5 iterative set of workshops. We go through a
6 process of conceptual approval and, you know,
7 working with our neighbors. You have
8 opportunities to come and, you know, vet your
9 concerns. We worked with Baptist to come up
10 with a design that was mutual for their garage,
11 you know, making concessions, working with them
12 to make sure that they have the best product,
13 because we think it's a wonderful site. You
14 know, everybody's a neighbor in there.

15 And then to be at the last moment, when
16 we're ready to move to final, and then we hear,
17 out of the blue, that we were blind sided
18 essentially by this, that we didn't know that
19 this could happen here. And we just find it a
20 little bit curious that, through all that time,
21 to not think that this was going to happen or
22 that, all of a sudden, our views were going to
23 be blocked.

24 And, quite frankly, I mean, in a downtown,
25 this is what's going to happen. We're going to

1 continue to see more development happen. We're
2 going to see views that were once of the river
3 that are probably going to be blocked. And
4 that, to me, is a sign of a successful
5 downtown. I mean, I -- I just came back
6 from -- I don't want to sound hyperbolic here,
7 but I was just in Toronto, and one of the
8 things that I saw were cranes everywhere,
9 buildings happening.

10 So I think there's a little bit of that
11 that we have to have here, is a discussion
12 about, you know, as we move forward, we could,
13 theoretically, railroad a lot of projects over
14 parking and traffic if you use the minimum
15 suburban design standards for that.

16 So in my case, I just thought that -- and
17 in the sense -- or at least collectively as a
18 board, we felt that, you know, it's time to
19 kind of get away from some of those issues
20 because, quite frankly, the amount of spaces
21 that are required per unit are -- you know,
22 it's -- again, you can apply these to, you
23 know, doing a project off Southside Boulevard.
24 And this is a different animal.

25 If we're going to get people to walk and

1 take transit, we have to essentially say
2 parking requirements need to be shifted off to
3 the side here a little bit to make things
4 happen. I mean, I think that was part of the
5 conclusion that we reached at the end.

6 BOARD MEMBER GIBBS: Thank you.

7 Did you hear anything today?

8 MR. KLEMENT: Just a reminder that when I
9 speak to the Board, it is a professional board.
10 It's made up of professionals. It includes
11 the --

12 THE CHAIRMAN: Your mic, sir.

13 MR. KLEMENT: Oh, I'm sorry.

14 When we speak of the DDRB board, it is
15 made up of professionals. By a requirement, it
16 includes two architects, one landscape
17 architect, one contractor, three downtown
18 property owners and two urban planners. So
19 these are individuals that put their profession
20 forward in terms of presentation, review and
21 critique of projects. Presumably, they have
22 had a wealth of experience. We just heard our
23 chairman speak to his visits to other cities
24 and other communities, to, again, bring back
25 that information to this board. And I think

1 that they are dedicated and they take their
2 work serious.

3 BOARD MEMBER GIBBS: Thank you.

4 Finally, I think I heard someone say that
5 there would be employees working at M.D.
6 Anderson, or perhaps at the hospital or at the
7 Aetna building, that may reside in this
8 particular building. I have forgotten which
9 presentation I heard that from, but I was
10 wondering if any market studies were done to
11 analyze what the cost per square footage or
12 cost per unit would be in this particular
13 residential unit.

14 THE CHAIRMAN: In particular, anyone, or
15 Mr. Diebenow or --

16 BOARD MEMBER GIBBS: I can't remember. I
17 know it was from Mr. Diebenow's team.

18 (Mr. Diebenow approaches the podium.)

19 MR. DIEBENOW: Steve Diebenow, 1
20 Independent Drive, Suite 1200.

21 I think your question was how many people
22 were going to work -- that worked in the
23 vicinity would park or live in the residence --

24 BOARD MEMBER GIBBS: Correct.

25 MR. DIEBENOW: -- basically.

1 So there's testimony on the record from
2 Mr. Siebert's affidavit. Their last two
3 projects that they developed in the medical
4 district in Fort Worth, more than 50 percent of
5 their residents live within a mile of their
6 work.

7 And so that's the exact reason why they
8 came to this site, was because they anticipated
9 that there would be employees, nurses, doctors,
10 LPNs, certain real estate professionals, all
11 make over the amount that would be required to
12 move into or live in that -- in that -- in that
13 building. So yeah, it definitely was something
14 that was taken into account.

15 BOARD MEMBER GIBBS: Would you agree, Fort
16 Worth, Texas cost of living may be different
17 than Jacksonville?

18 MR. DIEBENOW: Oh, yeah, different for
19 sure, but still medical professionals. Again,
20 in the medical district in Fort Worth,
21 there's -- like here, there's five or six
22 hospitals within a mile of their two most
23 recent projects. Here, Wolfson, Baptist, M.D.
24 Anderson, you know, the heart center, you've
25 got three different branded hospitals, but

1 probably four or five different, distinct
2 hospitals in the area.

3 And I'm happy to share this with you. We
4 did do a market rate study in terms of
5 projected rental rates and annual income to
6 support them and rates per bedroom, which I'll
7 give to you to pass around to the other board
8 members, that answers the detailed question
9 about was there --

10 BOARD MEMBER GIBBS: Great.

11 MR. DIEBENOW: -- a market study done.

12 BOARD MEMBER GIBBS: That would be
13 helpful.

14 Thank you.

15 Nothing else, Mr. Chair. Thanks.

16 THE CHAIRMAN: Thank you.

17 (Mr. Harden approaches the podium.)

18 MR. HARDEN: Mr. Chairman, he asked that
19 generally speaking. They told us the rent
20 rates were a buck 90 to \$2 a foot. That's part
21 of the -- that may be what's on that study, but
22 that's \$2,000 a month for a thousand-foot
23 apartment. And that would be about 50 percent
24 of the net income of a nurse. So I don't
25 suspect that that's going to be the market.

1 Maybe they've got a lot of doctors there,
2 I don't know, but we don't agree with their
3 contention that a lot of our employees will be
4 living there simply because it's -- \$2 a foot
5 is at the top of the rack in Jacksonville right
6 now. That's -- and I know this because we did
7 it -- when we were looking at the shipyards,
8 two years ago, a buck 35 was the top of the
9 rate.

10 More recently, along Riverside, they've
11 gotten up to a buck 95 and \$2 a foot. The top
12 of the rate is now going to be that Lomax
13 apartment I talked about, which is a little
14 over \$2 a foot. So this is the very top of the
15 market of apartment rentals in the Jacksonville
16 market.

17 BOARD MEMBER GIBBS: Thank you.

18 MR. DIEBENOW: Mr. Chairman, we don't want
19 to go back and forth on rental rates and
20 viability. I mean, we're happy to spend all
21 afternoon talking about the viability of the
22 project. Clearly, if we didn't think it was
23 going to work, we wouldn't be here. So if you
24 want more detailed information on market rates,
25 Walt O'Shea is happy to address those in more

1 detail, but I don't know how much more time you
2 want to spend on this in any event.

3 Thank you.

4 BOARD MEMBER GIBBS: No. This is very
5 helpful.

6 Thank you.

7 THE CHAIRMAN: Thank you, Mr. Gibbs.

8 Okay. Mr. Meeks.

9 VICE CHAIR MEEKS: Just to clarify, if I
10 might. Mr. Harden?

11 MR. HARDEN: Sir.

12 VICE CHAIR MEEKS: If I have understood
13 what I've heard so far, am I right to say that
14 you don't have expert testimony from a real
15 estate appraiser that would refute the real
16 estate appraiser that Mr. Diebenow has used?
17 Is that correct, sir?

18 MR. HARDEN: We do. The real estate
19 appraiser that Mr. Diebenow used talked about
20 diminution in value. That's not the criteria.
21 The criteria, does it injure our property --
22 and I don't think you have to have expert
23 testimony -- Mr. Herzberg says it in his
24 report.

25 VICE CHAIR MEEKS: Mr. Harden --

1 MR. HARDEN: Yes, sir.

2 VICE CHAIR MEEKS: -- if I was giving a
3 definition -- or rather, a deposition, you
4 haven't answered my question. Do you have a
5 real estate appraiser like Mr. Diebenow does
6 that addresses -- it says, "substantial
7 diminution of value." It also says,
8 "substantial injury to property rights." Do
9 you have a real estate appraiser that addresses
10 that?

11 MR. HARDEN: Where are you reading from?
12 I'm sorry.

13 VICE CHAIR MEEKS: I have a copy here.

14 MR. HARDEN: Okay.

15 VICE CHAIR MEEKS: That's C. It says,
16 "will not substantially diminish property
17 values." And then further down it says, "will
18 not substantially interfere with or injure the
19 rights of others."

20 MR. HARDEN: Right. That's -- that's the
21 one I was talking about. I don't have
22 anything -- I don't have a real estate
23 appraiser about substantial diminution of
24 value, but there is another caveat, that it
25 injures your property rights. And I think

1 blocking of the view does that. And I think
2 that's -- I don't think you need an expert, but
3 I understand your question. No, we don't have
4 a real estate --

5 VICE CHAIR MEEKS: Okay. The second
6 question, much like the first, then -- if I
7 understand, Mr. Diebenow has an expert that
8 addresses parking issues. And if I'm
9 understanding correctly, you don't have an
10 expert who addresses that; is that correct?

11 MR. HARDEN: Yeah. Mr. Tickell just came
12 up and said that they did the same thing to
13 determine how many parking spaces we need.

14 But, Mr. Meeks, the issue is not whether
15 or not they need the parking spaces. They --
16 they're saying they don't need them. The code
17 requires them. If the code -- now if, as
18 Mr. Jones says, we don't need that many parking
19 spaces, then change the Zoning Code.

20 What we're saying is, there's a
21 requirement in the code. Whether you like it
22 or not, that's the requirement in the code.
23 And to change that, you have to meet those five
24 criteria. But no, I don't have anything other
25 than Mr. Tickell.

1 VICE CHAIR MEEKS: Okay. That was my
2 question.

3 MR. HARDEN: Yeah.

4 VICE CHAIR MEEKS: Thank you.

5 MR. HARDEN: Thank you.

6 THE CHAIRMAN: Okay. Anything else?

7 VICE CHAIR MEEKS: No, sir.

8 THE CHAIRMAN: Okay. Mr. Moody.

9 BOARD MEMBER MOODY: Okay. We've heard a
10 lot of information. You know, philosophically,
11 it sounds to me like it's going to come down to
12 a question of do we want to develop this site
13 or not. And some of the positive of the site,
14 obviously, is that it is an infill residential
15 site. It is a unique site with a unique
16 product. It provides downtown living, which is
17 residential, walkability, bikeability. It's
18 going to have a 12-foot multiuse trail. It's
19 going to be a diverse mix of land uses. Those
20 are the positives.

21 And then, quite frankly, there are some
22 negatives where there's the congestion, traffic
23 issue. Parking, is it underparked? The
24 setbacks are an issue. And then the biggie for
25 me was, is there value decreases for nearby

1 buildings and property.

2 And I did, late last night, read through
3 Mr. Eyrick's report. He did a good job. It
4 was a market-derived study, and I think he did
5 a good job in quantifying the fact that, when
6 you go to the marketplace, there's not a
7 substantial decrease in value that can be
8 proven. I mean, it just doesn't prove itself
9 out right now. There may be an immediate
10 effect, but for a longtime stabilized basis, I
11 don't think you can see that.

12 As we look at the height of the building,
13 when we go from 60 to 90 -- or 60 to -- what is
14 it?

15 MR. TEAL: 190.

16 THE CHAIRMAN: 190.

17 BOARD MEMBER MOODY: Yeah, 190, that's
18 going to come down to a feasibility question.
19 I mean, it is absolutely a question that the
20 developers have to deal with. And the only way
21 to make it feasible is to go higher.

22 I am curious, though. The Hines project,
23 originally, how high was it? How many floors
24 was planned? Because I went over there, I
25 looked at the units, and it seemed like it was

1 50 floors or 40?

2 (Mr. O'Shea approaches the podium.)

3 MR. O'SHEA: Walt O'Shea, 372 South Mill
4 View Way, Ponte Vedra Beach.

5 That project was 54 stories in height, the
6 building. And then the parking level -- the
7 parking garage, which basically filled the full
8 site, was an 8-level garage about, you know,
9 85 feet. So, roughly, equal to the height of
10 the annex of the Aetna building.

11 BOARD MEMBER MOODY: So had it been
12 approved and went through all the hoops and so
13 on and so forth?

14 MR. O'SHEA: It had -- it had full DDRB,
15 you know, approval. It had a full set of
16 building plans that were, I think, approved, if
17 my recollection serves me right.

18 BOARD MEMBER MOODY: Okay. All right.
19 Thank you.

20 Again, I was concerned about the traffic
21 issue. And it sounds like the experts have
22 given us a pretty clear answer there.

23 And beyond that, no other questions.

24 THE CHAIRMAN: Thank you, Mr. Moody.

25 Ms. Durden.

1 BOARD MEMBER DURDEN: Thank you very much,
2 Mr. Chairman.

3 This is definitely a complicated
4 procedure. I think that -- I've spent quite a
5 bit of time thinking about the project and the
6 concerns that have been raised. And as a
7 lawyer, and in particular, as a land use
8 lawyer, I definitely understand the deviations
9 and the -- and the need to go back to the
10 deviations and pay attention to the code and to
11 the deviations, but I -- so I want to go
12 through each one of them. I think, for me,
13 that's about the easiest way for me to stay
14 straight.

15 So on the setback from Prudential, there
16 is simply no way -- it doesn't matter what
17 project ever occurs on this site, there's never
18 going to be a project where there's not a
19 deviation necessary for the setback from
20 Prudential, regardless of whatever it is.

21 So, you know, in looking at the deviation
22 criteria, there's just no doubt in my mind,
23 given the -- given the shape of the parcel,
24 which has been handed to us -- that's a given.
25 We -- we have to function with the shape of the

1 parcel. So, obviously, that's -- there's no
2 doubt, that's a practical difficulty.

3 It certainly is not based exclusively on a
4 desire to reduce the cost, et cetera, et
5 cetera. I could go through each one of them,
6 but, really, it's so clear to me that that is
7 not even an issue.

8 I'm going to go on the easy ones first.

9 THE CHAIRMAN: Okay.

10 BOARD MEMBER DURDEN: Streetscape.

11 THE CHAIRMAN: Okay.

12 BOARD MEMBER DURDEN: Is that okay? I
13 think that's Number 4, streetscape.

14 THE CHAIRMAN: Yeah.

15 BOARD MEMBER DURDEN: Again, I mean, we're
16 not going to -- this -- the dynamics of this
17 particular site, the uniqueness of it, clearly
18 demonstrates to me that a deviation is
19 absolutely mandatory. And, again, as far as
20 I'm concerned, it meets all five of them. And
21 there's no -- five criteria under .22.

22 Number 5, the 50-foot setback, this is an
23 interesting one because when I read the
24 statements made by the appellant they seemed to
25 say that their concern associated with this has

1 to do with the reconfiguration of the -- I
2 guess there's an access easement. And in my
3 mind, whether it's set back 50 feet or 25 feet,
4 that's not going to make any difference in the
5 world with -- in regards, that I can see, with
6 that access easement.

7 So yes, now -- I mean, that is what they
8 talked about on Page 7 of their -- when they
9 filed their appeal. So, in a sense, I don't
10 see what their concern there is.

11 The other thing I want to raise -- and,
12 you know, this is sometimes, depending upon
13 which side you're on, you know, good or bad,
14 but in reading carefully Paragraph --
15 Subparagraph C, in .22, it talks about the
16 proposed reduction or deviation will not
17 substantially diminish property values in the
18 area, property values in the area surrounding
19 the site. So we're talking about more than
20 just one site.

21 And it will not substantially interfere
22 with or injure the rights of others whose
23 property would be affected by the deviation.
24 So the property right that would be impacted is
25 a view right. And I don't think that we have,

1 or Baptist or Aetna, has a view -- a right to a
2 particular view that I'm aware of.

3 If Aetna had been concerned when they sold
4 this property to -- I think that's how it went.
5 When they sold the property and they were
6 concerned about their view in their buildings,
7 they would have reserved an easement for view.
8 So I don't know that -- I don't believe that
9 there is a property right that is being
10 interfered with substantially as far as
11 Paragraph C goes.

12 So let me go back to -- that's -- the
13 other thing that I want to mention is that,
14 there's quite a bit on height in 656.361.14.
15 And it talks about -- it almost anticipates
16 that we're going to have requests to exceed the
17 building height because it talks
18 specifically -- the request for additional
19 height shall be evaluated on the basis of
20 public benefits provided, the possible impacts
21 of the additional height, consistency with the
22 City's land use policies, so -- and it takes
23 into account what's around it.

24 So it's hard for me to give a lot of
25 credence to this issue about the height.

1 Clearly, it's close in. When you look at this
2 picture, we have tall buildings that -- all
3 around it. So I -- I'm having a little bit of
4 a hard time finding that the deviation for the
5 height was inappropriate.

6 And then on the parking, I think the data
7 that's been provided to us shows that -- that
8 the number of parking spaces, in fact, has
9 been -- is within the realm of what's
10 reasonable.

11 I think that our world is, quite frankly,
12 changing. And while that is the -- while our
13 code still says that there's a minimum number
14 of spaces, I think that we are recognizing that
15 the need for parking spaces should not drive
16 what our development looks like. And so I
17 believe that the parking that's been provided
18 is adequate, and I will -- and I think that it
19 meets the deviations -- the criteria for the
20 deviations.

21 I'm just going to say one thing, kind
22 of -- you know, it's hard for me to understand
23 as a lawyer why we would say for -- if it's a
24 redevelopment, that certainly 50 percent is
25 perfectly fine, but for new development, for

1 residential or a hotel, no, we've got to
2 have -- go to the minimum.

3 You look for rational -- a rational basis.
4 And I don't see a rational basis between --
5 clearly, the development, whether it's a
6 redevelopment or it is new development, is
7 going to generate, you know, similar traffic.
8 And, I mean, that's not the basis for my
9 decision, but I do think that -- that it's --
10 it's an -- to me, it's an antiquated
11 rational -- reason in our code.

12 So again, going back to the deviations and
13 the criteria for that, I do think that there
14 are economic difficulties. I do think that it
15 certainly is not based exclusively on a desire
16 to reduce the cost of developing the site. I
17 don't think it's going to diminish the property
18 values or interfere with the property rights of
19 others. And I don't think it's detrimental to
20 the public health.

21 And I don't think that the effect of the
22 proposed reduction -- well, let me turn that
23 around. Somebody said there was a difference
24 between -- in E, somebody talked about how
25 "furthers the objectives" is different from

1 "promoting the objectives." I think that they
2 are the same. Promoting and furthering the
3 objectives of our BID Plan, to me, they're one
4 and the same. I think that the project, quite
5 frankly, does do that.

6 So thank you.

7 THE CHAIRMAN: Thank you, Ms. Durden.

8 Mr. Padgett.

9 BOARD MEMBER PADGETT: I guess I get to go
10 last. I've looked through A and E, and just to
11 cover all bases, I agree with Ms. Durden. I
12 can't find where this property really violates
13 any of these. And I'm going to go into some of
14 why that is, but I'm going to tell you,
15 straight out, A through E, there's no reason
16 that we can't approve this.

17 Number one, this code, as we started out
18 the meeting with, is not a prescriptive code.
19 Everybody needs to remember that. This code is
20 designed for us, as a board, to agree or
21 disagree that these deviations should or
22 shouldn't be met for the type of project that's
23 going to go in.

24 We've got the DDRB to do that for us, and
25 they've already done that. For whatever

1 reason, and as this gentleman here mentioned,
2 after probably six, seven or eight months of
3 going through meetings and workshops, suddenly,
4 Aetna and Baptist show up here, in the eleventh
5 hour, after this gentleman spent probably
6 hundreds of thousands of dollars trying to get
7 this thing across the finish line, they woke up
8 one morning and decided they didn't like the
9 deal anymore, which, by the way, is a way
10 better deal than what Hines was going to do.
11 Hines was doing a 50-story project with a
12 parking garage that covered the whole entire
13 site. I mean, I'm shocked that you guys are
14 sitting here today, to be honest with you,
15 shocked.

16 On the parking -- we build apartments all
17 over the country. I've got them as small as
18 .75 a unit, one-and-a-half units. You know,
19 one-and-a-half spaces a unit is the norm, but
20 that is normally for a garden-style project,
21 out in a residential area, as Mr. Harden
22 mentioned. We're not in a residential area.
23 We're in an urban setting. In an urban
24 setting, one car space per unit is good.

25 Now, let me remind everyone that an

1 average apartment unit in the apartment world
2 is a thousand square feet average. A thousand
3 square foot average is driven because you have
4 a lot of three-bedroom and two-bedroom units to
5 go along with one-bedroom units that are
6 probably 6- or 700 square feet.

7 This project has a whole lot of studio
8 apartments, which will likely have one person,
9 maybe two in them; a whole lot of one-bedroom
10 apartments; and less than 50 percent of the
11 project is two-bedroom apartments. And there's
12 no three- or four-bedroom apartments except
13 maybe the townhouses, if I'm correct, and
14 there's very, very few of those.

15 So the average square foot of this project
16 is way under a thousand square feet per unit,
17 which means you're going to have fewer people
18 per unit on an average in the project. So to
19 be over one space per unit in an urban setting
20 is actually pretty good.

21 To do a project on this site -- this is a
22 very unique site. You can't do what was done
23 over at Lomax. Lomax, you can get enough
24 parking spaces this way (indicating) to be able
25 to go five stories that way (indicating) and

1 get enough units across that. This site
2 doesn't drive that. That's why we can't do a
3 50-foot setback. We have to have --

4 And, by the way, Hines had a 12. We're at
5 15, which is, again, not 50 stories. We're at
6 13. And we're not at a 12-foot setback, we're
7 at a 15-foot setback, which is still better
8 than what Hines was doing. And the first four
9 or five floors that front the river are -- they
10 look like -- if you look at the next picture
11 that shows it facing the river, they're only
12 five stories. The architect can probably tell
13 us.

14 So the first five stories that are
15 actually on the river, if you go back to the
16 nine -- or the 13 stories, I think the
17 13 stories are probably within a 50-foot
18 setback or more, even though the entire
19 building footprint does not sit on that
20 setback.

21 And it is a tiered -- it's tiered for the
22 riverfront. It steps up. You've got a pool
23 overlooking the river. The units are on the
24 river. Now, the parking garage is off the
25 river, which I think is a good idea. I don't

1 like the parking garage on the river.

2 So let's talk about diminishing values and
3 river views and the right to river views. I
4 happen to own a building on Riverside Avenue,
5 across the street from the river. So I ask
6 myself, if somebody builds on the lot on the
7 river, I'm going to lose my river view. Am I
8 losing my rights to a river view? No. You
9 know why I'm not losing my rights to a river
10 view? Because I didn't buy a river view,
11 everybody. I don't have a property on the
12 river. I've got a property across the street
13 from the river. And if somebody builds
14 something in front of me, I don't really have
15 anything to say about that because they've got
16 as much right to build over there as anybody
17 else down the street or as I did across the
18 street.

19 So you guys aren't losing any rights. You
20 don't have any rights. You don't have a right
21 to a river view. And most of the building is
22 over here (indicating). This building's over
23 here. You're losing a little bit here. You
24 can still see the river that way (indicating),
25 you can still see the river that way. But let

1 me remind you, you don't have any right to the
2 river view, none, because you're not on the
3 river. If you wanted a river view, you should
4 have bought the land. It was for sale, and you
5 probably could afford it, you should have
6 bought it.

7 So I'm not starting the motion, but I'm
8 going to approve everything with no exceptions.
9 That's going to be my vote.

10 That's it.

11 THE CHAIRMAN: Okay. Thank you,
12 Mr. Padgett.

13 Okay. With that, I would like to ask a
14 couple of questions. And just for -- just to
15 get an understanding of why and how --
16 Mr. Barakat and I were on the DDRB when the
17 Hines project was approved, along with Bayard
18 Spector's 65-story building and Steve Pardo's
19 complex over at the JEA property, and Commodore
20 Point and many, many other projects. We had 14
21 high-rises on the books at the time. Things
22 are a little different to me now.

23 But, Mr. Jones, when Mr. Gibbs asked you,
24 were -- if you heard anything that would change
25 your mind, you said you were blind-sided by the

1 opposition, and you -- but you didn't answer
2 the question, if you heard anything that would
3 change your mind had they been in the time
4 frame that you have preferred. Did you hear
5 anything that would change your mind?

6 MR. JONES: No.

7 THE CHAIRMAN: Look, that's what the
8 process is for. Whenever there is opposition,
9 you have ample opportunity. Whether it's the
10 last day or the first day, it doesn't matter to
11 me. That's why you have these open hearings.

12 Mr. Kytell [sic] -- is that --

13 MR. TICKELL: Tickell. Close enough.

14 THE CHAIRMAN: How long have you been with
15 Baptist real estate?

16 MR. TICKELL: I joined Baptist two years
17 ago. I have -- I'm sorry.

18 (Mr. Tickell approaches the podium.)

19 THE CHAIRMAN: Thank you.

20 MR. TICKELL: Keith Tickell, 841
21 Prudential Drive.

22 I've been with Baptist now two years.
23 Prior to that, I was chief operating officer
24 for Flagler Development. We're the largest
25 commercial developer in the state of Florida.

1 We've developed in South Florida, Tampa,
2 Orlando and Jacksonville.

3 THE CHAIRMAN: While you're here, can you
4 help me with the parking garage? And we're all
5 familiar with the railroad, the trains that go
6 by there --

7 MR. TICKELL: Yes, sir.

8 THE CHAIRMAN: -- five times a day and the
9 egress and ingress. Where is the egress and
10 ingress for that parking garage on Peninsula --
11 Prudential?

12 MR. TICKELL: So the parking garage will
13 have two egress/ingress points. One will be on
14 to Palm Avenue. That will be a three-way
15 access point. There will not be a southbound
16 on to Palm Avenue. The other access point will
17 be on what we call Baptist Way. That's
18 actually a private drive. Palm is a public
19 street. Baptist Way is the roadway that
20 transverses that site east to west.

21 THE CHAIRMAN: How does somebody cross the
22 road from the parking garage over to the Aetna
23 site?

24 MR. TICKELL: They would go right. And
25 then right now we have a situation where

1 Prudential T's into Palm, and it's not
2 signalized or -- it's stopped for Palm going
3 into Prudential.

4 THE CHAIRMAN: So how would a pedestrian
5 go from the parking garage -- from the new
6 garage --

7 MR. TICKELL: Unfortunately, it is a
8 mid-block crossing. Given the current
9 configuration, there's not a way to get to a
10 street corner to cross. So it's mid-block,
11 actually, between Prudential and the railroad
12 tracks.

13 THE CHAIRMAN: Okay. And who owns that --
14 you might not know this. Mr. Diebenow might be
15 able to answer this. Who owns that building
16 or -- or that space at the entrance?

17 MR. TICKELL: The building itself is
18 actually owned by Baptist. There was a former
19 marketing trailer that Hines had used there.
20 That piece and -- it's a small, rectangular
21 triangle. There's a little bit of surrounding
22 land that's owned by Baptist.

23 THE CHAIRMAN: Okay. Thank you.

24 Look, I -- I -- we all want the same
25 thing. We're here to try to help promote and

1 develop downtown.

2 And, Mr. Padgett, I agree, you know,
3 we're -- if you want it, you buy it.

4 I'm a little concerned with the 3 foot.
5 Every 3 feet is a 1-foot setback; is that
6 correct, Mr. Harden? Is that what you said,
7 every 3 feet --

8 MR. HARDEN: Every 3 feet up -- excuse me.

9 THE CHAIRMAN: -- requires a foot of
10 setback? That's not -- that's "shall."

11 MR. HARDEN: That's in the CCG-1 section
12 of the Downtown Overlay. And it says "shall."

13 THE CHAIRMAN: So how far -- if you go up,
14 how far off is the top of the building compared
15 to what it would be if they applied the 3 foot
16 to 1 foot, do you know?

17 MR. HARDEN: Yeah, I can do the math for
18 you. You'd start at 50 feet as opposed to
19 25 feet. You go 60 minus 190, which is 130.
20 You'd divide that by 3. So that's about 43
21 feet. So you'd be 93 feet.

22 THE CHAIRMAN: Okay. You know, it does
23 affect the people that -- thank you,
24 Mr. Harden.

25 It does affect the people sitting down in

1 that building looking out that way. I go back
2 to when -- when Mr. Balanky was going to build
3 San Marco Place, and Mr. Pardo was going to
4 build a large building on the corner and -- of
5 course, the Strand and so on. Mr. Barakat, you
6 may remember this.

7 There was a conversation about how you
8 make this work to -- to work for everybody
9 around the -- in the neighborhood. Mr. Balanky
10 turned his building. Mr. Pardo was going to
11 turn his building. Everybody was in agreement
12 with how we could make it work for everyone's
13 benefit.

14 Mr. Jones, I -- I deeply value the work of
15 the DDRB. I've served on it, and I know what
16 you do and how you do it and all the time that
17 goes into it.

18 We have four options here. One is to
19 grant the appeal, and we overturn the decision
20 of the DDRB; grant the appeal with conditions
21 to modify it and -- and modify the DDRB
22 conditions -- or decision; or deny it and
23 uphold your decision; or it can go back to the
24 DDRB for further discussion.

25 Obviously, we would like this -- as the

1 DIA, we would like this decision to -- to move
2 this project forward. Obviously, everyone
3 likes this project. I don't think anybody is
4 opposed to the project. Opposing whether it's
5 economically feasible or not or whether it's a
6 nice project and good to have, I don't think
7 that's the question. It's trying to tuck it
8 into a space that's already got difficulties.

9 And if you watch this area, you know this
10 area and see it, it's a complex area with a
11 train going through there. Nothing is going to
12 change that. We're not going to change that
13 probably in our lifetime. I know there's
14 efforts to make some changes and keep the train
15 moving a little faster, but I sat there and
16 watched an ambulance on the outside of the
17 train, waiting for the train to go by the other
18 day, and it's chaos around there at times. And
19 I'm not sure what "peak" is. I don't know what
20 "peak" means in a hospital setting.

21 Baptist has always been a great city
22 business. They've done great things for this
23 city, as has Aetna, yet we want to see these
24 kind of projects done. We want to move these
25 projects along. We're excited. We're never

1 going to be able to have these kind of things
2 if we don't -- if we don't work at it and make
3 them happen. This property would probably sit
4 there with no movement whatsoever. I don't
5 know how anybody could do it and make it work.

6 Is there any possibility of moving the --
7 rearranging the entrance and exit off of the
8 railroad drives? Mr. Jones, did y'all discuss
9 the --

10 MR. JONES: Yes. I mean, that was part of
11 the genesis behind recommending a workshop.
12 We -- and I don't know how -- I can't recall
13 how long we were there. We were probably there
14 for about three hours, and we worked directly
15 with the architect. And we spent, I recall, a
16 substantive amount of time dealing with just
17 your point, about how to make the setback work.

18 I mean, you know, again, it's not the most
19 ideal situation. And again, it's not our point
20 to argue whether a building should be here or
21 not. Maybe in the perfect world, it happened
22 in some other place, and we're not even here,
23 but the reality is, is that they do have the
24 right to do this project here. And that was
25 why we had a separate level workshop, to sit

1 down and deal specifically with this particular
2 issue.

3 And that, as a matter of fact, was why
4 they convert -- you know, the big issue, the
5 elephant in the room at the time was the -- was
6 the garage structure sort of fronting the
7 river. We said, you know, we've got to figure
8 out a way to soften that up. We've got to
9 figure out a way to ensure that we're
10 activating that space and how we can make this
11 a liveable spot for people who may actually
12 want to work at Baptist or Aetna, or whoever in
13 there, and how we can get people from
14 Prudential and how we can get people on the
15 Riverwalk there.

16 So there was a lot of discussion about the
17 setbacks. And that's just what we were able to
18 do to make it work within the site constraints.
19 I don't think -- I mean, we sliced it and diced
20 it probably five or six different ways, and
21 this was the most optimal configuration.

22 THE CHAIRMAN: And I don't think that the
23 egress and ingress is of issue except was there
24 an opportunity for creating more parking space
25 by doing that and having the Baptist space in

1 the front of this and the Aetna garage right
2 next to it. I assume y'all looked at any
3 opportunity to try to create extra parking
4 or --

5 MR. JONES: Yes. And, of course, you
6 know, with my -- I mean, I do have -- I'm a
7 transportation planner, so I can talk all day
8 long about parking and traffic needs in urban
9 settings. And again, if anything, I thought we
10 were -- I was one of the first to say we don't
11 need that much parking along that, we need this
12 to be a wider, multiuse path instead of having
13 parallel spots all the way up and down it, but,
14 you know, we recognized what was needed to make
15 the site work.

16 But again, I think one of our bigger
17 concerns was just a little bit about that, that
18 intersection, could we improve -- a big thing
19 to me was, how could we improve pedestrian
20 safety along, you know, Palm Avenue and
21 Prudential. I mean, somebody was hit
22 yesterday. I don't know if you know that, but
23 I think somebody was severely hurt on
24 Prudential Drive yesterday.

25 So, you know, one of the things we were

1 trying to do is think about how we can
2 ultimately make Palm and Prudential much more
3 pedestrian safety -- or much more safe for
4 pedestrians and cyclists, but, you know, we --
5 we got as much -- and to their credit, to be
6 able to find some additional spots, I think,
7 speaks well because we were more than content
8 on making the -- I think the original 359 work
9 for the site.

10 THE CHAIRMAN: I attended your workshop
11 and I attended your final meeting when you
12 approved it. And I'm aware of the work that
13 went into this and the effort by the developer
14 to try to make this work.

15 I keep going back to the -- you know, it
16 works and -- from an economic standpoint at
17 this level, but if it didn't at this level and
18 it had to be closer or higher, you know, what
19 would you have done.

20 Does the traffic study indicate accidents
21 or injuries or anything in the past? I mean,
22 do we have a history? And did y'all look at
23 that at DDRB as to the --

24 MR. JONES: We did. Again, it's not
25 necessar- -- again, not the responsibility of

1 them to address that. I think that's a bigger
2 city issue. We just did, as you know, invest
3 in a road diet project on Riverplace Boulevard.

4 THE CHAIRMAN: Right.

5 MR. JONES: We're taking a lane out. You
6 know, so I think, again, when we start looking
7 at the treatment here -- I mean, of course, we
8 have a challenging condition with the railroad
9 track. But no, other than really just making
10 comments about how it would be wonderful to be
11 able to get people to the river and to
12 basically, you know, come down Prudential Drive
13 a little bit more safe, but not something that
14 would be put on the burden of the applicant.

15 THE CHAIRMAN: Well, if we have all this
16 parking -- go ahead, Mr. Diebenow.

17 MR. DIEBENOW: I was just going to answer
18 your question, Mr. Chairman, if you want to,
19 about the traffic study. Yes, we did look at
20 crashes and pedestrian safety. And Table 16 in
21 our traffic study actually outlines
22 improvements that we, that the developer, the
23 applicant below, would make to improve
24 pedestrian safety.

25 Isn't it ironic that Baptist is building a

1 2,200-space parking garage across the street,
2 and yet they leave a mid-block pedestrian
3 crossing that they won't even spend the
4 \$10,000, or whatever it cost, to change the
5 crosswalk, and they put that burden on us.
6 Well, you know what, we're happy to --

7 MR. HARDEN: Steve, that's just -- now,
8 we're building an overpass there. It cost us
9 two-and-a-half million dollars.

10 MR. DIEBENOW: Yeah.

11 MR. HARDEN: And I think you know it.

12 VICE CHAIR MEEKS: Mr. Chairman.

13 MR. DIEBENOW: Where's the --

14 VICE CHAIRMAN MEEKS: Mr. Chairman, I
15 think we're getting pretty far afield here.

16 THE CHAIRMAN: Right.

17 VICE CHAIR MEEKS: Shortly, I'd like to
18 introduce a motion.

19 THE CHAIRMAN: We're going to do motions
20 on every one of these. I just want to make
21 sure --

22 MR. DIEBENOW: My point is, the traffic
23 study addresses pedestrian safety. We're going
24 to make improvements that we can deal with.

25 VICE CHAIR MEEKS: If I might, let me

1 clarify that with Mr. Teal. Can we have one
2 motion, if such a motion was offered, to reject
3 the appeal in total or do we have to take each
4 item individually?

5 MR. TEAL: You need -- I believe you need
6 to address each item individually. And then
7 once you address those items individually, you
8 can make a motion on the entire project as a
9 whole.

10 THE CHAIRMAN: Okay. We were going to go
11 through them.

12 VICE CHAIR MEEKS: Let me clarify that, if
13 I might. Can that all be done in one motion if
14 they're all five listed?

15 MR. TEAL: No, because you have to have
16 separate findings on each of the different
17 deviation requests. And so the burden of the
18 DIA is to determine whether there's competent
19 substantial evidence on each of the deviation
20 requests, each of the five requests, to support
21 the request itself.

22 Your formula for deciding whether there's
23 evidence to support the requests are, you know,
24 the five criteria that are in Subsection 22,
25 and so whether there's evidence to support each

1 of those criteria on each of the separate
2 requests.

3 THE CHAIRMAN: Mr. Teal, if we have 1
4 through 5 that we -- a motion doesn't pass, how
5 do you pass the project as a whole?

6 MR. TEAL: Well, you could, for example,
7 find that there's competent substantial
8 evidence that the real parking number might be
9 400 instead of 349. I think there was
10 testimony as to that. So instead of the
11 deviation request for 349 spaces, you could
12 make the deviation request for 400 spaces, for
13 example. You know, you could -- you could
14 approve it for that, for example.

15 THE CHAIRMAN: Okay.

16 MR. TEAL: On the height, you know, you
17 could say no, you know, you haven't
18 demonstrated your case for the height, and then
19 you could approve it at a lower height. Now,
20 then it's up to the developer to decide, you
21 know, whether or not that project that's
22 approved by the DIA would be worth pursuing,
23 but your job is to decide what project meets
24 the requirements of the code.

25 THE CHAIRMAN: Okay. So we're going to go

1 through this. Are there any other comments by
2 the board members?

3 BOARD MEMBERS: (No response.)

4 THE CHAIRMAN: Mr. Barakat, do you --

5 BOARD MEMBER BARAKAT: No.

6 THE CHAIRMAN: Heard all your questions
7 and answers and --

8 BOARD MEMBER BARAKAT: Yes.

9 THE CHAIRMAN: Anybody else?

10 BOARD MEMBERS: (No response.)

11 THE CHAIRMAN: Okay. Let's start with the
12 deviations. And if I could get a motion on the
13 setback from Prudential, the deviation. Do we
14 have a motion?

15 VICE CHAIR MEEKS: I'd like to move that
16 we deny the appeal on that item.

17 THE CHAIRMAN: Second?

18 BOARD MEMBER MOODY: Second.

19 THE CHAIRMAN: All in favor, say aye.

20 BOARD MEMBERS: Aye.

21 THE CHAIRMAN: Opposed, like sign.

22 BOARD MEMBERS: (No response.)

23 THE CHAIRMAN: Okay. And there is no
24 public --

25 BOARD MEMBER GIBBS: Do we need

1 discussion?

2 MR. TEAL: You do need discussion.

3 THE CHAIRMAN: Oh, I'm sorry. I'm sorry.
4 I was holding back on the public discussion.

5 MR. TEAL: Right. And just to clarify the
6 motion, the motion would be to approve the
7 deviation.

8 THE CHAIRMAN: Right.

9 MR. TEAL: Okay. And then once you get to
10 the final vote, it will be to deny the appeal
11 or to grant the appeal, you know.

12 VICE CHAIR MEEKS: Should I rephrase the
13 motion then?

14 MR. TEAL: I think we understand.

15 THE CHAIRMAN: No. I think it was -- I
16 think it was clear. Now, the only thing is
17 we're not having public comment on these
18 things, so -- but we do have discussion of the
19 board members.

20 So we have a motion and second, and you
21 had some discussion on that?

22 BOARD MEMBER GIBBS: Yeah. The setback
23 that DDRB found was 25 feet? Because I heard
24 somebody say 15 feet.

25 MR. TEAL: Let me clarify that point.

1 There's technically two setbacks that
2 you're worried about here. The first setback
3 is from the project to Prudential. The second
4 setback is on the waterfront design standards,
5 from the edge of the water to the edge of the
6 building. So the setback from Prudential to
7 the building is what? It's a request from zero
8 to what?

9 MR. KLEMENT: Yeah, I believe --

10 MR. DIEBENOW: 758 feet is the setback
11 that's requested from Prudential to the edge of
12 the building.

13 BOARD MEMBER GIBBS: And the water
14 setback, please?

15 MR. DIEBENOW: The water setback, which is
16 Criteria 5, is from 50 to 25.

17 BOARD MEMBER GIBBS: Okay. Thank you.

18 THE CHAIRMAN: And we're voting on the
19 setback from Prudential. And the waterfront is
20 from 50 to 25.

21 Okay. With that, any other questions or
22 comments, discussion?

23 Ms. Durden.

24 BOARD MEMBER DURDEN: Primarily, for the
25 record, in looking at this, I think that it

1 does meet the deviation -- what happened to my
2 sheet? That the deviation does meet the
3 criteria set out in 656.361.22, in that there
4 are practical difficulties in carrying out the
5 strict letter of the requirement, primarily as
6 a result of the shape of the parcel, and that
7 it does not -- it's not based exclusively on a
8 desire to reduce the cost of developing the
9 site. It's primarily the way the site is
10 shaped. I think that it does -- the other
11 criteria are also met in regards to this
12 particular deviation request.

13 THE CHAIRMAN: So yes, the approval of the
14 deviation is what you're voting for, correct?
15 Right?

16 BOARD MEMBER DURDEN: Yes.

17 THE CHAIRMAN: Okay. Any other discussion
18 on Item 1, the setback from Prudential?

19 BOARD MEMBERS: (No response.)

20 THE CHAIRMAN: We have a motion and a
21 second. All in favor, say aye.

22 BOARD MEMBERS: Aye.

23 (Board Member Barakat abstains from
24 voting.)

25 THE CHAIRMAN: Opposed, like sign.

1 BOARD MEMBERS: (No response.)

2 THE CHAIRMAN: Thank you.

3 Number 2, do I have a motion for the
4 height deviation?

5 BOARD MEMBER GIBBS: Mr. Chairman, I
6 move --

7 THE CHAIRMAN: Approval of the height
8 deviation.

9 BOARD MEMBER GIBBS: I move to uphold
10 DDRB's findings with regard to the deviation on
11 the height.

12 THE CHAIRMAN: Okay. Do we have a second?

13 VICE CHAIR MEEKS: Second.

14 THE CHAIRMAN: Okay. Any discussion?

15 BOARD MEMBER DURDEN: For the record,
16 which I think -- Mr. Teal, do we need to make
17 some findings in regards to these?

18 MR. TEAL: I think that the record has
19 probably been developed --

20 BOARD MEMBER DURDEN: Okay.

21 MR. TEAL: -- pretty clearly.

22 BOARD MEMBER DURDEN: Okay. Great.

23 MR. TEAL: So you can rely on the evidence
24 that you've heard today from both sides, you
25 know, to support your vote.

1 BOARD MEMBER DURDEN: Okay. Thank you
2 very much.

3 THE CHAIRMAN: That good? Okay.

4 No more discussion, all in favor of
5 approval of the deviation of the height
6 motion -- all in favor, say aye.

7 BOARD MEMBER PADGETT: Aye.

8 BOARD MEMBER DURDEN: Aye.

9 BOARD MEMBER MOODY: Aye.

10 BOARD MEMBER GIBBS: Aye.

11 VICE CHAIR MEEKS: Aye.

12 (Board Member Barakat abstains from
13 voting.)

14 THE CHAIRMAN: Opposed?

15 I oppose.

16 On the parking, Number 3, approval of the
17 deviation for the parking -- everyone
18 understands the deviation of the parking,
19 correct?

20 BOARD MEMBERS: (No response.)

21 THE CHAIRMAN: Do we have a motion for the
22 deviation for parking -- approval of the
23 deviation?

24 BOARD MEMBER GIBBS: So moved.

25 THE CHAIRMAN: Wait. Mr. Teal.

1 MR. TEAL: The request that's been made to
2 the DIA at this point is for a reduction of the
3 parking spaces to 349 spaces. So that is the
4 request that's made. Like I mentioned before,
5 you've heard some evidence on a different
6 number. So I just wanted to make sure that you
7 were aware that there may be a different amount
8 or reduction that could be considered.

9 THE CHAIRMAN: Well, we heard 369, and
10 that did not count the motorcycle spaces. And
11 I don't know how a motorcycle space is -- Marc,
12 you may know this, or you may know how that
13 affects the number. Is it a percentage of
14 spaces? And how --

15 (Mr. Diebenow approaches the podium.)

16 THE CHAIRMAN: Let me make sure first. I
17 don't want to get it --

18 So the -- we're asking for an approval of
19 the deviation to 349.

20 MR. TEAL: That was the request that was
21 made of DDRB.

22 THE CHAIRMAN: And, Mr. Jones, how many
23 spaces are there?

24 MR. JONES: Oh, as they're -- as we're
25 approving for --

1 THE CHAIRMAN: Yes.

2 MR. JONES: 359 spaces is what we, I
3 think, approved for. And, I believe, with the
4 motorcycle -- I'm not sure. I can't quote the
5 quota, but you're allowed a certain percentage
6 of motorcycle spaces to count into that total
7 number.

8 THE CHAIRMAN: Mr. Diebenow, if we need to
9 clarify that --

10 MR. DIEBENOW: What we would -- what we
11 would ask is that 381 be approved as the
12 deviation amount, and then that would be the
13 number.

14 THE CHAIRMAN: What was approved by DDRB?

15 MR. DIEBENOW: I think the number that was
16 approved by DDRB was the 359 number that Fred
17 just talked about. 346 was kind of the number
18 that we went in talking about, and I think they
19 approved 358 or 359.

20 Just to simplify it, 381, which includes
21 the 12 that we're reserving for the public. So
22 it would be 369 for use by the development and
23 12 for the public. That is what we would ask
24 for approval on today.

25 THE CHAIRMAN: Okay. Everyone understand

1 that?

2 Okay. So we have a motion on parking --
3 or did you make a motion?

4 VICE CHAIR MEEKS: I think I was starting
5 to.

6 THE CHAIRMAN: Okay. Do we have a motion
7 on the parking deviation?

8 VICE CHAIR MEEKS: That we approve the
9 deviation on the parking as just explained by
10 Mr. Diebenow as 381 spaces.

11 THE CHAIRMAN: Do we have a second?

12 BOARD MEMBER PADGETT: Second.

13 THE CHAIRMAN: Any discussion?

14 BOARD MEMBERS: (No response.)

15 THE CHAIRMAN: Hearing no discussion, all
16 in favor, say aye.

17 BOARD MEMBER PADGETT: Aye.

18 BOARD MEMBER DURDEN: Aye.

19 BOARD MEMBER MOODY: Aye.

20 BOARD MEMBER GIBBS: Aye.

21 VICE CHAIR MEEKS: Aye.

22 (Board Member Barakat abstains from
23 voting.)

24 THE CHAIRMAN: Opposed, like sign.

25 I oppose the parking.

1 Streetscape, Number 4, approval of the
2 deviation for the streetscape. It was not --
3 well, I don't even know that there was a
4 deviation on the streetscape, was there?

5 MR. TEAL: There was a deviation on
6 streetscape --

7 THE CHAIRMAN: But it wasn't an issue with
8 the developer?

9 MR. TEAL: They did not raise it at
10 today's hearing.

11 THE CHAIRMAN: Has it been raised in the
12 past?

13 BOARD MEMBER DURDEN: It's raised in
14 the --

15 MR. TEAL: Well, whether they raised it or
16 not, you still have to find that there was
17 evidence --

18 THE CHAIRMAN: Okay.

19 MR. TEAL: -- to support the request.

20 THE CHAIRMAN: Okay. Do we have a motion
21 for the streetscape?

22 BOARD MEMBER GIBBS: I would move the
23 DDRB's findings with regard to the deviation on
24 the streetscape.

25 THE CHAIRMAN: All right. Do we have a

1 second?

2 BOARD MEMBER PADGETT: Second.

3 THE CHAIRMAN: All in favor, say aye.

4 BOARD MEMBERS: Aye.

5 (Board Member Barakat abstains from
6 voting.)

7 THE CHAIRMAN: Opposed, like sign.

8 BOARD MEMBERS: (No response.)

9 THE CHAIRMAN: Okay. Waterfront setback
10 from 50 feet to 25 feet, do we have a motion to
11 approve the deviation as set by DDRB?

12 VICE CHAIR MEEKS: So moved.

13 THE CHAIRMAN: Second?

14 BOARD MEMBER PADGETT: Second.

15 THE CHAIRMAN: Any discussion?

16 BOARD MEMBERS: (No response.)

17 THE CHAIRMAN: No discussion. All in
18 favor of the waterfront setback deviation, say
19 aye.

20 BOARD MEMBERS: Aye.

21 (Board Member Barakat abstains from
22 voting.)

23 THE CHAIRMAN: Opposed, like sign.

24 BOARD MEMBERS: (No response.)

25 THE CHAIRMAN: Okay. Everything was

1 approved. With that, we come to the project as
2 a whole.

3 MR. TEAL: Mr. Chairman, with regard to
4 the project as a whole, there were some
5 conditions on the approval that DDRB assigned
6 to it. And if you want Mr. Klement to go
7 through those --

8 THE CHAIRMAN: Yeah.

9 MR. TEAL: -- he could talk about what
10 those conditions were.

11 THE CHAIRMAN: Mr. Klement, if you come up
12 to the microphone and tell us -- you're going
13 to tell us what the conditions were.

14 (Mr. Klement approaches the podium.)

15 MR. KLEMENT: Yes, sir, Mr. Chairman, and
16 members of the Board.

17 There were conditions that were attached
18 to the approval that further clarified some of
19 the improvements that were looked at as part of
20 the project. They are in my staff report and
21 they are in the approval letter from the
22 chairman, and I'm going to try to highlight
23 them here for you.

24 The first one dealt with the review and
25 approval by the Downtown Development Review

1 Board, design to install a 12-foot multiuse
2 path. The multiuse path shall run across the
3 property from Prudential Drive. And there's a
4 paragraph that goes on that clarifies the
5 specific length, width and design that relates
6 back to that 25-foot setback in front of the
7 building along the waterfront.

8 THE CHAIRMAN: Mr. Klement, can I ask, the
9 12 foot is in addition to or is that a total of
10 12 feet?

11 MR. KLEMENT: That's in addition to. The
12 total would be the 25 feet.

13 THE CHAIRMAN: Okay. Thank you.

14 MR. KLEMENT: Setback is what we're
15 talking about.

16 THE CHAIRMAN: Right. And that's along
17 the railroad side?

18 MR. KLEMENT: That's along the waterfront
19 side.

20 THE CHAIRMAN: The waterfront side. Okay.

21 MR. TEAL: Correct me if I'm wrong on
22 this, Mr. Klement, but I believe that's both,
23 both the path from Prudential, back to the
24 property, and then along the waterfront in
25 front of the property.

1 MR. KLEMENT: Correct.

2 MR. TEAL: Okay.

3 MR. KLEMENT: I'm sorry. Yes. It's
4 referred to as Exhibit A in our staff
5 conditions.

6 B is subject to review and approval by
7 DDRB. Developer shall expand the existing
8 portion of the Riverwalk along the south bank
9 of the St. Johns River, running through the
10 property, from its current width of 8 feet to a
11 total width of 20 feet. The developer shall
12 grant to the City a pedestrian access easement
13 over the Riverwalk to run with property deed in
14 perpetuity. Specific terms of the easement are
15 subject to review and approval by the City's
16 Office of General Counsel, Risk Management
17 Department and Department of Public Works. And
18 that was condition B.

19 Condition C, developer will construct or
20 cause to be constructed, at their expense,
21 Riverwalk expansion and multiuse path
22 identification -- multiuse path as identified
23 above. The Riverwalk and multiuse path shall
24 be of color scheme and materials to complement
25 existing portions of the south bank Riverwalk

1 such that it is obvious that the Riverwalk and
2 path are to the benefit of the public and open
3 to the public.

4 At Prudential Drive, there shall be
5 double-sided wayfinding signage with directions
6 to the Riverwalk and Prudential Drive. Final
7 designs will be subject to Downtown Development
8 Review Board approval. And that was Condition
9 C.

10 Condition D, developer shall provide for
11 review and approval by the DDRB staff, prior to
12 ten-set, construction review for permit by the
13 City of Jacksonville, the placement, design,
14 (number suggested) minimum four double-faced
15 signs addressing wayfinding for the Riverwalk
16 and river access. That was, again,
17 Condition D.

18 THE CHAIRMAN: Riverfront wayfaring
19 signage?

20 MR. KLEMENT: Wayfinding signage.

21 THE CHAIRMAN: For the public to --

22 MR. KLEMENT: Yes.

23 THE CHAIRMAN: -- go to the Riverwalk?

24 MR. KLEMENT: Correct.

25 THE CHAIRMAN: All right. That's -- how

1 do they -- where do they park to go to the
2 Riverwalk?

3 MR. KLEMENT: There were spaces available
4 as part of this master plan along the rail line
5 frontage that were parallel to and open to the
6 public and designated for public parking for
7 Riverwalk access.

8 THE CHAIRMAN: That was D?

9 MR. KLEMENT: That was D. We're on E.
10 Developer shall provide a traffic
11 operations study for review and approval by the
12 Planning and Development Department prior to
13 ten-set construction review for permit by the
14 COJ. That was E.

15 And F, developer shall provide necessary
16 easements (Riverwalk access from Prudential
17 Drive and Riverwalk acces along St. Johns
18 River) for acceptance by the COJ, the City of
19 Jacksonville Council, prior to building permit
20 approval by the COJ. And that was condition F.

21 THE CHAIRMAN: And that was the end?

22 MR. KLEMENT: Yes.

23 THE CHAIRMAN: Okay. Thank you.

24 Okay. Any questions or comments on those
25 conditions?

1 BOARD MEMBERS: (No response.)

2 THE CHAIRMAN: Okay. So, Mr. Teal, now we
3 can vote for the project as a whole. And you
4 have four choices with this project: Grant the
5 appeal, which overturns DDRB; grant the
6 approval -- I mean, the appeal, with
7 conditions, which DDRB can modify; or we modify
8 their decision; or deny the appeal as a whole
9 and uphold the DDRB decision; or it can go
10 back.

11 Yes, sir.

12 MR. DIEBENOW: Mr. Chairman, I just have a
13 question for Mr. Teal. I'm sorry to delay
14 this, but there's also three additional
15 criteria that are supposed to be considered by
16 the -- that are supposed to be considered by
17 the board in the context of an appeal. Those
18 are listed on the agenda. There's little Roman
19 numeral i, ii and iii. And I just think that
20 it would be beneficial for the board to make an
21 affirmative finding on little Roman numeral i,
22 double i and triple i.

23 THE CHAIRMAN: Okay. It's consistent and
24 compatible -- does everyone have a copy of
25 this, evaluating the appeal (inaudible) to

1 consider the proposed project?

2 BOARD MEMBER DURDEN: No.

3 THE CHAIRMAN: It is not necessary that we
4 approve these items because -- I don't think.

5 Mr. Teal, why would we -- do you see
6 Number 1, 2 and 3? Roman numeral I, II and
7 III?

8 BOARD MEMBER DURDEN: Is there a code
9 section, Mr. Chairman?

10 THE CHAIRMAN: There is. I -- I was given
11 this by staff. Item 1 is -- and we'll get a
12 copy for everyone to be able to see. You don't
13 have one of these in your package.

14 It's consistent and compatible -- I mean,
15 this is what we have been doing this whole
16 time, Mr. Diebenow. It's consistent and
17 compatible with all proposed development and
18 redevelopment with the BID Plan.

19 Two, is consistent with -- have we got
20 copies?

21 VICE CHAIRMAN MEEKS: We do.

22 THE CHAIRMAN: Is consistent with and
23 provides mitigation as may be required by the
24 Consolidated Downtown DRI Development Order and
25 Transportation Concurrency Exception --

1 THE REPORTER: I'm sorry --

2 THE CHAIRMAN: Okay. We're getting a --
3 we're getting a copy of this to everyone.
4 We'll give it to you.

5 Mr. Teal, is it necessary to address these
6 in the decision or --

7 MR. TEAL: And just for the benefit of the
8 DIA, where these are from -- because you're
9 sitting in a de novo capacity --

10 THE CHAIRMAN: Uh-huh.

11 MR. TEAL: -- these are general three --
12 three criteria that the DDRB has to consider
13 when it reviews a project. Just like you've
14 got the criteria for when they evaluate a
15 deviation request, these three criteria are
16 what must be met in order to approve a project
17 as -- in its entirety, as a whole project.

18 So, you know, I don't know that it's
19 necessary for -- you know, for you to -- I
20 believe, you know, that there's -- there's
21 evidence that's in the record that would
22 support -- you know, to support a finding on
23 these, but just for benefit of the record,
24 those are from 656.361.7.

25 And the questions that are asked is

1 whether the proposed projects -- taking into
2 account the deviations that you just approved,
3 whether the proposed project is compatible and
4 consistent with all proposed development and
5 redevelopment with the BID Plan. So is it
6 consistent with the BID.

7 Is the project consistent with and
8 provides mitigation as may be required for the
9 Consolidated Downtown DRI and the
10 Transportation Concurrency Exception Area
11 Implementation Plan, which I think Mr. Klement
12 has talked about in his staff report.

13 I don't believe that that particular
14 provision is applicable in terms of the TCEA
15 Implementation Plan.

16 The third one is, whether the proposed
17 project -- while considering the design-related
18 issues of the application, whether the project
19 is in compliance with the Downtown District
20 Regulations -- that's the Zoning Code -- the
21 Downtown Design Guidelines and all related
22 approved design guidelines and standards,
23 subject always to the ultimate authority of the
24 DIA to interpret the BID Plan, the Downtown
25 Overlay Zone and the Downtown Design

1 Guidelines.

2 So basically, is it -- is it consistent
3 and compliant with -- you know, what used to be
4 the Downtown Master Plan is now the Downtown
5 BID, the Downtown Zoning Overlay, and, you
6 know, all, you know, requests, really, all --
7 make sure that we're consistent with our
8 Comprehensive Plan. Again, that is addressed
9 by Mr. Klement in the staff report. And it's a
10 lot of the same issues that you heard today
11 that you were provided with testimony and
12 evidence about today.

13 THE CHAIRMAN: And it's consistent with
14 the work of the DDRB, efforts, before this
15 anyway, all of these.

16 MR. TEAL: The DDRB did make a positive
17 finding that it was -- it met these criteria.

18 THE CHAIRMAN: So, Mr. Diebenow, what's
19 your -- I mean, we can -- we can make a motion
20 and -- but I'm not sure that this is --

21 MR. DIEBENOW: Well, Mr. Chairman, in an
22 abundance of caution, we would ask you to make
23 findings and adopt them regarding those three
24 criteria because I have a feeling that this
25 isn't the last time we're going to be standing

1 in front of a body talking about it. So we
2 would ask that you make the findings, as you
3 did before, based on the evidence we have
4 presented, to show that those three criteria
5 from the code have been met.

6 THE CHAIRMAN: Okay. Does everyone on the
7 board have these notes? They see it? Any
8 questions or comments?

9 BOARD MEMBERS: (No response.)

10 THE CHAIRMAN: First off, is there a
11 motion to approve these conditions for the
12 project?

13 VICE CHAIR MEEKS: I'd like to do that.

14 Mr. Teal, after all of this, I'm not sure
15 exactly how to propose that motion.

16 MR. TEAL: Well, the -- the options that
17 are available to you right now are to grant the
18 appeal, which means that you want to overturn
19 what the DDRB did, that you want to grant the
20 appeal by making some changes to what the DDRB
21 did; to deny the appeal, which is to support
22 what the DDRB did and --

23 VICE CHAIR MEEKS: I'm on 3, deny the
24 appeal. So how do I say that and incorporate
25 these things Mr. Diebenow is asking for?

1 MR. TEAL: You would just make a motion to
2 deny the appeal. And if it's seconded, then
3 you will have discussion on your motion. And
4 in that discussion, then you can go through the
5 criteria.

6 VICE CHAIR MEEKS: Well, it seems like --

7 BOARD MEMBER DURDEN: Mr. Chairman.

8 THE CHAIRMAN: If you find these -- I
9 mean, let him finish his --

10 VICE CHAIR MEEKS: It seems like -- and in
11 the motion I just thought you would go ahead
12 and reference these items.

13 MR. TEAL: You could -- you could, in your
14 motion, move to deny the appeal because you
15 find that the proposed project is 1, 2 and 3 --

16 VICE CHAIR MEEKS: There we go.

17 MR. TEAL: -- if you wanted to do it that
18 way. And then during your discussion, you can
19 flesh out more of what that means.

20 THE CHAIRMAN: Okay. And, Ms. Durden,
21 will your comments hold for discussion after
22 this motion or --

23 BOARD MEMBER DURDEN: No.

24 THE CHAIRMAN: Okay. Ms. Durden.

25 BOARD MEMBER DURDEN: Thank you very much,

1 Mr. Chairman.

2 It seems that we've made one change on the
3 parking, on the number of parking spaces. So
4 would it be actually to deny with a
5 modification, Mr. Teal?

6 MR. TEAL: I would say that the proper
7 motion would be to deny the appeal subject to
8 the deviations that the DIA voted on today.
9 You know, we can clarify to say that the effect
10 of the denial will be to grant approval of the
11 project subject to the five deviations and the
12 additional -- additional -- the word's escaping
13 me -- conditions, additional conditions that
14 Mr. Klement read into the record earlier.

15 THE CHAIRMAN: Okay.

16 BOARD MEMBER DURDEN: Excuse me.

17 THE CHAIRMAN: Wait. Let me let her
18 finish.

19 Go ahead.

20 MR. TEAL: We're just talking about what
21 the motion would be.

22 THE CHAIRMAN: Right.

23 BOARD MEMBER DURDEN: Right. But the
24 condition that I'm talking about is -- on the
25 deviation for the parking --

1 MR. TEAL: Correct.

2 BOARD MEMBER DURDEN: -- is actually
3 different than what was approved by the DDRB.
4 That's where I'm saying that it's to deny
5 subject to a condition on the parking
6 deviation.

7 MR. TEAL: Right. But the effect of your
8 action will be to deny the appeal. The appeal
9 just wants the decision of the DDRB overturned
10 in its entirety. So the effect --

11 BOARD MEMBER DURDEN: Right.

12 MR. TEAL: -- would be to deny the appeal,
13 you know, and approve the project subject to
14 the deviations that were presented and approved
15 earlier by the DIA on this item.

16 BOARD MEMBER DURDEN: So was the devi- --
17 so just to be clear, the deviation on the
18 parking was for 381?

19 MR. TEAL: 381 was the deviation for
20 parking.

21 BOARD MEMBER DURDEN: Okay. Thank you.

22 THE CHAIRMAN: Okay. Mr. Meeks, do you --

23 MR. DIEBENOW: I'm sorry. I have one more
24 thing, Mr. Chairman. Again, it's Steve
25 Diebenow.

1 And I'm sorry, but another condition that
2 came out of the DDRB was regarding the building
3 materials, that we had to bring those back to
4 staff as well, as a part of the ten-set review
5 process.

6 So I just want to make sure that that
7 condition gets wrapped up as well, where the --
8 the building materials are addressed during
9 ten-set review as well.

10 THE CHAIRMAN: Well, you have two -- I
11 mean, that's supposed to be done prior to the
12 final approval. Were the conditions -- were
13 the materials approved in the final --

14 MR. DIEBENOW: The materials --

15 BOARD MEMBER DURDEN: Isn't that G?

16 MR. DIEBENOW: The materials were approved
17 on paper. And physical samples they wanted to
18 see prior to the ten-set or during the ten-set
19 review.

20 THE CHAIRMAN: Back to the full committee
21 or staff --

22 MR. DIEBENOW: Staff.

23 THE CHAIRMAN: -- for review.

24 MR. JONES: To staff and maybe one person
25 from the DDR- -- or just to be there to look

1 and get a feel of it.

2 BOARD MEMBER DURDEN: Wasn't that G that
3 was read into the record?

4 MR. DIEBENOW: Oh, I'm sorry. I might
5 have missed that.

6 BOARD MEMBER DURDEN: I thought -- I was
7 following along. Is this the same one, G?

8 MR. DIEBENOW: Yes. I'm sorry.

9 BOARD MEMBER DURDEN: And so let's just be
10 clear that Mr. Klement actually read that.

11 MR. DIEBENOW: I'm so sorry. Yes, that --
12 I must have missed that when it was read into
13 the record, but that is G from the findings
14 below.

15 THE CHAIRMAN: Okay. Does everyone
16 understand, there's a conceptual and a final?
17 And the final --

18 BOARD MEMBER GIBBS: Mr. Chair.

19 THE CHAIRMAN: Yes.

20 BOARD MEMBER GIBBS: I only heard A
21 through F.

22 THE CHAIRMAN: I did too. I had access as
23 F. And, Jim, we never heard G.

24 MR. TEAL: I'll tell you what, why don't
25 we have Mr. Klement just read G into the

1 record.

2 THE CHAIRMAN: Okay. Mr. Klement, can you
3 come back up and read G for us, quickly,
4 please?

5 MR. KLEMENT: I'm looking for my copy of G
6 right now.

7 BOARD MEMBER DURDEN: I have one.

8 MR. KLEMENT: If I may borrow it.

9 BOARD MEMBER DURDEN: It's actually in the
10 appellant's materials, the staff -- the
11 conditions. It was part and parcel --

12 MR. KLEMENT: I have a copy here.

13 Thank you.

14 BOARD MEMBER DURDEN: -- of the June
15 6th -- it's two pages.

16 THE CHAIRMAN: Mr. Klement -- and
17 Council -- thank you. Council Member Anderson,
18 thank you so much for being here. Appreciate
19 your indulgence.

20 VICE CHAIR MEEKS: Don't rush off. We
21 haven't finished yet.

22 (Mr. Klement approaches the podium.)

23 MR. KLEMENT: All right. Going to
24 Condition G, which -- the developer shall
25 present to one DDRB member and DDRB staff for

1 review and approval the appropriate
2 specifications cut/detail sheets and samples of
3 materials showing colors, textures for exterior
4 building materials, as well as the Riverwalk
5 development that includes lighting fixtures,
6 hardscape, pavers, furniture, railing types, to
7 verify building materials, colors, textures,
8 light fixtures, exterior furniture are in
9 accordance with the development plans presented
10 June 1, 2017, by the applicant.

11 (Council Member Anderson exits the
12 proceedings.)

13 THE CHAIRMAN: So the specifications were
14 submitted, but -- okay.

15 MR. KLEMENT: Correct. They are in part
16 of your package there. I know that they are
17 included in the package.

18 THE CHAIRMAN: Yeah. Okay.

19 Clear? Okay.

20 Mr. Meeks, you're going to attempt to make
21 a motion. This is for the project as a whole,
22 correct?

23 VICE CHAIR MEEKS: Correct.

24 I think, then, if -- Mr. Teal, if I need
25 to have any of this corrected, I'll defer to

1 your ability to do that.

2 I would like to move that we, one, reject
3 the appeal; two, we approve the project with
4 the conditions that have been read into the
5 record coming out of DDRB, understanding that
6 the parking spaces that we're now talking
7 about -- it's the last number I heard, 381.
8 381?

9 That we have considered it, in arriving at
10 this motion, sufficient, competent evidential
11 matter. And with particularity, we have
12 considered the three items, little i, little ii
13 and little iii, that are specifically mentioned
14 in the handout in front of us.

15 THE CHAIRMAN: Okay. Do we have a second?

16 BOARD MEMBER MOODY: Second.

17 THE CHAIRMAN: Any discussion?

18 BOARD MEMBER GIBBS: Did I hear -- did I
19 hear in the motion the conditions, including
20 the conditions?

21 VICE CHAIR MEEKS: Yes.

22 THE CHAIRMAN: Yes. The conditions --
23 subject to the conditions as voted on today and
24 approved today.

25 Any other discussion?

1 BOARD MEMBER DURDEN: Mr. Chairman.

2 THE CHAIRMAN: Yes, Ms. Durden.

3 BOARD MEMBER DURDEN: I just want to say
4 that in the past, I've -- in the one other
5 instance where we have had an appeal, I felt
6 that that project had the capability of -- the
7 project and the project site had a capability
8 to meet the letter of the law.

9 And I want to say -- and I've been a
10 stickler for the code requirements. My role
11 here is the planner, the urban planner for the
12 board. I've been a stickler for these code
13 requirements.

14 I was very much opposed to this project,
15 you may recall, when it first came before us.
16 And I feel like I -- that the -- the shape of
17 this site and the degree of changes that were
18 made from the time that this project first came
19 before us and first came before the DDRB led me
20 to believe that I could support this project.
21 I believe that there is competent substantial
22 evidence in the record to support the motion
23 that's been made.

24 THE CHAIRMAN: Thank you, Ms. Durden.

25 Mr. Moody, any comment?

1 BOARD MEMBER MOODY: No comment.

2 THE CHAIRMAN: Any other comments by any
3 board members?

4 BOARD MEMBERS: (No response.)

5 THE CHAIRMAN: Look, I didn't like this
6 project at the beginning. I'm not sure -- I
7 saw the hard work that went into it with the
8 DDRB and the applicant and how -- what they did
9 to work with the City and work with the DDRB in
10 answering, responding and doing a tremendous
11 job.

12 I can't deny the fact that we have a great
13 corporate citizen across the street that does
14 wonderful things for this city and always steps
15 up. I would always like to see this -- we go
16 back to the drawing board, and I know we've
17 done that so many times.

18 It's great to see this piece of property
19 developed. I'm not sure that anybody could
20 ever be exactly -- it can't be ideal because of
21 the closeness to the Riverwalk and all, but I
22 think everybody did a wonderful job.

23 I just struggle with the -- the great
24 corporate citizen and the work that's being
25 done and how it's all being put into this

1 corner when we're working so hard on that road
2 diet on Riverplace Drive [sic] and so on. And
3 there's -- there might not be an answer. There
4 might not be a better answer than what we have
5 here.

6 Mr. Harden brought up some points about,
7 you can do all these things, you just can't do
8 it at the level that it's being done. Well, if
9 that's the case, we might not ever see it or
10 see anything on this site. I have to base this
11 on, everybody has worked together and done what
12 they can.

13 So, Mr. Jones, I want to thank you for
14 your efforts and all of the work that you have
15 put into this and for appearing here today.

16 Any other comments by the board?

17 BOARD MEMBERS: (No response.)

18 THE CHAIRMAN: No comments by the members.

19 With that, all in favor of the motion, say
20 aye.

21 BOARD MEMBER PADGETT: Aye.

22 BOARD MEMBER DURDEN: Aye.

23 BOARD MEMBER MOODY: Aye.

24 BOARD MEMBER GIBBS: Aye.

25 VICE CHAIR MEEKS: Aye.

1 (Board Member Barakat abstains from
2 voting.)

3 THE CHAIRMAN: Opposed, like sign.

4 And I am opposed to the final -- I'm not
5 opposed to this project. I'm opposed to -- to
6 the process and not moving in a different
7 direction.

8 But, with that said, we're 6 to 1.

9 BOARD MEMBER DURDEN: No. Actually --

10 MR. TEAL: For the record, I would like to
11 note that Mr. Barakat has --

12 THE CHAIRMAN: So 5 to 1. I'm sorry.

13 MR. TEAL: -- has recused himself both
14 from the votes on the request for the deviation
15 and then also the final vote on the appeal
16 overall.

17 THE CHAIRMAN: And so all of our votes --
18 well, the final vote was 5 to 1, correct?

19 MR. TEAL: Yes.

20 THE CHAIRMAN: Okay. With that, folks, I
21 want to thank you. This is an interesting
22 process. We have to rely on the facts and the
23 information that were provided today in this
24 hearing. And I know it's hard and I know it's
25 sometimes tough, but thank you very much for

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your efforts. Appreciate it.

We're adjourned.

(The above proceedings were adjourned at
5:22 p.m.)

- - -

\$	16 ^[3] - 1:6, 2:1, 147:20	45:10, 48:13, 50:8, 50:23, 51:3, 55:3, 62:8, 92:21, 93:24, 127:3, 140:19, 152:23, 153:16, 153:20, 161:10, 163:12	4	53:18
\$10,000 ^[1] - 148:4	17 ^[1] - 4:24	25-foot ^[3] - 12:5, 61:11, 163:6	4 ^[7] - 80:19, 80:22, 81:16, 89:12, 126:13, 160:1	600 ^[1] - 109:16
\$2,000 ^[1] - 117:22	18 ^[1] - 24:19	280 ^[4] - 70:20, 72:4, 72:5, 72:11	40 ^[1] - 124:1	625-space ^[1] - 111:8
1	180 ^[1] - 84:11	29th ^[1] - 186:15	400 ^[4] - 72:23, 95:8, 150:9, 150:12	65-story ^[1] - 136:18
1 ^[23] - 31:1, 36:17, 36:20, 55:17, 57:19, 58:17, 58:18, 63:17, 67:13, 80:10, 80:12, 100:2, 115:19, 140:16, 150:3, 154:18, 168:6, 168:11, 173:15, 179:10, 184:8, 184:12, 184:18	190 ^[18] - 10:7, 35:14, 36:6, 39:19, 41:17, 41:18, 45:9, 46:10, 48:12, 49:15, 49:17, 51:2, 54:2, 93:6, 123:15, 123:16, 123:17, 140:19	2:06 ^[2] - 1:7, 2:1	405 ^[1] - 102:24	656.361 ^[1] - 9:25
1-foot ^[1] - 140:5	190-feet-tall ^[1] - 84:23	2nd ^[1] - 7:16	43 ^[2] - 62:19, 140:20	656.361.1 ^[1] - 56:19
1.04 ^[1] - 103:25	190-foot ^[3] - 11:17, 41:13, 46:25	3	5	656.361.11 ^[3] - 9:25, 50:21, 53:11
1.2 ^[1] - 24:16	1st ^[4] - 1:8, 7:15, 9:4, 66:19	3 ^[21] - 17:12, 35:4, 35:5, 36:10, 36:18, 36:20, 58:17, 58:18, 67:13, 80:21, 81:11, 140:4, 140:5, 140:7, 140:8, 140:15, 140:20, 156:16, 168:6, 172:23, 173:15	5 ^[11] - 72:22, 78:5, 80:18, 81:7, 81:17, 88:23, 126:22, 150:4, 153:16, 184:12, 184:18	656.361.14 ^[4] - 51:12, 51:25, 52:3, 128:14
1.23 ^[2] - 104:11, 104:13	2	3-wood ^[2] - 46:4	5 ^[19] - 36:1, 36:11, 48:5, 48:12, 51:19, 52:17, 62:20, 88:12, 116:4, 117:23, 124:1, 127:3, 129:24, 133:10, 134:5, 140:18, 153:16, 153:20, 161:10	656.361.22 ^[4] - 10:3, 15:21, 38:16, 154:3
10 ^[7] - 10:8, 72:25, 78:11, 79:6, 80:16, 88:23, 106:15	2 ^[9] - 58:17, 58:18, 117:20, 118:4, 118:11, 118:14, 155:3, 168:6, 173:15	30 ^[1] - 42:19	5-foot ^[1] - 61:12	67 ^[1] - 103:23
100 ^[2] - 88:20, 88:25	2,200 ^[2] - 108:22, 110:11	300 ^[9] - 35:14, 54:2, 70:19, 71:22, 72:12, 73:3, 95:7, 102:23	5-over-1 ^[3] - 65:13, 65:21, 94:14	6th ^[1] - 178:15
100-unit ^[1] - 35:2	2,200-space ^[4] - 46:5, 46:7, 97:8, 148:1	300-unit ^[1] - 10:5	5-over-2 ^[1] - 65:13	7
1002 ^[1] - 1:8	2.3 ^[1] - 88:10	30305 ^[1] - 84:4	50 ^[19] - 36:1, 36:11, 48:5, 48:12, 51:19, 52:17, 62:20, 88:12, 116:4, 117:23, 124:1, 127:3, 129:24, 133:10, 134:5, 140:18, 153:16, 153:20, 161:10	7 ^[5] - 58:17, 58:18, 80:17, 89:13, 127:8
101 ^[1] - 65:3	20 ^[4] - 28:11, 63:13, 82:20, 164:11	3060 ^[1] - 84:3	50-foot ^[8] - 34:10, 39:25, 44:23, 61:16, 61:21, 126:22, 134:3, 134:17	7/27 ^[1] - 4:25
11 ^[1] - 10:13	20-foot ^[3] - 22:20, 61:11, 61:12	31st ^[1] - 74:16	50-story ^[1] - 132:11	70 ^[1] - 47:15
11E ^[1] - 104:1	20-minute ^[1] - 86:22	32 ^[1] - 80:19	500 ^[1] - 110:14	70-foot ^[1] - 47:11
12 ^[10] - 61:23, 62:2, 72:24, 73:1, 104:15, 134:4, 158:21, 158:23, 163:9, 163:10	200 ^[2] - 54:3, 72:3	32082 ^[1] - 86:10	53,000 ^[1] - 10:9	700 ^[1] - 133:6
12-foot ^[4] - 23:11, 122:18, 134:6, 163:1	2000s ^[1] - 61:25	32266 ^[1] - 19:8	5332 ^[1] - 74:10	75 ^[2] - 47:12, 132:18
120 ^[2] - 47:15, 53:20	2002 ^[1] - 78:1	346 ^[1] - 158:17	54 ^[1] - 124:5	758 ^[1] - 153:10
1200 ^[4] - 31:2, 55:18, 63:18, 115:20	2004 ^[2] - 74:14, 76:8	349 ^[5] - 11:21, 150:9, 150:11, 157:3, 157:19	5:22 ^[1] - 185:4	76 ^[1] - 104:3
123 ^[3] - 65:23, 94:14	2012 ^[2] - 74:15	35 ^[2] - 80:20, 118:8	6	77 ^[1] - 104:2
125 ^[1] - 26:18	2014 ^[1] - 20:4	350 ^[1] - 64:7	6 ^[6] - 58:17, 58:18, 67:21, 81:11, 133:6, 184:8	8
129 ^[1] - 95:9	2016-015 ^[1] - 1:3	356.361.17 ^[1] - 13:18	6,000 ^[1] - 86:17	8 ^[4] - 42:4, 62:19, 80:16, 164:10
13 ^[4] - 70:5, 134:6, 134:16, 134:17	2017 ^[5] - 1:6, 2:1, 9:4, 179:10, 186:15	358 ^[2] - 72:17, 158:19	60 ^[17] - 35:14, 36:6, 39:19, 39:21, 41:18, 47:8, 48:11, 49:17, 51:19, 51:20, 93:8, 94:6, 94:7, 94:8, 123:13, 140:19	8-level ^[1] - 124:8
13-story ^[1] - 10:6	2017-15 ^[1] - 30:19	359 ^[6] - 10:7, 72:17, 146:8, 158:2, 158:16, 158:19	60-foot ^[6] - 39:5, 41:12, 44:22, 46:25, 47:4, 47:10	806 ^[1] - 60:14
130 ^[4] - 36:6, 40:15, 47:20, 140:19	205 ^[1] - 70:13	36 ^[1] - 80:20	60-foot-high ^[2] - 40:14, 48:6	841 ^[3] - 91:8, 110:2, 137:20
1300 ^[1] - 19:7	21 ^[3] - 10:1, 87:10, 87:23	363 ^[1] - 78:2	60-foot-tall ^[2] - 34:10,	85 ^[1] - 124:9
14 ^[3] - 37:19, 70:6, 136:20	214 ^[1] - 1:8	369 ^[3] - 104:14, 157:9, 158:22		9
15 ^[14] - 28:11, 30:21, 37:19, 37:20, 42:4, 49:4, 73:12, 73:13, 78:11, 79:7, 86:22, 134:5, 152:24	22 ^[4] - 53:11, 126:21, 127:15, 149:24	372 ^[2] - 86:9, 124:3		9 ^[1] - 89:12
15-foot ^[2] - 62:1, 134:7	220 ^[3] - 103:9, 103:22, 105:9	381 ^[9] - 72:18, 102:24, 158:11, 158:20, 159:10, 175:18, 175:19, 180:7, 180:8		9-iron ^[1] - 46:3
15th ^[1] - 5:2	24 ^[3] - 80:18, 87:4, 96:6	39 ^[1] - 80:22		90 ^[2] - 117:20, 123:13
	24-hour ^[1] - 107:1			93 ^[1] - 140:21
	24/7 ^[1] - 21:3			95 ^[1] - 118:11
	25 ^[18] - 36:1, 36:21,			97 ^[1] - 73:10
				9822 ^[1] - 70:12
				A
				a.m ^[2] - 87:17, 89:12
				ability ^[3] - 16:10, 23:7, 180:1
				able ^[11] - 72:15, 72:16, 73:5, 101:1, 133:24, 139:15, 143:1, 144:17, 146:6, 147:11, 168:12

<p>absolutely [5] - 17:16, 66:10, 102:17, 123:19, 126:19</p> <p>abstains [6] - 154:23, 156:12, 159:22, 161:5, 161:21, 184:1</p> <p>abundance [1] - 171:22</p> <p>acceptable [3] - 12:22, 24:4, 64:10</p> <p>acceptance [1] - 166:18</p> <p>accepted [1] - 66:16</p> <p>access [1] - 166:17</p> <p>access [15] - 22:16, 23:16, 77:22, 78:16, 96:11, 110:25, 127:2, 127:6, 138:15, 138:16, 164:12, 165:16, 166:7, 166:16, 177:22</p> <p>accidents [1] - 146:20</p> <p>accommodate [5] - 57:2, 95:3, 109:13, 110:12, 111:6</p> <p>accomplish [2] - 39:16, 44:9</p> <p>accomplishes [1] - 44:7</p> <p>accordance [1] - 179:9</p> <p>accordingly [1] - 17:23</p> <p>account [4] - 75:12, 116:14, 128:23, 170:2</p> <p>Accountant [1] - 1:21</p> <p>accurate [2] - 79:24, 91:9</p> <p>achieving [1] - 21:10</p> <p>acre [3] - 35:3, 35:6, 35:9</p> <p>acres [2] - 35:4, 35:5</p> <p>acro [1] - 108:23</p> <p>action [1] - 175:8</p> <p>actions [1] - 29:8</p> <p>activate [3] - 62:12, 62:22, 87:3</p> <p>activating [1] - 144:10</p> <p>active [1] - 85:5</p> <p>activities [1] - 45:17</p> <p>activity [1] - 37:2</p> <p>actual [1] - 85:21</p> <p>add [3] - 22:23, 104:18, 110:14</p> <p>added [2] - 19:16, 22:8</p> <p>adding [7] - 47:19, 54:2, 63:2, 63:3,</p>	<p>90:8, 90:17</p> <p>addition [4] - 22:24, 87:1, 163:9, 163:11</p> <p>additional [19] - 13:1, 14:2, 14:3, 14:4, 15:4, 30:4, 40:18, 47:18, 47:20, 87:3, 90:7, 97:22, 128:18, 128:21, 146:6, 167:14, 174:12, 174:13</p> <p>address [16] - 8:16, 10:12, 11:4, 19:3, 84:3, 86:11, 93:4, 98:19, 100:20, 109:17, 110:2, 118:25, 147:1, 149:6, 149:7, 169:5</p> <p>addressed [2] - 171:8, 176:8</p> <p>addresses [6] - 9:9, 120:6, 120:9, 121:8, 121:10, 148:23</p> <p>addressing [5] - 8:20, 12:23, 90:17, 100:6, 165:15</p> <p>adequate [1] - 129:18</p> <p>adhere [1] - 52:2</p> <p>adherence [1] - 51:25</p> <p>adjacent [4] - 20:22, 75:8, 88:11, 89:3</p> <p>adjoining [3] - 51:1, 75:18, 93:17</p> <p>adjourned [2] - 185:2, 185:3</p> <p>adopt [1] - 171:23</p> <p>adopted [1] - 20:5</p> <p>advising [1] - 17:6</p> <p>aerial [2] - 77:19, 79:5</p> <p>Aetna [46] - 31:25, 32:21, 32:24, 33:10, 33:12, 40:13, 40:17, 40:21, 45:2, 46:12, 73:24, 74:4, 74:14, 74:17, 74:24, 74:25, 75:8, 75:14, 76:3, 76:12, 76:24, 78:11, 79:8, 79:11, 79:18, 85:21, 86:2, 86:18, 88:2, 89:23, 97:22, 101:18, 101:20, 101:21, 106:2, 106:12, 115:7, 124:10, 128:1, 128:3, 132:4, 138:22, 142:23, 144:12, 145:1</p> <p>affect [6] - 5:12, 6:20, 45:24, 108:6, 140:23, 140:25</p>	<p>affected [2] - 40:10, 127:23</p> <p>affects [1] - 157:13</p> <p>Affidavit [2] - 80:15, 80:19</p> <p>affidavit [8] - 60:25, 61:1, 68:8, 69:21, 69:22, 71:10, 107:25, 116:2</p> <p>affidavits [8] - 55:22, 57:22, 58:1, 58:3, 67:7, 81:15, 93:2</p> <p>afford [1] - 136:5</p> <p>afield [1] - 148:15</p> <p>afternoon [6] - 74:8, 84:1, 86:8, 89:21, 106:4, 118:21</p> <p>agency [2] - 19:16, 20:20</p> <p>agenda [1] - 167:18</p> <p>ago [3] - 97:2, 118:8, 137:17</p> <p>agree [5] - 116:15, 118:2, 131:11, 131:20, 140:2</p> <p>agreement [3] - 75:22, 90:24, 141:11</p> <p>ahead [7] - 3:14, 94:17, 100:10, 100:20, 147:16, 173:11, 174:19</p> <p>air [4] - 40:15, 40:16, 77:21, 78:20</p> <p>akin [1] - 90:7</p> <p>all/be [1] - 56:7</p> <p>Allegiance [1] - 2:21</p> <p>allow [11] - 11:9, 11:11, 11:16, 11:20, 11:24, 12:4, 12:5, 35:16, 52:7, 54:17, 56:25</p> <p>allowed [6] - 13:16, 40:13, 67:12, 72:21, 79:21, 158:5</p> <p>allowing [1] - 25:24</p> <p>allows [1] - 34:9</p> <p>almost [6] - 24:21, 26:15, 62:20, 91:15, 108:25, 128:15</p> <p>ALSO [1] - 1:17</p> <p>alternate [1] - 11:24</p> <p>alternative [4] - 12:8, 12:11, 12:23, 57:1</p> <p>ambulance [1] - 142:16</p> <p>amenity [1] - 85:9</p> <p>American [1] - 2:14</p> <p>amount [9] - 24:17, 25:8, 25:10, 26:1, 113:20, 116:11,</p>	<p>143:16, 157:7, 158:12</p> <p>ample [1] - 137:9</p> <p>analysis [4] - 60:24, 68:8, 68:17, 71:2</p> <p>analyze [2] - 50:9, 115:11</p> <p>analyzes [1] - 68:16</p> <p>analyzing [1] - 110:8</p> <p>ANDERSON [1] - 1:19</p> <p>Anderson [11] - 2:25, 15:16, 33:9, 86:20, 109:15, 111:6, 111:11, 115:6, 116:24, 178:17, 179:11</p> <p>Andrés [3] - 80:18, 83:19, 84:2</p> <p>animal [2] - 24:25, 113:24</p> <p>annex [1] - 124:10</p> <p>announce [1] - 18:7</p> <p>announcing [1] - 18:6</p> <p>annual [1] - 117:5</p> <p>answer [9] - 44:15, 81:4, 81:19, 124:22, 137:1, 139:15, 147:17, 183:3, 183:4</p> <p>answered [1] - 120:4</p> <p>answering [1] - 182:10</p> <p>answers [2] - 117:8, 151:7</p> <p>anticipated [1] - 116:8</p> <p>anticipates [1] - 128:15</p> <p>antiquated [1] - 130:10</p> <p>anyway [2] - 45:22, 171:15</p> <p>apart [1] - 79:7</p> <p>apartment [7] - 67:21, 101:23, 117:23, 118:13, 118:15, 133:1</p> <p>apartments [5] - 132:16, 133:8, 133:10, 133:11, 133:12</p> <p>apiece [1] - 28:15</p> <p>Appeal [1] - 5:21</p> <p>appeal [41] - 3:10, 3:12, 3:20, 13:15, 13:16, 15:8, 28:22, 28:23, 28:25, 29:20, 29:22, 30:18, 55:23, 73:9, 83:8, 127:9, 141:19, 141:20, 149:3, 151:16, 152:10, 152:11,</p>	<p>167:5, 167:6, 167:8, 167:17, 167:25, 172:18, 172:20, 172:21, 172:24, 173:2, 173:14, 174:7, 175:8, 175:12, 180:3, 181:5, 184:15</p> <p>APPEAL [1] - 1:3</p> <p>appeals [2] - 13:13, 13:19</p> <p>Appeals [1] - 38:5</p> <p>appearance [1] - 6:6</p> <p>appeared [2] - 32:2, 32:23</p> <p>appearing [1] - 183:15</p> <p>appellant [7] - 28:10, 30:20, 32:3, 32:7, 92:6, 92:16, 126:24</p> <p>appellant's [1] - 178:10</p> <p>appellate [1] - 15:11</p> <p>appellee [4] - 28:11, 31:3, 55:19, 101:1</p> <p>applicable [5] - 10:16, 65:18, 65:19, 94:21, 170:14</p> <p>applicant [12] - 10:23, 11:6, 11:13, 12:10, 31:3, 41:24, 43:7, 55:18, 147:14, 147:23, 179:10, 182:8</p> <p>applicant's [1] - 11:1</p> <p>application [10] - 4:10, 21:14, 29:1, 30:19, 50:6, 51:6, 59:8, 71:21, 102:23, 170:18</p> <p>applied [1] - 140:15</p> <p>apply [2] - 57:7, 113:22</p> <p>applying [1] - 67:18</p> <p>appointed [1] - 62:6</p> <p>appraiser [9] - 60:9, 61:6, 93:14, 119:15, 119:16, 119:19, 120:5, 120:9, 120:23</p> <p>appraiser's [1] - 91:5</p> <p>appraisers [1] - 60:3</p> <p>appreciate [8] - 31:16, 54:25, 81:18, 81:23, 86:5, 89:16, 178:18, 185:1</p> <p>approach [1] - 12:15</p> <p>approaches [23] - 8:24, 30:22, 31:19, 55:4, 60:7, 63:11, 64:25, 70:1, 74:2, 77:3, 79:1, 83:25,</p>
------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------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86:7, 89:19, 92:8, 109:24, 115:18, 117:17, 124:2, 137:18, 157:15, 162:14, 178:22
appropriate [6] - 5:9, 17:22, 25:25, 57:4, 100:17, 179:1
approval [32] - 11:1, 12:15, 12:25, 16:9, 20:18, 45:17, 47:21, 47:24, 112:6, 124:15, 154:13, 155:7, 156:5, 156:16, 156:22, 157:18, 158:24, 160:1, 162:5, 162:18, 162:21, 162:25, 164:6, 164:15, 165:8, 165:11, 166:11, 166:20, 167:6, 174:10, 176:12, 179:1
approve [14] - 30:1, 131:16, 136:8, 150:14, 150:19, 152:6, 159:8, 161:11, 168:4, 169:16, 172:11, 175:13, 180:3
approved [31] - 4:13, 24:18, 61:25, 66:19, 68:4, 71:21, 71:22, 71:23, 72:13, 73:7, 99:17, 104:23, 105:4, 124:12, 124:16, 136:17, 146:12, 150:22, 158:3, 158:11, 158:14, 158:16, 158:19, 162:1, 170:2, 170:22, 175:3, 175:14, 176:13, 176:16, 180:24
approving [1] - 157:25
architect [6] - 72:19, 84:2, 92:17, 114:17, 134:12, 143:15
architects [1] - 114:16
architectural [1] - 22:11
area [32] - 10:20, 20:1, 25:11, 40:7, 45:25, 48:9, 50:8, 50:24, 52:25, 53:2, 64:9, 69:4, 78:12, 79:3, 79:17, 79:18, 87:13, 90:8, 91:17, 94:15,

97:7, 97:8, 102:6, 117:2, 127:18, 132:21, 132:22, 142:9, 142:10
Area [3] - 4:7, 20:5, 170:10
areas [3] - 50:19, 52:14, 85:17
argue [2] - 105:15, 143:20
arguing [1] - 59:17
argument [1] - 105:18
arguments [2] - 14:3, 77:12
Arnau [1] - 65:4
arriving [2] - 69:16, 180:9
arrows [1] - 77:24
articulated [2] - 84:14, 85:24
aside [1] - 71:20
aspects [2] - 13:4, 64:8
asset [4] - 74:18, 89:23, 90:21, 102:7
assets [1] - 110:1
assigned [2] - 14:20, 162:5
assignment [1] - 89:24
assist [1] - 19:21
associated [1] - 126:25
assume [4] - 25:23, 88:10, 88:12, 145:2
assumed [1] - 18:22
assumes [1] - 88:20
assure [1] - 10:17
Atlanta [1] - 84:4
attached [2] - 57:19, 162:17
attempt [1] - 179:20
attendance [1] - 15:16
attended [2] - 146:10, 146:11
attention [1] - 125:10
audience [4] - 83:25, 86:7, 89:19, 109:24
AUDIENCE [9] - 3:5, 83:22, 84:1, 86:8, 89:21, 92:1, 92:4, 109:17, 109:25
August [9] - 1:6, 2:1, 5:2, 7:15, 7:16, 26:9, 74:15, 186:15
Augustine [1] - 65:4
AUNDRA [1] - 1:18
Authority [1] - 27:4
AUTHORITY [1] - 1:2
authority [2] - 4:15,

170:23
authorize [1] - 16:5
authorized [3] - 13:16, 16:15, 186:8
authorizes [1] - 13:18
automatically [1] - 16:8
available [8] - 13:22, 68:20, 81:4, 81:19, 89:3, 101:17, 166:3, 172:17
Avenue [8] - 60:14, 96:12, 96:17, 96:18, 135:4, 138:14, 138:16, 145:20
average [7] - 88:9, 88:13, 133:1, 133:2, 133:3, 133:15, 133:18
avoid [1] - 24:10
aware [4] - 15:12, 128:2, 146:12, 157:7
awkward [1] - 32:16
aye [22] - 151:19, 154:21, 154:22, 156:6, 156:7, 156:10, 159:16, 159:17, 159:18, 159:19, 159:20, 159:21, 161:3, 161:4, 161:19, 161:20, 183:20, 183:21, 183:22, 183:23, 183:24, 183:25
Aye [4] - 151:20, 156:8, 156:9, 156:11

B

backdrop [2] - 20:3, 21:9
backed [3] - 96:16, 106:11, 106:16
background [2] - 15:25, 74:21
backs [2] - 96:17, 96:18
bad [2] - 72:9, 127:13
BAILEY [1] - 1:13
balance [1] - 85:19
Balanky [2] - 141:2, 141:9
Ball [1] - 1:7
bank [2] - 164:8, 164:25
Baptist [28] - 32:1, 32:22, 32:24, 33:6, 33:12, 45:2, 46:2, 76:2, 78:2, 79:8, 86:19, 109:20, 110:2, 112:9, 116:23, 128:1, 132:4, 137:15, 137:16, 137:22, 138:17, 138:19, 139:18, 139:22, 142:21, 144:12, 144:25, 147:25
Baptist's [1] - 46:9
BARAKAT [11] - 1:14, 7:5, 17:17, 100:23, 102:18, 104:10, 105:5, 107:3, 107:14, 151:5, 151:8
Barakat [21] - 7:4, 17:25, 18:7, 98:16, 100:6, 100:12, 100:19, 103:3, 107:13, 107:21, 108:1, 136:16, 141:5, 151:4, 154:23, 156:12, 159:22, 161:5, 161:21, 184:1, 184:11
base [2] - 93:10, 183:10
based [16] - 14:6, 37:15, 39:14, 41:24, 44:6, 54:11, 56:2, 58:9, 69:1, 72:3, 73:3, 95:18, 126:3, 130:15, 154:7, 172:3
bases [1] - 131:11
basis [7] - 68:11, 103:19, 123:10, 128:19, 130:3, 130:4, 130:8
bat [1] - 55:24
Bay [1] - 74:11
Bayard [1] - 136:17
Beach [5] - 19:8, 19:9, 86:10, 124:4
Bean [1] - 5:22
bean [2] - 7:3, 7:8
bean's [1] - 76:21
bear [1] - 26:21
becomes [3] - 20:2, 21:8, 26:23
bedroom [21] - 68:16, 68:18, 68:22, 88:19, 103:11, 103:14, 103:15, 103:21, 103:24, 104:1, 104:2, 104:4, 104:7, 104:9, 117:6, 133:4, 133:5, 133:9, 133:11, 133:12
bedrooms [3] - 88:20,

89:1, 102:24
beefs [1] - 96:21
begin [1] - 2:9
beginning [3] - 21:13, 93:22, 182:6
behalf [2] - 31:2, 55:18
behind [3] - 17:13, 93:15, 143:11
belies [1] - 92:22
below [8] - 32:2, 32:23, 46:16, 56:5, 72:18, 91:10, 147:23, 177:14
benchmarks [2] - 20:8, 64:6
beneficial [1] - 167:20
benefit [9] - 15:15, 61:9, 63:4, 69:18, 87:1, 141:13, 165:2, 169:7, 169:23
benefits [1] - 128:20
best [2] - 22:2, 112:12
better [14] - 23:9, 41:10, 41:17, 42:5, 47:3, 54:15, 62:2, 85:4, 85:25, 95:23, 99:16, 132:10, 134:7, 183:4
between [9] - 22:6, 79:6, 79:22, 81:13, 85:20, 105:7, 130:4, 130:24, 139:11
beyond [1] - 124:23
Bicycle [1] - 23:6
BID [22] - 4:3, 4:16, 41:6, 52:6, 58:17, 58:18, 63:7, 63:21, 63:24, 64:1, 64:5, 64:17, 66:15, 67:17, 94:4, 131:3, 168:18, 170:5, 170:6, 170:24, 171:5
bids [1] - 94:9
big [7] - 25:4, 52:18, 57:21, 76:1, 109:4, 144:4, 145:18
bigger [3] - 23:5, 145:16, 147:1
biggest [1] - 110:21
biggie [1] - 122:24
bikeability [4] - 20:21, 22:15, 48:2, 122:17
binder [1] - 57:21
bit [15] - 14:25, 32:16, 67:5, 102:1, 104:17, 112:20, 113:10, 114:3, 125:5, 128:14, 129:3, 135:23, 139:21,

145:17, 147:13
blind [2] - 112:17,
 136:25
blind-sided [1] -
 136:25
blindly [1] - 90:21
block [6] - 40:17,
 108:3, 108:12,
 139:8, 139:10, 148:2
blocked [4] - 33:3,
 96:15, 112:23, 113:3
blocking [3] - 62:11,
 108:1, 121:1
blocks [1] - 93:16
blown [1] - 34:21
blue [5] - 77:24, 77:25,
 83:8, 89:17, 112:17
board [19] - 21:22,
 27:11, 31:15,
 111:25, 113:18,
 114:9, 114:14,
 114:25, 117:7,
 131:20, 151:2,
 152:19, 167:17,
 167:20, 172:7,
 181:12, 182:3,
 182:16, 183:16
BOARD [113] - 1:12,
 7:2, 7:5, 7:10, 7:15,
 7:23, 17:17, 100:23,
 102:18, 104:10,
 105:5, 107:3,
 107:14, 107:20,
 108:18, 109:6,
 109:22, 111:17,
 114:6, 115:3,
 115:16, 115:24,
 116:15, 117:10,
 117:12, 118:17,
 119:4, 122:9,
 123:17, 124:11,
 124:18, 125:1,
 126:10, 126:12,
 126:15, 131:9,
 151:3, 151:5, 151:8,
 151:10, 151:18,
 151:20, 151:22,
 151:25, 152:22,
 153:13, 153:17,
 153:24, 154:16,
 154:19, 154:22,
 155:1, 155:5, 155:9,
 155:15, 155:20,
 155:22, 156:1,
 156:7, 156:8, 156:9,
 156:10, 156:20,
 156:24, 159:12,
 159:14, 159:17,
 159:18, 159:19,
 159:20, 160:13,

160:22, 161:2,
 161:4, 161:8,
 161:14, 161:16,
 161:20, 161:24,
 167:1, 168:2, 168:8,
 172:9, 173:7,
 173:23, 173:25,
 174:16, 174:23,
 175:2, 175:11,
 175:16, 175:21,
 176:15, 177:2,
 177:6, 177:9,
 177:18, 177:20,
 178:7, 178:9,
 178:14, 180:16,
 180:18, 181:1,
 181:3, 182:1, 182:4,
 183:17, 183:21,
 183:22, 183:23,
 183:24, 184:9
Board [21] - 1:14,
 1:14, 1:15, 1:15,
 1:16, 13:12, 16:7,
 27:18, 74:9, 86:8,
 103:3, 114:9,
 154:23, 156:12,
 159:22, 161:5,
 161:21, 162:16,
 163:1, 165:8, 184:1
Board's [1] - 98:25
boat [1] - 26:18
body [2] - 6:8, 172:1
bogged [1] - 90:16
boils [1] - 25:5
book [1] - 87:10
books [1] - 136:21
borrow [1] - 178:8
bottom [2] - 34:13,
 73:2
bought [2] - 136:4,
 136:6
Boulevard [2] -
 113:23, 147:3
bounce [1] - 100:8
boundaries [1] - 91:1
boy [1] - 38:9
Boyer [1] - 23:15
Brad [12] - 63:9,
 63:12, 63:15, 63:19,
 64:19, 69:10, 76:25,
 77:4, 78:23, 79:2,
 80:22, 83:13
brad [1] - 63:17
branded [1] - 116:25
break [3] - 82:1, 82:5,
 82:25
BRENNA [1] - 1:14
bridge [2] - 97:21,
 111:15
brief [2] - 9:3, 83:2

briefly [4] - 11:5, 36:3,
 38:19, 65:11
bring [5] - 37:3, 77:1,
 102:5, 114:24, 176:3
Brooklyn [2] - 103:24,
 105:10
brought [3] - 24:1,
 77:2, 183:6
buck [3] - 117:20,
 118:8, 118:11
build [23] - 34:9, 35:8,
 35:17, 39:9, 41:12,
 44:18, 45:1, 46:24,
 47:1, 47:8, 48:12,
 53:24, 54:8, 57:25,
 58:13, 79:6, 80:13,
 93:7, 93:16, 132:16,
 135:16, 141:2, 141:4
build-to [2] - 57:25,
 58:13
build-to/setback [1] -
 80:13
Building [2] - 1:7,
 65:17
building [135] - 11:9,
 11:11, 11:16, 12:6,
 23:13, 23:20, 32:1,
 32:22, 32:24, 33:10,
 33:11, 34:10, 39:5,
 39:25, 40:13, 40:14,
 40:18, 40:22, 41:12,
 41:13, 41:17, 44:22,
 45:2, 45:23, 46:5,
 46:6, 46:12, 46:21,
 46:25, 47:1, 47:4,
 47:10, 47:14, 48:2,
 48:6, 48:11, 51:15,
 53:18, 54:8, 57:3,
 59:13, 61:10, 62:15,
 73:20, 73:23, 73:24,
 74:4, 74:14, 74:17,
 74:24, 74:25, 75:8,
 75:15, 76:1, 76:7,
 76:24, 77:13, 77:20,
 78:11, 78:20, 79:4,
 79:8, 79:11, 79:14,
 79:19, 85:15, 85:17,
 85:22, 85:24, 86:2,
 86:18, 88:2, 88:22,
 89:4, 89:5, 89:23,
 91:9, 93:6, 93:16,
 94:16, 97:8, 101:10,
 101:12, 101:16,
 101:18, 101:22,
 106:2, 106:13,
 108:14, 108:19,
 108:21, 109:1,
 109:4, 109:12,
 109:14, 110:10,
 111:7, 111:13,

111:15, 115:7,
 115:8, 116:13,
 123:12, 124:6,
 124:10, 124:16,
 128:17, 134:19,
 135:4, 135:21,
 136:18, 139:15,
 139:17, 140:14,
 141:1, 141:4,
 141:10, 141:11,
 143:20, 147:25,
 148:8, 153:6, 153:7,
 153:12, 163:7,
 166:19, 176:2,
 176:8, 179:4, 179:7
building's [1] - 135:22
buildings [13] - 11:15,
 45:6, 48:10, 51:17,
 51:21, 52:2, 79:6,
 79:22, 88:12, 113:9,
 123:1, 128:6, 129:2
builds [2] - 135:6,
 135:13
built [11] - 33:12,
 44:21, 45:8, 47:15,
 53:21, 67:2, 94:14,
 97:1, 97:2, 104:24,
 108:14
burden [6] - 32:5,
 41:19, 57:14,
 147:14, 148:5,
 149:17
burdens [1] - 40:2
business [3] - 20:6,
 20:13, 142:22
buy [2] - 135:10, 140:3
buyers [1] - 75:6

C

calculable [1] - 108:10
campus [1] - 110:15
cancer [2] - 90:7,
 111:16
cannot [3] - 8:3,
 12:21, 81:25
capability [2] - 181:6,
 181:7
capacity [3] - 89:2,
 110:15, 169:9
capture [1] - 88:12
captured [1] - 33:5
car [5] - 97:11, 97:15,
 97:18, 106:19,
 132:24
card [2] - 89:17, 92:2
cards [3] - 83:7, 83:9,
 83:11
care [3] - 8:15, 59:11,
 92:10

career [1] - 74:23
carefully [1] - 127:14
Carling [3] - 103:16,
 104:1, 105:11
carrying [2] - 39:1,
 154:4
cars [1] - 68:22
case [12] - 6:2, 6:15,
 25:15, 26:2, 31:3,
 32:13, 89:3, 95:24,
 102:22, 113:16,
 150:18, 183:9
catch [1] - 92:18
category [1] - 36:5
caught [1] - 73:21
causing [1] - 105:2
caution [1] - 171:22
caveat [1] - 120:24
CCG-1 [6] - 36:4,
 47:15, 52:9, 67:12,
 94:20, 140:11
center [5] - 78:3,
 105:11, 111:13,
 111:16, 116:24
Center [3] - 32:2,
 32:22, 33:6
centerline [1] - 88:1
centers [1] - 90:7
certain [5] - 38:11,
 101:24, 105:24,
 116:10, 158:5
certainly [6] - 26:19,
 98:23, 99:6, 126:3,
 129:24, 130:15
CERTIFICATE [1] -
 186:1
certificates [1] - 4:14
certify [1] - 186:8
cetera [3] - 87:17,
 126:4, 126:5
chain [1] - 38:2
CHAIR [37] - 5:4, 6:19,
 17:11, 29:5, 30:5,
 30:8, 119:9, 119:12,
 119:25, 120:2,
 120:13, 120:15,
 121:5, 122:1, 122:4,
 122:7, 148:12,
 148:17, 148:25,
 149:12, 151:15,
 152:12, 155:13,
 156:11, 159:4,
 159:8, 159:21,
 161:12, 172:13,
 172:23, 173:6,
 173:10, 173:16,
 178:20, 179:23,
 180:21, 183:25
chair [3] - 18:20, 19:1,
 24:24

<p>Chair [6] - 1:13, 5:16, 13:12, 27:18, 117:15, 177:18</p> <p>CHAIRMAN [210] - 2:3, 2:22, 3:6, 7:1, 7:4, 7:9, 7:14, 7:21, 7:25, 8:13, 8:25, 13:6, 17:9, 17:24, 18:9, 18:12, 18:18, 18:21, 18:24, 19:2, 27:5, 27:21, 28:8, 29:10, 30:7, 30:15, 30:24, 31:4, 31:13, 31:16, 31:22, 42:3, 42:8, 42:13, 48:16, 48:24, 49:4, 49:9, 54:21, 54:24, 70:4, 70:8, 80:2, 81:22, 82:10, 82:14, 82:16, 82:19, 83:3, 83:18, 83:23, 86:4, 89:8, 89:14, 89:16, 89:20, 91:23, 92:2, 92:5, 97:25, 98:2, 98:7, 99:23, 100:1, 100:15, 100:18, 102:17, 107:6, 107:8, 107:12, 107:16, 114:12, 115:14, 117:16, 119:7, 122:6, 122:8, 123:16, 124:24, 126:9, 126:11, 126:14, 131:7, 136:11, 137:7, 137:14, 137:19, 138:3, 138:8, 138:21, 139:4, 139:13, 139:23, 140:9, 140:13, 140:22, 144:22, 146:10, 147:4, 147:15, 148:14, 148:16, 148:19, 149:10, 150:3, 150:15, 150:25, 151:4, 151:6, 151:9, 151:11, 151:17, 151:19, 151:21, 151:23, 152:3, 152:8, 152:15, 153:18, 154:13, 154:17, 154:20, 154:25, 155:2, 155:7, 155:12, 155:14, 156:3, 156:14, 156:21, 156:25, 157:9, 157:16, 157:22, 158:1, 158:8, 158:14, 158:25,</p>	<p>159:6, 159:11, 159:13, 159:15, 159:24, 160:7, 160:11, 160:18, 160:20, 160:25, 161:3, 161:7, 161:9, 161:13, 161:15, 161:17, 161:23, 161:25, 162:8, 162:11, 163:8, 163:13, 163:16, 163:20, 165:18, 165:21, 165:23, 165:25, 166:8, 166:21, 166:23, 167:2, 167:23, 168:3, 168:10, 168:21, 168:22, 169:2, 169:10, 171:13, 171:18, 172:6, 172:10, 173:8, 173:20, 173:24, 174:15, 174:17, 174:22, 175:22, 176:10, 176:20, 176:23, 177:15, 177:19, 177:22, 178:2, 178:16, 179:13, 179:18, 180:15, 180:17, 180:22, 181:2, 181:24, 182:2, 182:5, 183:18, 184:3, 184:12, 184:17, 184:20</p> <p>Chairman [17] - 1:13, 13:11, 17:8, 17:17, 70:3, 82:8, 98:6, 105:20, 117:18, 125:2, 147:18, 162:15, 168:9, 171:21, 174:1, 175:24, 181:1</p> <p>chairman [17] - 18:14, 29:5, 29:12, 29:21, 30:23, 33:21, 98:23, 99:4, 114:23, 118:18, 148:12, 148:14, 155:5, 162:3, 162:22, 167:12, 173:7</p> <p>challenge [1] - 65:22</p> <p>challenges [2] - 21:11, 110:22</p> <p>challenging [2] - 26:12, 147:8</p> <p>change [14] - 34:18, 95:24, 95:25, 104:19, 111:20,</p>	<p>121:19, 121:23, 136:24, 137:3, 137:5, 142:12, 148:4, 174:2</p> <p>changes [4] - 51:1, 142:14, 172:20, 181:17</p> <p>changing [1] - 129:12</p> <p>chaos [1] - 142:18</p> <p>character [1] - 22:11</p> <p>characteristics [1] - 105:13</p> <p>charge [5] - 9:16, 20:2, 25:6, 109:11, 110:24</p> <p>checked [1] - 17:20</p> <p>Chief [1] - 1:18</p> <p>chief [1] - 137:23</p> <p>Children's [2] - 33:8, 86:19</p> <p>Chili's [1] - 59:13</p> <p>choice [1] - 48:19</p> <p>choices [2] - 29:21, 167:4</p> <p>Circle [1] - 70:13</p> <p>circle [1] - 79:5</p> <p>circles [1] - 77:25</p> <p>circuit [1] - 38:4</p> <p>cites [1] - 23:7</p> <p>cities [1] - 114:23</p> <p>citizen [2] - 182:13, 182:24</p> <p>city [9] - 26:17, 53:6, 65:18, 97:24, 105:11, 142:21, 142:23, 147:2, 182:14</p> <p>City [14] - 1:19, 15:9, 15:14, 20:4, 38:3, 50:8, 74:11, 95:14, 111:10, 164:12, 165:13, 166:18, 182:9</p> <p>CITY [1] - 1:1</p> <p>City's [4] - 17:20, 23:5, 128:22, 164:15</p> <p>city's [1] - 20:13</p> <p>clarification [4] - 5:17, 27:23, 28:7, 30:17</p> <p>clarification-type [1] - 28:7</p> <p>clarified [1] - 162:18</p> <p>clarifies [1] - 163:4</p> <p>clarify [9] - 29:6, 29:12, 119:9, 149:1, 149:12, 152:5, 152:25, 158:9, 174:9</p> <p>clean [1] - 21:3</p> <p>clear [13] - 14:13, 31:12, 32:10, 33:16,</p>	<p>75:16, 80:9, 100:25, 124:22, 126:6, 152:16, 175:17, 177:10, 179:19</p> <p>clearly [5] - 118:22, 126:17, 129:1, 130:5, 155:21</p> <p>client [3] - 5:20, 108:19, 109:6</p> <p>clients [2] - 50:2, 101:11</p> <p>clock [1] - 42:11</p> <p>close [7] - 3:18, 27:16, 28:16, 48:10, 82:23, 129:1, 137:13</p> <p>closed [4] - 78:1, 78:3, 78:4, 98:8</p> <p>closeness [1] - 182:21</p> <p>closer [5] - 48:4, 50:24, 99:22, 146:18</p> <p>Code [12] - 10:15, 13:17, 14:22, 36:17, 49:25, 65:17, 94:22, 95:25, 96:1, 97:1, 121:19, 170:20</p> <p>code [46] - 9:10, 9:17, 16:3, 34:14, 34:18, 35:21, 37:10, 38:10, 48:9, 50:2, 50:4, 52:21, 52:24, 53:9, 53:16, 56:15, 56:18, 56:22, 57:6, 64:16, 66:15, 66:23, 73:11, 94:19, 95:10, 95:12, 95:13, 95:20, 101:1, 121:16, 121:17, 121:21, 121:22, 125:10, 129:13, 130:11, 131:17, 131:18, 131:19, 150:24, 168:8, 172:5, 181:10, 181:12</p> <p>Code's [1] - 54:9</p> <p>codified [1] - 20:1</p> <p>COJ [3] - 166:14, 166:18, 166:20</p> <p>colleagues [2] - 42:17, 105:6</p> <p>collectively [1] - 113:17</p> <p>color [1] - 164:24</p> <p>colored [1] - 83:7</p> <p>colors [2] - 179:3, 179:7</p> <p>coming [13] - 2:23, 48:3, 50:23, 60:8, 63:13, 87:24, 90:8, 96:14, 96:20, 106:6, 106:8, 106:19, 180:5</p>	<p>commencing [1] - 1:7</p> <p>comment [14] - 76:16, 82:3, 82:7, 82:13, 82:17, 82:21, 83:6, 94:20, 105:21, 105:24, 107:4, 152:17, 181:25, 182:1</p> <p>comments [17] - 50:18, 55:1, 56:2, 71:14, 71:15, 90:3, 90:19, 107:14, 147:10, 151:1, 153:22, 166:24, 172:8, 173:21, 182:2, 183:16, 183:18</p> <p>commercial [1] - 137:25</p> <p>committed [3] - 33:6, 73:1, 91:14</p> <p>committee [1] - 176:20</p> <p>Commodore [1] - 136:19</p> <p>common [3] - 24:11, 108:11</p> <p>commonality [1] - 105:7</p> <p>communities [1] - 114:24</p> <p>Community [1] - 20:5</p> <p>community [2] - 97:4, 111:1</p> <p>Company [1] - 110:7</p> <p>compare [1] - 38:22</p> <p>compared [1] - 140:14</p> <p>compatible [6] - 4:1, 77:14, 167:24, 168:14, 168:17, 170:3</p> <p>competent [17] - 14:8, 14:14, 37:16, 37:21, 38:23, 40:4, 41:20, 46:14, 50:11, 54:10, 54:12, 57:14, 93:11, 149:18, 150:7, 180:10, 181:21</p> <p>complement [1] - 164:24</p> <p>complete [2] - 60:24, 186:10</p> <p>completely [4] - 57:9, 67:14, 77:16, 78:4</p> <p>complex [2] - 136:19, 142:10</p> <p>compliance [3] - 4:11, 9:21, 170:19</p> <p>compliant [1] - 171:3</p> <p>complicated [1] -</p>
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<p>125:3 complied [1] - 96:25 components [1] - 51:13 Comprehensive [1] - 171:8 comps [1] - 25:19 conceptual [4] - 9:20, 21:15, 112:6, 177:16 concern [2] - 126:25, 127:10 concerned [7] - 107:21, 110:24, 124:20, 126:20, 128:3, 128:6, 140:4 concerning [1] - 4:25 concerns [4] - 22:24, 112:9, 125:6, 145:17 concert [1] - 9:18 concessions [1] - 112:11 conclude [2] - 13:5, 89:8 concludes [1] - 81:21 concluding [1] - 28:21 conclusion [1] - 114:5 conclusory [2] - 59:25, 60:1 concrete [1] - 73:11 Concurrency [3] - 4:7, 168:25, 170:10 Condition [3] - 165:8, 165:17, 178:24 condition [14] - 76:22, 79:10, 79:13, 85:1, 85:2, 147:8, 164:18, 164:19, 165:10, 166:20, 174:24, 175:5, 176:1, 176:7 conditions [23] - 9:19, 13:2, 14:20, 28:24, 141:20, 141:22, 162:5, 162:10, 162:13, 162:17, 164:5, 166:25, 167:7, 172:11, 174:13, 176:12, 178:11, 180:4, 180:19, 180:20, 180:22, 180:23 Conference [1] - 1:7 configuration [2] - 139:9, 144:21 confirm [1] - 48:17 confirmed [1] - 17:21 conflict [2] - 6:25, 17:18 conflicted [1] - 6:4 conflicts [2] - 6:5, 6:6 confusion [1] - 2:4</p>	<p>congestion [1] - 122:22 congregate [1] - 50:25 congregation [1] - 50:22 connect [3] - 23:8, 23:9, 23:19 connection [1] - 23:12 connectivity [2] - 20:22, 85:7 connects [1] - 23:1 consider [7] - 14:11, 15:22, 16:18, 16:22, 44:4, 168:1, 169:12 consideration [4] - 34:3, 37:5, 57:1, 91:21 considered [6] - 14:14, 157:8, 167:15, 167:16, 180:9, 180:12 considering [2] - 4:9, 170:17 consistency [1] - 128:21 consistent [17] - 3:24, 4:1, 4:4, 24:5, 26:20, 77:14, 167:23, 168:14, 168:16, 168:19, 168:22, 170:4, 170:6, 170:7, 171:2, 171:7, 171:13 Consolidated [3] - 4:6, 168:24, 170:9 constraints [4] - 9:19, 22:1, 43:14, 144:18 construct [2] - 54:7, 164:19 constructed [3] - 52:20, 101:8, 164:20 constructing [1] - 111:14 construction [6] - 54:6, 65:25, 109:1, 110:20, 165:12, 166:13 contains [1] - 29:23 contemplates [1] - 75:22 content [2] - 51:16, 146:7 contention [1] - 118:3 context [5] - 9:18, 10:18, 24:5, 78:9, 167:17 continually [1] - 78:19 continue [1] - 113:1 continued [2] - 21:21, 74:17 continuing [1] - 73:4</p>	<p>contractor [1] - 114:17 contrary [1] - 46:15 controlled [1] - 69:4 conveniently [1] - 57:11 conversation [9] - 4:24, 5:1, 7:6, 7:7, 7:11, 62:17, 81:20, 98:20, 141:7 convert [1] - 144:4 convey [1] - 27:25 cooperated [1] - 79:16 coordination [2] - 20:20, 53:15 Coordinator [1] - 1:20 copies [4] - 15:21, 17:12, 102:25, 168:20 copy [9] - 34:23, 34:24, 50:10, 120:13, 167:24, 168:12, 169:3, 178:5, 178:12 core [1] - 87:4 corner [3] - 139:10, 141:4, 183:1 corporate [2] - 182:13, 182:24 correct [30] - 18:2, 27:14, 30:14, 56:3, 60:18, 60:19, 65:9, 65:10, 66:9, 66:17, 71:4, 75:20, 83:17, 84:6, 101:10, 104:11, 115:24, 119:17, 121:10, 133:13, 140:6, 154:14, 156:19, 164:1, 165:24, 175:1, 179:15, 179:22, 179:23, 184:18 Correct [1] - 163:21 corrected [1] - 179:25 correction [2] - 84:6, 85:12 correctly [1] - 121:9 corridors [1] - 51:1 Cost [1] - 25:2 cost [10] - 39:15, 44:7, 115:11, 115:12, 116:16, 126:4, 130:16, 148:4, 148:8, 154:8 costs [1] - 65:25 Council [10] - 1:19, 15:9, 15:14, 15:16, 16:4, 38:3, 166:19, 178:17, 179:11</p>	<p>Councilman [1] - 2:25 Councilwoman [1] - 23:15 Counsel [3] - 1:21, 3:3, 164:16 count [8] - 18:11, 72:20, 73:3, 103:21, 104:6, 104:7, 157:10, 158:6 counter [1] - 87:18 country [1] - 132:17 counts [1] - 18:9 COUNTY [1] - 186:4 couple [11] - 3:9, 5:17, 31:20, 60:6, 63:21, 63:22, 63:25, 65:24, 69:24, 91:2, 136:14 course [4] - 33:10, 141:5, 145:5, 147:7 Court [2] - 38:5, 65:4 court [1] - 15:13 Courtland [4] - 60:5, 60:11, 60:13, 83:14 Courtland's [1] - 60:8 cover [1] - 131:11 covered [1] - 132:12 CRA [1] - 27:4 CRAIG [1] - 1:15 crammed [1] - 48:10 cranes [3] - 24:8, 37:4, 113:8 crashes [1] - 147:20 create [1] - 145:3 creates [1] - 85:25 creating [3] - 20:23, 53:3, 144:24 creation [1] - 41:2 credence [1] - 128:25 credentials [2] - 60:10, 63:14 credit [1] - 146:5 criteria [81] - 9:23, 12:18, 12:21, 12:24, 15:19, 15:22, 16:16, 16:17, 16:24, 32:12, 33:22, 34:3, 34:19, 35:22, 37:10, 37:17, 37:18, 37:22, 38:7, 38:13, 38:14, 38:19, 41:25, 43:8, 43:20, 44:3, 46:16, 49:19, 49:24, 50:15, 51:8, 53:11, 55:15, 56:2, 56:4, 56:9, 56:11, 57:18, 57:22, 57:24, 58:11, 60:22, 61:17, 66:14, 67:23, 78:17, 80:7, 80:12, 80:24, 81:9, 81:10, 91:2, 92:9, 93:1, 93:10,</p>	<p>93:12, 94:11, 94:19, 95:1, 95:17, 95:21, 95:22, 119:20, 119:21, 121:24, 125:22, 126:21, 129:19, 130:13, 149:24, 150:1, 154:3, 154:11, 167:15, 169:12, 169:14, 169:15, 171:17, 171:24, 172:4, 173:5 Criteria [4] - 58:2, 81:7, 81:16, 153:16 critical [3] - 76:10, 88:7, 88:16 critique [1] - 114:21 cross [3] - 87:22, 138:21, 139:10 crossing [2] - 139:8, 148:3 crosswalk [1] - 148:5 culture [1] - 20:14 curious [3] - 112:3, 112:20, 123:22 current [5] - 75:14, 75:24, 110:18, 139:8, 164:10 cut [2] - 36:1, 46:8 cut/detail [1] - 179:2 CV [2] - 74:20, 74:21 CVs [1] - 58:8 cyclists [1] - 146:4</p>
D				
<p>data [2] - 7:13, 129:6 DATED [1] - 186:15 David [1] - 3:6 DDR [1] - 176:25 DDRB [81] - 1:3, 1:19, 3:21, 8:7, 9:2, 9:11, 9:16, 10:25, 11:1, 12:19, 13:7, 13:19, 13:24, 14:2, 16:9, 16:11, 18:15, 19:14, 28:23, 28:24, 29:1, 29:2, 30:3, 30:19, 33:21, 36:25, 46:19, 51:5, 52:12, 56:1, 56:7, 56:8, 56:12, 56:24, 57:7, 61:10, 62:1, 62:4, 62:9, 62:17, 62:20, 66:18, 71:21, 72:13, 73:7, 95:6, 114:14, 124:14, 131:24, 136:16, 141:15, 141:20, 141:21, 141:24, 146:23,</p>				

152:23, 157:21,
158:14, 158:16,
161:11, 162:5,
164:7, 165:11,
167:5, 167:7, 167:9,
169:12, 171:14,
171:16, 172:19,
172:20, 172:22,
175:3, 175:9, 176:2,
178:25, 180:5,
181:19, 182:8, 182:9
DDRB's [3] - 3:23,
155:10, 160:23
de [3] - 13:20, 32:4,
169:9
deal [7] - 38:3, 66:1,
123:20, 132:9,
132:10, 144:1,
148:24
dealing [2] - 96:3,
143:16
dealt [6] - 11:8, 11:18,
11:22, 12:2, 13:2,
162:24
December [1] - 74:16
decide [5] - 6:17,
25:14, 25:25,
150:20, 150:23
decided [2] - 62:20,
132:8
decides [1] - 99:4
deciding [1] - 149:22
decision [19] - 3:21,
6:7, 7:19, 14:6,
14:12, 15:7, 21:9,
28:23, 28:25, 29:1,
130:9, 141:19,
141:22, 141:23,
142:1, 167:8, 167:9,
169:6, 175:9
decisions [1] - 13:19
deck [4] - 85:9, 109:2,
109:5, 110:14
declare [1] - 17:18
decrease [1] - 123:7
decreases [1] - 122:25
dedicated [3] - 44:11,
72:24, 115:1
deducted [1] - 104:15
deed [1] - 164:13
deemed [2] - 32:3,
61:13
deeply [1] - 141:14
defer [1] - 179:25
defined [1] - 51:17
definitely [4] - 57:13,
116:13, 125:3, 125:8
definition [1] - 120:3
degree [1] - 181:17
delay [3] - 88:9, 88:13,

167:13
delivery [1] - 79:17
demographic [1] -
20:16
demographics [1] -
105:17
demonstrated [1] -
150:18
demonstrates [1] -
126:18
denial [1] - 174:10
denominator [1] -
24:11
density [10] - 10:20,
19:25, 43:15, 65:23,
90:17, 105:8,
105:10, 105:14,
105:16, 105:24
deny [17] - 28:25,
30:2, 54:16, 141:22,
151:16, 152:10,
167:8, 172:21,
172:23, 173:2,
173:14, 174:4,
174:7, 175:4, 175:8,
175:12, 182:12
Department [3] -
164:17, 166:12
depicts [1] - 103:2
deposition [1] - 120:3
derived [1] - 123:4
Derrick [1] - 3:6
describe [1] - 77:8
described [1] - 29:9
design [37] - 4:10,
4:14, 9:11, 9:23,
10:2, 10:11, 10:13,
11:3, 11:5, 11:23,
11:25, 12:3, 12:11,
12:14, 12:21, 12:23,
13:3, 20:25, 21:6,
21:17, 45:18, 48:7,
48:14, 57:2, 58:25,
72:15, 73:4, 84:13,
88:18, 112:10,
113:15, 153:4,
163:1, 163:5,
165:13, 170:17,
170:22
Design [4] - 4:13,
4:17, 170:21, 170:25
design-oriented [1] -
12:14
design-related [2] -
4:10, 170:17
designated [1] - 166:6
designed [4] - 20:8,
90:10, 110:12,
131:20
designing [1] - 72:1

designs [3] - 12:8,
57:1, 165:7
desirability [1] - 101:9
desirable [2] - 10:20,
19:25
desire [5] - 39:14,
44:6, 126:4, 130:15,
154:8
desperately [2] -
86:16, 86:24
detail [2] - 76:11,
119:1
detailed [3] - 13:9,
117:8, 118:24
determination [1] -
95:15
determine [3] - 17:1,
121:13, 149:18
determines [2] -
64:18, 64:21
detrimental [2] -
40:25, 130:19
develop [7] - 23:10,
34:7, 53:15, 73:16,
76:9, 122:12, 140:1
developed [13] -
33:17, 59:11, 62:13,
73:14, 75:2, 75:9,
75:13, 76:5, 90:23,
116:3, 138:1,
155:19, 182:19
developer [17] - 24:15,
25:16, 55:21, 64:24,
65:6, 137:25,
146:13, 147:22,
150:20, 160:8,
164:7, 164:11,
164:19, 165:10,
166:10, 166:15,
178:24
developers [1] -
123:20
developing [6] -
39:15, 53:14, 74:23,
102:6, 130:16, 154:8
development [41] -
4:2, 9:5, 9:19, 9:23,
10:4, 10:6, 10:17,
12:12, 12:20, 19:19,
19:21, 20:10, 20:19,
21:6, 34:5, 43:16,
47:22, 51:7, 56:20,
66:7, 66:12, 74:5,
75:23, 77:13, 77:15,
78:3, 87:2, 90:4,
90:6, 91:18, 102:5,
113:1, 129:16,
129:25, 130:5,
130:6, 158:22,
168:17, 170:4,

179:5, 179:9
Development [8] -
1:20, 4:6, 16:7,
137:24, 162:25,
165:7, 166:12,
168:24
developmental [1] -
20:19
developments [1] -
68:19
develops [1] - 46:17
devi [1] - 175:16
deviate [5] - 12:19,
35:21, 38:11, 50:4,
57:9
Deviation [2] - 81:16,
81:17
deviation [88] - 11:11,
11:16, 11:18, 11:19,
11:22, 11:24, 12:2,
12:4, 12:24, 15:23,
16:14, 16:18, 29:14,
29:18, 29:24, 32:14,
37:5, 37:7, 37:9,
37:13, 39:24, 40:6,
40:10, 40:12, 43:13,
43:19, 44:15, 44:16,
44:19, 46:2, 46:23,
49:22, 50:9, 52:6,
58:12, 59:9, 59:15,
73:15, 80:15, 94:10,
99:9, 99:11, 99:13,
99:15, 99:20, 100:7,
101:2, 102:11,
125:19, 125:21,
126:18, 127:16,
127:23, 129:4,
149:17, 149:19,
150:11, 150:12,
151:13, 152:7,
154:1, 154:2,
154:12, 154:14,
155:4, 155:8,
155:10, 156:5,
156:17, 156:18,
156:22, 156:23,
157:19, 158:12,
159:7, 159:9, 160:2,
160:4, 160:5,
160:23, 161:11,
161:18, 169:15,
174:25, 175:6,
175:17, 175:19,
184:14
deviations [46] - 9:6,
10:1, 10:10, 11:2,
12:17, 12:18, 13:1,
16:2, 16:5, 16:21,
32:12, 33:13, 33:18,
34:6, 35:10, 36:22,

43:4, 43:25, 45:5,
45:20, 47:23, 54:16,
54:18, 58:14, 63:7,
63:20, 67:10, 67:23,
76:20, 98:10, 98:19,
100:19, 100:21,
125:8, 125:10,
125:11, 129:19,
129:20, 130:12,
131:21, 151:12,
170:2, 174:8,
174:11, 175:14
DIA [23] - 1:18, 1:20,
1:20, 1:21, 3:12,
3:21, 4:16, 9:22,
13:19, 19:21, 20:4,
27:11, 37:25, 62:5,
98:9, 142:1, 149:18,
150:22, 157:2,
169:8, 170:24,
174:8, 175:15
dialogue [1] - 27:17
Diane [3] - 1:9, 186:7,
186:18
diced [1] - 144:19
Diebenow [39] - 4:25,
7:3, 7:8, 7:12, 7:17,
7:24, 30:22, 31:1,
31:17, 32:5, 42:16,
48:17, 48:21, 49:11,
55:2, 55:4, 55:17,
80:2, 81:23, 83:10,
93:1, 102:14,
102:15, 115:15,
115:18, 115:19,
119:16, 119:19,
120:5, 121:7,
139:14, 147:16,
157:15, 158:8,
159:10, 168:16,
171:18, 172:25,
175:25
DIEBENOW [81] -
30:23, 31:1, 31:5,
31:14, 32:18, 42:19,
42:23, 43:1, 48:22,
49:2, 49:6, 55:7,
55:10, 55:16, 60:8,
60:16, 60:20, 60:24,
61:4, 63:12, 63:19,
64:15, 64:21, 65:1,
65:5, 65:11, 66:5,
66:11, 66:21, 70:2,
70:7, 70:9, 70:14,
70:18, 70:22, 71:2,
71:6, 74:3, 74:20,
75:10, 75:25, 76:13,
76:15, 77:4, 77:7,
77:10, 78:22, 79:2,
79:20, 80:1, 80:4,

81:15, 83:17, 92:11,
98:5, 102:21, 103:5,
104:12, 109:19,
115:19, 115:25,
116:18, 117:11,
118:18, 147:17,
148:10, 148:13,
148:22, 153:10,
153:15, 158:10,
158:15, 167:12,
171:21, 175:23,
176:14, 176:16,
176:22, 177:4,
177:8, 177:11

Diebenow's [2] - 94:3,
115:17

diet [2] - 147:3, 183:2

difference [3] - 15:1,
127:4, 130:23

different [27] - 14:3,
24:25, 37:6, 65:8,
65:12, 66:7, 67:8,
83:7, 84:14, 94:5,
95:16, 101:14,
102:1, 105:13,
113:24, 116:16,
116:18, 116:25,
117:1, 130:25,
136:22, 144:20,
149:16, 157:5,
157:7, 175:3, 184:6

different [1] - 93:19

difficult [8] - 22:18,
38:21, 41:3, 41:19,
50:5, 96:21, 105:15,
106:19

difficulties [9] - 39:1,
43:13, 66:24, 66:25,
67:4, 67:9, 130:14,
142:8, 154:4

difficulty [9] - 39:4,
39:7, 39:9, 39:10,
53:18, 53:24, 67:3,
126:2

dig [1] - 91:4

diminish [4] - 40:7,
120:16, 127:17,
130:17

diminishing [1] -
135:2

diminution [9] - 59:22,
60:21, 101:4,
107:21, 107:23,
108:5, 119:20,
120:7, 120:23

direct [2] - 6:13, 6:14

direction [1] - 184:7

directions [3] - 28:21,
87:20, 165:5

directly [4] - 23:12,

23:19, 75:19, 143:14

disagree [1] - 131:21

disciplines [2] -
58:10, 67:8

disclose [3] - 4:21,
5:6, 6:16

discovered [1] - 65:19

discretion [4] - 45:21,
62:21, 98:24, 100:14

discretionary [1] -
45:17

discuss [7] - 3:23,
7:12, 19:12, 76:11,
99:11, 100:3, 143:8

discussion [28] -
17:25, 30:4, 82:24,
98:9, 99:4, 99:10,
113:11, 141:24,
144:16, 152:1,
152:2, 152:4,
152:18, 152:21,
153:22, 154:17,
155:14, 156:4,
159:13, 159:15,
161:15, 161:17,
173:3, 173:4,
173:18, 173:21,
180:17, 180:25

discussions [2] -
4:21, 5:5

disposal [1] - 100:5

distance [1] - 86:22

distinct [1] - 117:1

District [3] - 4:12,
9:13, 170:19

district [3] - 9:24,
116:4, 116:20

districts [2] - 52:11,
52:16

diverse [4] - 64:2,
64:3, 94:7, 122:19

divide [1] - 140:20

doctors [2] - 116:9,
118:1

document [4] - 34:20,
35:23, 38:24, 103:3

Dotd [8] - 73:25, 74:2,
74:10, 79:1, 80:17,
83:14, 90:20, 101:5

DDT [7] - 74:8, 75:4,
75:16, 76:6, 76:14,
79:12, 79:23

Dotd's [1] - 90:19

dollars [2] - 132:6,
148:9

dominant [2] - 87:18,
87:22

Donald [1] - 25:3

done [18] - 29:10,
31:11, 71:8, 73:4,

110:5, 115:10,
117:11, 131:25,
133:22, 142:22,
142:24, 146:19,
149:13, 176:11,
182:17, 182:25,
183:8, 183:11

door [7] - 70:24,
73:20, 73:24, 75:3,
75:18, 76:5, 76:9

double [3] - 165:5,
165:14, 167:22

double-faced [1] -
165:14

double-sided [1] -
165:5

doubt [3] - 110:21,
125:22, 126:2

down [27] - 25:4, 25:5,
45:4, 45:5, 47:13,
80:11, 80:23, 81:1,
90:16, 96:17, 96:18,
98:3, 105:3, 106:14,
106:16, 106:17,
110:16, 110:19,
120:17, 122:11,
123:18, 135:17,
140:25, 144:1,
145:13, 147:12

Downtown [30] - 4:6,
4:12, 4:16, 4:17,
9:12, 10:14, 13:17,
15:18, 15:24, 16:1,
16:6, 19:13, 27:3,
36:23, 51:14, 52:11,
53:4, 140:12,
162:25, 165:7,
168:24, 170:9,
170:19, 170:21,
170:24, 170:25,
171:4, 171:5

DOWNTOWN [1] - 1:2

downtown [36] - 9:22,
9:24, 10:15, 10:19,
10:21, 19:19, 19:25,
20:9, 20:12, 20:16,
20:19, 21:3, 24:5,
24:8, 24:9, 24:25,
37:3, 47:2, 47:7,
47:10, 47:21, 47:23,
47:24, 52:16, 64:10,
67:15, 67:19,
102:19, 105:10,
105:18, 110:15,
112:24, 113:5,
114:17, 122:16,
140:1

drawing [2] - 21:22,
182:16

drawings [1] - 77:1

DRI [3] - 4:6, 168:24,
170:9

Drive [25] - 11:12,
23:1, 23:8, 23:13,
31:2, 55:17, 59:10,
59:16, 63:18, 74:11,
78:1, 88:1, 88:4,
93:25, 108:25,
110:3, 115:20,
137:21, 145:24,
147:12, 163:3,
165:4, 165:6,
166:17, 183:2

drive [3] - 129:15,
134:2, 138:18

driven [1] - 133:3

driver [1] - 46:3

drives [1] - 143:8

driveway [1] - 73:11

driving [2] - 64:13,
72:4

drops [1] - 88:13

due [3] - 17:19, 37:20,
90:20

DURDEN [37] - 1:14,
7:15, 125:1, 126:10,
126:12, 126:15,
153:24, 154:16,
155:15, 155:20,
155:22, 156:1,
156:8, 159:18,
160:13, 168:2,
168:8, 173:7,
173:23, 173:25,
174:16, 174:23,
175:2, 175:11,
175:16, 175:21,
176:15, 177:2,
177:6, 177:9, 178:7,
178:9, 178:14,
181:1, 181:3,
183:22, 184:9

Durden [10] - 7:14,
7:21, 124:25, 131:7,
131:11, 153:23,
173:20, 173:24,
181:2, 181:24

during [12] - 18:23,
22:5, 23:24, 27:6,
27:10, 72:14, 76:4,
76:7, 88:16, 173:18,
176:8, 176:18

DUVAL [1] - 186:4

dwelling [7] - 64:7,
68:10, 68:12, 71:22,
103:10, 103:15,
104:6

dwelling-unit [1] -
68:10

dynamic [1] - 24:4

dynamics [2] - 87:12,
126:16

dynamism [1] - 102:6

E

early [2] - 61:25, 65:16

easement [8] - 75:22,
78:13, 78:17, 127:2,
127:6, 128:7,
164:12, 164:14

easements [2] - 79:21,
166:16

easier [3] - 100:12,
103:17, 103:18

easiest [1] - 125:13

east [1] - 138:20

easy [2] - 67:1, 126:8

economic [14] - 21:6,
39:1, 39:4, 39:7,
39:9, 39:10, 43:12,
53:17, 53:23, 66:24,
67:4, 67:9, 130:14,
146:16

economically [2] -
66:1, 142:5

Ed [1] - 1:7

edge [3] - 153:5,
153:11

edification [1] - 99:1

education [1] - 20:14

effect [7] - 41:4,
59:24, 123:10,
130:21, 174:9,
175:7, 175:10

efficient [1] - 87:5

effort [2] - 56:10,
146:13

efforts [5] - 23:13,
142:14, 171:14,
183:14, 185:1

egress [3] - 138:9,
144:23

egress/ingress [1] -
138:13

eight [4] - 81:15, 88:8,
88:15, 132:2

either [3] - 6:10,
70:22, 106:3

elected [1] - 62:5

Elem [1] - 19:8

element [1] - 85:11

Elementary [1] - 19:9

elephant [2] - 112:3,
144:5

elevation [1] - 50:25

eleventh [1] - 132:4

embellish [1] - 22:10

emphasizing [1] -
63:23

employed [1] - 86:18
employees [14] - 86:17, 86:20, 106:1, 106:2, 106:7, 106:9, 107:2, 109:14, 110:13, 111:11, 111:15, 115:5, 116:9, 118:3
employers [1] - 90:8
empty [1] - 89:4
encountered [1] - 23:24
encourage [2] - 10:18, 19:24
end [8] - 3:16, 27:12, 48:20, 56:7, 89:1, 110:17, 114:5, 166:21
end-all/be-all [1] - 56:7
ended [5] - 21:15, 24:15, 26:9, 26:10, 65:14
ending [1] - 26:8
ends [1] - 24:16
enforce [1] - 49:24
engage [1] - 27:17
engaged [1] - 60:11
engineer [3] - 71:7, 71:14, 71:16
enhance [3] - 23:2, 84:15, 85:6
enhanced [1] - 41:11
enjoying [1] - 42:21
ensure [5] - 19:18, 21:1, 26:25, 48:8, 144:9
entered [1] - 76:7
entertainment [1] - 20:14
entire [7] - 27:6, 28:19, 51:13, 56:22, 132:12, 134:18, 149:8
entirety [2] - 169:17, 175:10
entitled [6] - 33:19, 34:7, 34:17, 44:4, 50:2, 50:3
entity [1] - 75:17
entrance [3] - 109:3, 139:16, 143:7
entryways [1] - 51:4
environment [1] - 101:25
envisioned [1] - 23:17
epicenter [2] - 20:13, 47:3
equal [1] - 124:9
equally [1] - 48:18

equity [1] - 66:2
escaping [1] - 174:12
especially [1] - 53:6
essence [1] - 13:21
essentially [3] - 77:19, 112:18, 114:1
establish [3] - 20:25, 48:7, 48:14
established [2] - 12:20, 19:23
estate [11] - 109:20, 110:1, 116:10, 119:15, 119:16, 119:18, 120:5, 120:9, 120:22, 121:4, 137:15
et [3] - 87:17, 126:4
ethics [1] - 17:21
evaluate [1] - 169:14
evaluated [1] - 128:19
evaluating [2] - 3:20, 167:25
evening [1] - 69:15
event [1] - 119:2
eventually [1] - 90:9
everywhere [1] - 113:8
evidence [36] - 14:4, 14:8, 14:11, 14:15, 14:25, 15:3, 15:4, 37:16, 37:21, 38:24, 40:4, 41:20, 46:14, 50:12, 54:11, 54:12, 57:15, 59:21, 59:24, 60:20, 71:16, 93:11, 104:24, 105:1, 107:22, 149:19, 149:23, 149:25, 150:8, 155:23, 157:5, 160:17, 169:21, 171:12, 172:3, 181:22
Evidence [1] - 31:6
evidenced [1] - 91:15
evident [1] - 51:7
evidential [1] - 180:10
ex [1] - 4:21
ex-parte [1] - 4:21
exact [1] - 116:7
exactly [5] - 57:6, 59:4, 94:14, 172:15, 182:20
examination [1] - 67:5
examine [1] - 103:21
examined [3] - 65:7, 65:12, 68:10
example [7] - 57:25, 61:7, 69:7, 99:8, 150:6, 150:13, 150:14

exceed [4] - 78:15, 78:16, 78:17, 128:16
exceeds [1] - 24:17
except [5] - 52:18, 52:19, 133:12, 144:23
Exception [3] - 4:7, 168:25, 170:10
exceptions [1] - 136:8
excerpt [1] - 59:8
excess [1] - 89:2
excited [1] - 142:25
exclusively [4] - 39:14, 126:3, 130:15, 154:7
excuse [2] - 140:8, 174:16
Executive [1] - 1:18
exempt [1] - 52:12
exemptions [1] - 52:22
exhaustive [1] - 110:5
Exhibit [10] - 57:19, 80:16, 80:17, 80:18, 80:19, 80:20, 80:22, 87:10, 87:23, 164:4
exhibit [2] - 57:20, 87:8
exhibits [1] - 84:17
exist [2] - 76:23, 85:6
existed [1] - 79:25
existing [9] - 9:18, 33:10, 79:10, 79:13, 84:25, 87:5, 110:16, 164:7, 164:25
exit [1] - 143:7
exits [1] - 179:11
expand [1] - 164:7
expansion [1] - 164:21
expense [1] - 164:20
experience [6] - 21:1, 48:8, 68:5, 69:1, 84:16, 114:22
experienced [1] - 90:15
expert [8] - 50:12, 81:8, 108:3, 119:14, 119:22, 121:2, 121:7, 121:10
expertise [1] - 58:10
experts [7] - 57:23, 58:6, 67:8, 68:2, 68:25, 81:4, 124:21
explain [4] - 8:4, 13:9, 41:3, 43:7
explained [2] - 31:24, 159:9
explaining [1] - 81:9
explains [1] - 52:9

explicitly [1] - 90:24
explore [1] - 28:2
explored [1] - 109:7
extend [1] - 48:18
extension [3] - 22:21, 42:15, 44:10
extent [2] - 24:10, 106:1
exterior [2] - 179:3, 179:8
extra [6] - 15:21, 17:12, 34:24, 36:6, 48:3, 145:3
extremely [1] - 80:9
Eyrick [4] - 60:5, 60:7, 60:13, 83:14
EYRICK [4] - 60:13, 60:19, 60:23, 61:3
Eyrick's [1] - 123:3

F

fabric [1] - 10:22
face [1] - 2:20
faced [1] - 165:14
facility [1] - 97:5
facing [2] - 22:9, 134:11
fact [17] - 40:2, 40:20, 43:9, 44:25, 49:14, 59:17, 61:10, 67:14, 75:12, 76:21, 93:4, 94:17, 95:18, 123:5, 129:8, 144:3, 182:12
facts [3] - 77:21, 91:20, 184:22
factual [1] - 7:12
fall [1] - 104:19
false [1] - 57:9
familiar [1] - 138:5
fancy [1] - 55:12
far [7] - 102:2, 119:13, 126:19, 128:10, 140:13, 140:14, 148:15
faster [1] - 142:15
favor [10] - 34:24, 90:5, 151:19, 154:21, 156:4, 156:6, 159:16, 161:3, 161:18, 183:19
feasibility [1] - 123:18
feasible [2] - 123:21, 142:5
feet [80] - 10:7, 10:9, 35:14, 36:1, 36:6, 36:10, 36:12, 36:18, 36:21, 39:19, 39:21, 40:15, 41:18, 45:9,

45:10, 46:10, 47:8, 47:12, 47:15, 47:20, 48:5, 48:11, 48:12, 48:13, 49:15, 49:18, 50:23, 51:2, 51:3, 51:19, 51:20, 54:2, 61:23, 62:2, 62:8, 62:19, 62:20, 67:13, 73:10, 73:12, 73:13, 78:2, 78:5, 78:11, 79:7, 84:11, 91:16, 92:21, 93:7, 93:8, 93:24, 124:9, 127:3, 133:2, 133:6, 133:16, 140:5, 140:7, 140:8, 140:18, 140:19, 140:21, 152:23, 152:24, 153:10, 161:10, 163:10, 163:12, 164:10, 164:11

fellow [1] - 92:17
felt [5] - 21:20, 24:12, 26:5, 113:18, 181:5
few [6] - 2:24, 19:4, 43:2, 55:25, 90:2, 133:14
fewer [4] - 68:21, 68:22, 104:8, 133:17
fifth [4] - 12:2, 41:4, 41:9, 46:16
figure [3] - 22:2, 144:7, 144:9
figured [1] - 90:13
filed [6] - 5:20, 5:22, 30:18, 43:7, 73:9, 127:9
fill [2] - 90:9, 92:2
filled [2] - 83:11, 124:7
final [19] - 9:5, 9:10, 9:16, 9:20, 10:4, 11:1, 76:15, 112:1, 112:16, 146:11, 152:10, 165:6, 176:12, 176:13, 177:16, 177:17, 184:4, 184:15, 184:18
finally [3] - 52:10, 88:18, 115:4
financial [3] - 6:13, 6:14, 6:21
findings [8] - 3:23, 149:16, 155:10, 155:17, 160:23, 171:23, 172:2, 177:13
fine [7] - 42:18, 42:20, 48:22, 49:6, 59:2,

70:5, 129:25 finish [3] - 132:7, 173:9, 174:18 finished [1] - 178:21 firm [1] - 94:3 first [35] - 5:19, 11:8, 20:11, 21:14, 32:15, 32:17, 35:13, 38:25, 43:11, 55:25, 56:22, 57:20, 58:12, 58:16, 59:3, 59:23, 61:22, 61:23, 65:16, 89:25, 98:20, 112:1, 121:6, 126:8, 134:8, 134:14, 137:10, 145:10, 153:2, 157:16, 162:24, 172:10, 181:15, 181:18, 181:19 First [1] - 60:13 fit [2] - 15:7, 66:13 five [57] - 8:8, 12:25, 16:17, 16:20, 16:24, 28:15, 29:6, 33:3, 33:22, 34:2, 34:19, 35:10, 37:18, 43:20, 44:16, 47:23, 49:5, 49:8, 49:9, 58:14, 60:22, 67:10, 70:8, 70:9, 81:25, 82:5, 82:6, 82:9, 82:11, 82:22, 83:9, 92:7, 92:11, 93:1, 95:17, 95:21, 96:15, 98:2, 98:10, 100:8, 100:12, 100:19, 116:21, 117:1, 121:23, 126:20, 126:21, 133:25, 134:9, 134:12, 134:14, 138:8, 144:20, 149:14, 149:20, 149:24, 174:11 five-minute [5] - 28:15, 81:25, 82:5, 82:9, 82:11 fixing [2] - 85:2, 85:7 fixtures [2] - 179:5, 179:8 flag [5] - 2:10, 2:14, 2:15, 2:19, 2:20 Flagler [1] - 137:24 flat [1] - 91:13 flesh [1] - 173:19 flexibility [1] - 26:6 floor [1] - 91:11 Floor [1] - 1:8 floors [5] - 40:16, 93:16, 123:23,	124:1, 134:9 FLORIDA [1] - 186:3 Florida [11] - 1:9, 1:10, 19:8, 63:18, 65:4, 65:17, 74:12, 76:2, 137:25, 138:1, 186:7 florida [1] - 186:18 flows [3] - 87:18, 87:22 focus [4] - 32:7, 35:11, 58:24, 92:24 focused [2] - 45:15, 110:23 focusing [3] - 45:19, 93:23 folks [11] - 2:3, 23:9, 32:22, 43:22, 45:2, 45:24, 47:14, 55:21, 62:23, 83:11, 184:20 follow [7] - 3:17, 34:1, 34:2, 52:6, 56:17, 80:24, 81:1 followed [2] - 15:3, 76:17 following [5] - 10:5, 10:25, 11:3, 37:16, 177:7 foot [15] - 94:6, 94:7, 94:8, 117:20, 117:22, 118:4, 118:11, 118:14, 133:3, 133:15, 140:4, 140:9, 140:15, 140:16, 163:9 footage [2] - 97:22, 115:11 footprint [3] - 101:14, 101:15, 134:19 force [2] - 35:1, 64:12 foregoing [1] - 186:9 foremost [1] - 90:1 forgotten [2] - 72:20, 115:8 form [1] - 50:12 former [2] - 33:20, 139:18 forms [1] - 51:15 formula [1] - 149:22 Fort [3] - 116:4, 116:15, 116:20 forth [6] - 38:11, 38:15, 59:1, 118:19, 124:13 forum [1] - 77:15 forward [6] - 10:12, 54:17, 81:20, 113:12, 114:20, 142:2	four [9] - 28:21, 33:3, 98:11, 117:1, 133:12, 134:8, 141:18, 165:14, 167:4 four-bedroom [1] - 133:12 fourth [3] - 11:22, 40:24, 48:1 frame [3] - 48:7, 48:15, 137:4 framework [2] - 20:25, 56:25 frankly [8] - 34:1, 43:3, 43:20, 112:24, 113:20, 122:21, 129:11, 131:5 Fred [1] - 158:16 FRED [1] - 1:19 Frederick [1] - 19:7 Free [1] - 25:2 free [3] - 17:5, 109:9, 109:10 FreemanWhite [1] - 110:6 Fresh [1] - 103:25 friendly [1] - 85:3 front [21] - 8:21, 22:9, 34:21, 35:24, 37:11, 38:17, 38:18, 53:12, 84:12, 84:23, 95:6, 97:20, 104:5, 108:15, 134:9, 135:14, 145:1, 163:6, 163:25, 172:1, 180:14 frontage [4] - 12:1, 73:10, 93:22, 166:5 fronting [4] - 12:6, 21:20, 62:14, 144:6 full [7] - 62:20, 71:2, 89:5, 124:7, 124:14, 124:15, 176:20 fully [2] - 18:3, 79:23 function [5] - 19:12, 37:6, 37:7, 37:8, 125:25 furniture [2] - 179:6, 179:8 furthered [3] - 41:9, 41:11, 63:20 furthering [3] - 41:13, 94:9, 131:2 furthermore [1] - 64:11 further [8] - 41:5, 41:14, 46:17, 47:24, 63:7, 94:4, 94:5, 130:25 future [4] - 75:9,	75:22, 90:23, 110:8 G garage [32] - 21:20, 46:5, 46:7, 47:1, 78:10, 78:13, 97:9, 108:20, 110:4, 110:11, 110:17, 110:18, 111:4, 111:6, 111:8, 111:14, 112:10, 124:7, 124:8, 132:12, 134:24, 135:1, 138:4, 138:10, 138:12, 138:22, 139:5, 139:6, 144:6, 145:1, 148:1 garages [2] - 108:22, 111:7 garden [1] - 132:20 garden-style [1] - 132:20 General [3] - 1:21, 3:3, 164:16 general [2] - 103:7, 169:11 generalized [1] - 64:1 generally [3] - 77:10, 96:1, 117:19 generate [2] - 65:23, 130:7 generated [1] - 84:7 generating [1] - 25:10 genesis [1] - 143:11 gentleman [6] - 37:3, 41:7, 46:18, 52:13, 132:1, 132:5 gentlemen [2] - 5:14, 111:22 geometry [1] - 86:14 Georgia [1] - 84:4 Gibbs [4] - 7:1, 107:19, 119:7, 136:23 GIBBS [30] - 1:15, 7:2, 107:20, 108:18, 109:6, 109:22, 111:17, 114:6, 115:3, 115:16, 115:24, 116:15, 117:10, 117:12, 118:17, 119:4, 151:25, 152:22, 153:13, 153:17, 155:5, 155:9, 156:10, 156:24, 159:20, 160:22, 177:18, 177:20,	180:18, 183:24 given [7] - 33:18, 124:22, 125:23, 125:24, 139:8, 168:10 goal [5] - 21:5, 27:2, 33:23, 33:24, 51:8 goals [16] - 9:22, 20:7, 21:10, 27:3, 36:16, 41:6, 41:8, 41:9, 41:10, 41:11, 41:13, 41:15, 41:16, 49:15, 49:16, 64:6 grant [19] - 15:23, 28:22, 28:23, 32:14, 37:9, 37:13, 37:19, 59:9, 59:18, 67:2, 141:19, 141:20, 152:11, 164:12, 167:4, 167:5, 172:17, 172:19, 174:10 granting [2] - 12:24, 36:22 graph [2] - 104:11, 104:12 graphic [4] - 103:1, 103:5, 103:17, 104:18 graphics [1] - 84:18 great [8] - 67:19, 117:10, 142:21, 142:22, 155:22, 182:12, 182:18, 182:23 greater [2] - 35:14, 91:17 GREG [1] - 1:19 group [3] - 30:13, 75:16, 110:5 groups [1] - 20:17 growth [3] - 10:19, 19:24, 90:6 guess [12] - 5:17, 6:13, 6:16, 6:17, 28:20, 33:20, 34:23, 35:18, 80:5, 99:17, 127:2, 131:9 Guidelines [4] - 4:13, 4:18, 170:21, 171:1 guidelines [12] - 4:14, 10:2, 10:11, 10:13, 11:3, 11:5, 12:12, 12:20, 24:6, 56:20, 56:24, 170:22 GUY [1] - 1:20 guys [5] - 16:11, 63:1, 91:20, 132:13, 135:19 GV [2] - 30:17, 89:22
----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

GV-IP [2] - 30:17, 89:22	120:11, 120:14, 120:20, 121:11, 122:3, 122:5, 140:8, 140:11, 140:17, 148:7, 148:11	150:16, 150:18, 150:19, 155:4, 155:7, 155:11, 156:5	79:16, 88:3, 96:5, 96:25, 97:23, 105:25, 106:8, 106:13, 107:1, 109:13, 110:6, 115:6, 142:20	46:12
H				Implementation [3] - 4:8, 170:11, 170:15
Hal [11] - 73:25, 74:3, 74:6, 74:20, 74:24, 75:25, 76:13, 78:24, 79:9, 80:17, 83:14	harden's [1] - 71:13	held [1] - 1:6	hospitals [3] - 116:22, 116:25, 117:2	important [10] - 9:13, 22:13, 23:25, 25:13, 37:14, 40:11, 51:13, 69:11, 87:11, 104:22
half [12] - 35:17, 36:2, 46:2, 46:8, 47:1, 82:2, 88:14, 91:15, 132:18, 132:19, 148:9	Harden's [3] - 5:23, 6:10, 6:19	help [5] - 19:17, 22:10, 107:18, 138:4, 139:25	hotel [3] - 67:22, 87:16, 130:1	importantly [1] - 54:10
halfway [2] - 42:5, 70:4	hardscape [1] - 179:6	helpful [5] - 17:15, 19:11, 72:8, 117:13, 119:5	hour [5] - 82:2, 88:8, 88:16, 106:3, 132:5	imposition [1] - 97:3
hand [1] - 77:5	Harold [1] - 74:10	Herzberg [5] - 50:7, 50:15, 51:6, 60:1, 119:23	hours [5] - 87:4, 96:6, 105:25, 106:9, 143:14	improper [1] - 16:13
handed [5] - 35:23, 37:12, 55:9, 103:6, 125:24	Hartford [1] - 76:11	Herzberg's [6] - 50:11, 53:4, 56:15, 58:20, 71:15, 107:24	housing [5] - 20:16, 47:7, 47:10, 47:18, 86:17	impropriety [1] - 6:6
handled [1] - 75:19	Haskell [1] - 110:7	high [6] - 10:20, 19:19, 19:25, 27:1, 123:23, 136:21	hundred [4] - 35:6, 35:8, 47:8, 53:19	improve [7] - 20:19, 20:21, 21:17, 48:1, 145:18, 145:19, 147:23
handout [1] - 180:14	hate [1] - 100:8	High [1] - 25:2	hundred-unit [1] - 35:8	improved [1] - 26:11
happy [4] - 117:3, 118:20, 118:25, 148:6	headlights [1] - 62:11	high-density [2] - 10:20, 19:25	hundreds [1] - 132:6	improvements [4] - 23:16, 147:22, 148:24, 162:19
hard [10] - 38:9, 38:10, 40:1, 56:14, 128:24, 129:4, 129:22, 182:7, 183:1, 184:24	heads [1] - 97:21	high-quality [2] - 19:19, 27:1	hurt [1] - 145:23	improves [1] - 73:6
harden [4] - 31:19, 58:23, 107:22, 183:6	Health [1] - 110:2	high-rises [1] - 136:21	hyperbolic [1] - 113:6	improving [1] - 22:15
Harden [37] - 4:24, 5:2, 5:10, 5:18, 5:20, 7:3, 7:11, 7:16, 31:7, 31:18, 32:21, 48:19, 49:10, 54:21, 55:25, 57:10, 58:21, 59:6, 59:25, 61:19, 63:6, 67:11, 76:16, 81:20, 84:8, 92:7, 92:8, 92:16, 97:25, 103:4, 105:23, 117:17, 119:10, 119:25, 132:21, 140:6, 140:24	health [2] - 41:1, 130:20	higher [8] - 51:21, 52:7, 68:15, 68:23, 94:23, 104:17, 123:21, 146:18		inaccurate [2] - 77:17, 96:4
HARDEN [49] - 31:20, 31:23, 32:19, 42:6, 42:10, 42:14, 42:21, 42:25, 43:2, 48:25, 49:8, 49:12, 54:14, 54:22, 55:5, 55:9, 55:14, 82:8, 82:12, 82:15, 82:18, 92:9, 92:13, 98:1, 98:3, 106:5, 107:4, 107:7, 107:10, 107:24, 108:21, 109:9, 109:23, 111:3, 117:18, 119:11, 119:18, 120:1,	healthcare [1] - 97:3	highlight [1] - 162:22		inappropriate [1] - 129:5
	healthy [1] - 21:7	highlighting [1] - 55:13	i.e [1] - 29:20	inaudible [3] - 94:21, 97:16, 167:25
	hear [7] - 28:4, 28:14, 112:16, 114:7, 137:4, 180:18, 180:19	highly [2] - 20:23, 21:13	idea [2] - 85:14, 134:25	inches [1] - 62:19
	heard [20] - 3:13, 35:10, 111:19, 112:2, 114:22, 115:4, 115:9, 119:13, 122:9, 136:24, 137:2, 151:6, 152:23, 155:24, 157:5, 157:9, 171:10, 177:20, 177:23, 180:7	Hines [16] - 9:8, 26:14, 33:16, 61:23, 62:3, 75:17, 76:10, 90:24, 123:22, 132:10, 132:11, 134:4, 134:8, 136:17, 139:19	ideal [4] - 87:14, 88:5, 143:19, 182:20	include [3] - 14:2, 29:18, 104:16
	HEARING [1] - 1:3	history [3] - 20:14, 101:5, 146:22	identification [1] - 164:22	included [6] - 11:2, 23:11, 52:14, 60:25, 63:22, 179:17
	hearing [24] - 3:16, 4:20, 8:2, 14:5, 14:9, 18:13, 22:6, 27:7, 27:9, 27:10, 27:15, 27:16, 28:12, 28:16, 30:16, 32:4, 32:23, 82:23, 83:16, 98:8, 159:15, 160:10, 184:24	hit [1] - 145:21	identified [1] - 164:22	includes [8] - 10:8, 104:14, 106:1, 114:10, 114:16, 158:20, 179:5
	heart [2] - 78:3, 116:24	Hogan [1] - 1:8	identify [1] - 83:23	including [8] - 9:22, 10:1, 42:20, 42:23, 44:10, 72:24, 78:6, 180:19
	height [34] - 10:6, 11:15, 11:16, 34:15, 35:13, 35:15, 36:4, 36:15, 51:12, 51:18, 52:1, 52:5, 58:24, 65:19, 67:11, 84:9, 84:19, 123:12, 124:5, 124:9, 128:14, 128:17, 128:19, 128:21, 128:25, 129:5,	hold [2] - 53:12, 173:21	ignored [2] - 57:11, 61:9	income [2] - 117:5, 117:24
		holding [1] - 152:4	ignores [1] - 67:14	inconsistent [1] - 95:13
		honest [1] - 132:14	ignoring [1] - 36:19	incorporate [1] - 172:24
		honor [1] - 101:1	ii [2] - 167:19, 180:12	incorporating [1] - 99:19
		hoops [1] - 124:12	II [1] - 168:6	increase [8] - 11:9, 20:15, 35:15, 36:9, 47:6, 47:9, 48:4, 88:10
		hoping [1] - 72:9	iii [2] - 167:19, 180:13	Independent [4] - 31:2, 55:17, 63:17, 115:20
		horse's [1] - 93:15	III [1] - 168:7	independently [1] - 58:9
		Hospital [2] - 33:8, 86:19	imagination [1] - 48:14	indicate [1] - 146:20
		hospital [15] - 33:9,	imagine [1] - 31:9	indicated [4] - 34:14,
			immediate [1] - 123:9	
			impact [9] - 87:15, 88:17, 91:8, 91:12, 101:9, 101:23, 102:2, 102:4, 102:7	
			impacted [2] - 111:2, 127:24	
			impacts [2] - 26:19, 128:20	
			impede [1] - 101:8	
			impinges [2] - 46:9,	

<p>41:23, 50:13, 83:11 indicating [2] - 133:24, 133:25 Indicating [1] - 3:5 indicating [1] - 135:22 indicting [1] - 135:24 individual [4] - 56:11, 57:17, 58:10, 81:10 individually [7] - 16:25, 17:1, 29:8, 56:11, 149:4, 149:6, 149:7 individuals [1] - 114:19 indulgence [2] - 92:15, 178:19 inefficiencies [1] - 66:1 infeasible [1] - 66:2 infill [4] - 86:16, 86:25, 87:14, 122:14 influence [1] - 7:19 influenced [1] - 6:11 inform [1] - 76:3 information [12] - 6:17, 12:9, 13:25, 14:7, 17:13, 27:25, 57:12, 68:20, 114:25, 118:24, 122:10, 184:23 informed [4] - 72:19, 75:7, 76:8, 79:15 infrastructure [3] - 33:2, 87:6, 97:6 ingress [3] - 138:9, 138:10, 144:23 inherited [1] - 79:13 initial [1] - 56:24 initiatives [2] - 23:5, 64:5 injure [8] - 40:9, 40:12, 40:21, 45:12, 108:6, 119:21, 120:18, 127:22 injures [1] - 120:25 injuries [1] - 146:21 injuring [1] - 93:18 injury [3] - 93:13, 108:9, 120:8 inside [3] - 33:4, 79:4, 94:22 install [1] - 163:1 instance [1] - 181:5 instead [6] - 39:19, 41:11, 48:11, 145:12, 150:9, 150:10 intended [3] - 38:7, 38:8, 76:8</p>	<p>intends [2] - 51:14, 51:16 intensive [1] - 53:6 intent [6] - 10:16, 16:1, 16:4, 50:19, 51:10, 56:23 interaction [1] - 73:23 interactions [1] - 27:23 interest [21] - 6:13, 6:15, 6:22, 17:19, 23:21, 39:17, 39:20, 39:21, 39:22, 39:25, 44:8, 44:10, 44:14, 44:22, 45:7, 54:5, 54:8, 61:9, 61:13, 69:12, 93:5 interested [1] - 5:24 interesting [5] - 68:24, 76:21, 95:5, 126:23, 184:21 interfere [5] - 40:9, 45:12, 120:18, 127:21, 130:18 interfered [1] - 128:10 intermediate [1] - 15:10 interpret [2] - 4:16, 170:24 interrupt [1] - 48:16 intersection [1] - 145:18 intersections [2] - 88:8, 88:15 interstate [2] - 96:19, 106:18 introduce [5] - 63:15, 65:1, 70:10, 74:6, 148:18 introduced [2] - 58:7, 59:3 introduction [1] - 56:19 introductions [1] - 2:24 Intuition [1] - 26:2 invest [1] - 147:2 investment [1] - 20:6 Investment [1] - 27:3 INVESTMENT [1] - 1:2 investments [1] - 91:16 investors [1] - 66:3 involved [3] - 53:3, 75:5, 79:9 IP [2] - 30:17, 89:22 ironic [1] - 147:25 Isaacson [1] - 7:7 issue [24] - 5:1, 6:18, 6:24, 6:25, 58:15,</p>	<p>58:16, 58:18, 61:22, 65:24, 93:25, 96:10, 106:24, 107:5, 121:14, 122:23, 122:24, 124:21, 126:7, 128:25, 144:2, 144:4, 144:23, 147:2, 160:7 issues [17] - 4:10, 21:19, 23:23, 24:11, 32:8, 58:24, 61:6, 65:25, 90:11, 90:18, 93:23, 96:3, 106:22, 113:19, 121:8, 170:18, 171:10 Item [3] - 22:14, 100:2, 154:18 item [9] - 6:12, 11:13, 29:7, 30:10, 149:4, 149:6, 151:16, 168:11, 175:15 items [10] - 14:1, 29:6, 29:9, 29:23, 93:9, 99:5, 149:7, 168:4, 173:12, 180:12 iterations [1] - 66:7 iterative [3] - 21:13, 61:14, 112:5 itself [7] - 52:21, 56:9, 74:17, 111:7, 123:8, 139:17, 149:21</p>	<p>jobs [1] - 90:8 Joe [1] - 18:20 Johns [4] - 12:6, 20:23, 164:9, 166:17 JOI [1] - 111:13 joined [1] - 137:16 Jollibee [1] - 59:12 Jones [14] - 3:22, 13:8, 18:14, 19:7, 27:5, 34:13, 56:3, 111:19, 121:18, 136:23, 141:14, 143:8, 157:22, 183:13 JONES [15] - 1:19, 18:17, 18:19, 18:22, 18:25, 19:6, 111:23, 137:6, 143:10, 145:5, 146:24, 147:5, 157:24, 158:2, 176:24 Jones' [1] - 56:6 Juan [2] - 89:18, 89:22 judge [3] - 32:11, 38:4, 49:21 judicial [8] - 4:19, 14:5, 37:6, 37:8, 38:1, 38:6, 49:23, 92:25 July [1] - 4:24 June [5] - 9:4, 26:10, 66:19, 178:14, 179:10</p>	<p>165:20, 165:22, 165:24, 166:3, 166:9, 166:22, 178:5, 178:8, 178:12, 178:23, 179:15 Klement [23] - 8:8, 8:22, 8:24, 9:1, 13:6, 14:16, 16:20, 24:1, 41:23, 111:19, 162:6, 162:11, 162:14, 163:8, 163:22, 170:11, 171:9, 174:14, 177:10, 177:25, 178:2, 178:16, 178:22 knowledge [1] - 107:18 known [1] - 8:15 knows [1] - 3:2 Kytell [1] - 137:12</p>
L				
<p>L-shaped [1] - 101:21 land [11] - 45:3, 64:2, 64:4, 64:10, 64:13, 75:18, 122:19, 125:7, 128:22, 136:4, 139:22 landscape [1] - 114:16 lane [1] - 147:5 large [2] - 35:4, 141:4 Large [1] - 1:10 larger [1] - 47:17 largest [1] - 137:24 last [10] - 12:2, 17:21, 21:5, 112:15, 116:2, 123:2, 131:10, 137:10, 171:25, 180:7 late [2] - 82:21, 123:2 law [4] - 40:21, 51:10, 94:3, 181:8 lawyer [4] - 57:16, 125:7, 125:8, 129:23 learned [1] - 72:6 leasability [1] - 91:10 lease [7] - 75:11, 75:15, 75:20, 75:21, 76:4, 102:8 leasing [5] - 88:23, 101:12, 101:25, 102:4, 109:7 least [6] - 24:24, 25:7, 25:9, 61:19, 82:5, 113:17 leave [1] - 148:2</p>				
J				
<p>JACK [1] - 1:13 JACKIE [1] - 1:21 JACKSONVILLE [1] - 1:1 Jacksonville [18] - 1:9, 15:9, 24:9, 30:18, 33:1, 33:7, 53:7, 65:18, 66:4, 91:14, 91:17, 95:14, 116:17, 118:5, 118:15, 138:2, 165:13, 166:19 JAMES [1] - 1:13 January [1] - 22:7 Jason [7] - 3:2, 7:7, 32:8, 34:20, 35:23, 37:12, 38:14 JASON [1] - 1:21 Jax [1] - 63:18 JEA [1] - 136:19 Jim [3] - 9:1, 42:1, 177:23 JIM [1] - 1:20 job [5] - 123:3, 123:5, 150:23, 182:11, 182:22</p>				
K				
<p>keep [4] - 8:2, 26:13, 142:14, 146:15 keeping [1] - 10:21 Keith [3] - 7:6, 109:25, 137:20 key [1] - 20:16 kid [1] - 19:10 kind [20] - 6:5, 13:14, 15:9, 16:25, 19:12, 20:2, 21:9, 42:1, 44:17, 59:1, 61:18, 71:25, 73:19, 77:14, 85:2, 113:19, 129:21, 142:24, 143:1, 158:17 kinds [1] - 28:6 Kings [1] - 19:7 KLEMENT [26] - 1:20, 8:12, 8:23, 9:1, 42:7, 42:11, 114:8, 114:13, 153:9, 162:15, 163:11, 163:14, 163:18, 164:1, 164:3,</p>				

leaves [1] - 83:19
leaving [4] - 69:15, 69:16, 88:2, 88:3
led [1] - 181:19
left [1] - 92:9
legal [4] - 14:8, 32:8, 33:25, 45:19
legally [1] - 16:15
length [1] - 163:5
less [17] - 24:21, 26:19, 35:5, 68:3, 88:13, 91:11, 95:23, 103:9, 103:10, 103:12, 103:13, 103:15, 103:20, 105:8, 105:14, 108:13, 133:10
lesser [1] - 102:19
letter [6] - 39:2, 51:10, 76:22, 154:5, 162:21, 181:8
Letter [2] - 80:15, 81:2
level [5] - 124:6, 143:25, 146:17, 183:8
levels [1] - 85:11
license [1] - 90:24
lie [1] - 91:13
life [1] - 110:17
lifestyle [1] - 20:17
lifetime [1] - 142:13
light [4] - 43:9, 77:21, 78:20, 179:8
lighting [1] - 179:5
likely [1] - 133:8
limit [3] - 35:13, 53:1, 109:11
limitation [1] - 52:9
limitations [1] - 57:2
limited [4] - 13:25, 28:4, 33:2, 97:5
line [6] - 57:18, 73:2, 105:16, 132:7, 166:4
linear [1] - 23:1
lines [3] - 58:1, 58:13, 80:13
lineup [1] - 104:20
list [1] - 92:9
listed [2] - 149:14, 167:18
live [4] - 65:2, 115:23, 116:5, 116:12
liveable [1] - 144:11
living [4] - 21:7, 116:16, 118:4, 122:16
LLC [1] - 30:18
loading [1] - 78:13
locally [2] - 26:21, 68:4

located [4] - 9:6, 9:12, 32:25, 96:14
location [9] - 2:5, 25:1, 33:7, 53:22, 87:21, 92:22, 96:20, 105:17, 109:12
locations [1] - 68:1
Lofts [1] - 24:20
Lomax [6] - 47:13, 53:19, 94:13, 118:12, 133:23
longtime [1] - 123:10
look [39] - 23:4, 23:8, 25:17, 25:18, 38:5, 56:1, 57:18, 59:2, 59:8, 65:17, 66:3, 67:6, 69:6, 69:21, 80:10, 81:19, 92:19, 92:25, 93:1, 96:10, 103:17, 103:22, 106:20, 108:4, 108:5, 108:23, 108:24, 123:12, 129:1, 130:3, 134:10, 137:7, 139:24, 146:22, 147:19, 176:25, 182:5
looked [15] - 11:6, 11:13, 56:4, 66:5, 66:6, 90:25, 91:6, 93:2, 103:7, 106:14, 123:25, 131:10, 145:2, 162:19
looking [9] - 3:25, 16:25, 101:12, 118:7, 125:21, 141:1, 147:6, 153:25, 178:5
looks [2] - 28:13, 129:16
loop [1] - 23:18
Loretta [1] - 18:20
lose [2] - 110:14, 135:7
losing [4] - 135:8, 135:9, 135:19, 135:23
love [1] - 91:4
low [1] - 24:10
lower [8] - 35:25, 52:23, 53:1, 68:14, 68:21, 101:20, 105:10, 150:19
lowest [2] - 24:11, 66:19
LPNs [1] - 116:10
lump [2] - 44:17, 45:14

M

M.D [6] - 86:20, 109:15, 111:6, 111:11, 115:5, 116:23
MAI [2] - 61:6, 93:14
maintain [1] - 21:3
maintained [1] - 51:25
Management [1] - 164:16
manager [3] - 74:18, 79:14, 89:23
Manager [1] - 1:20
managing [2] - 74:13
mandatory [3] - 6:4, 52:25, 126:19
map [1] - 108:23
Marc [2] - 2:12, 157:11
MARC [1] - 1:16
Marc's [1] - 2:17
Marco [2] - 23:10, 141:3
Market [1] - 103:25
market [18] - 25:14, 25:18, 25:25, 26:20, 35:19, 66:3, 66:16, 94:15, 95:7, 105:16, 115:10, 117:4, 117:11, 117:25, 118:15, 118:16, 118:24, 123:4
market-derived [1] - 123:4
marketing [1] - 139:19
marketplace [5] - 64:11, 64:17, 64:21, 94:8, 123:6
massing [3] - 51:15, 84:14, 85:24
massive [1] - 85:15
master [1] - 166:4
Master [3] - 9:22, 23:7, 171:4
material [4] - 57:20, 57:21, 71:24, 72:7
materials [19] - 14:3, 55:23, 58:8, 60:16, 61:1, 67:6, 67:25, 71:3, 72:18, 164:24, 176:3, 176:8, 176:13, 176:14, 176:16, 178:10, 179:3, 179:4, 179:7
math [2] - 104:19, 140:17
matter [14] - 5:11, 5:21, 40:3, 40:4, 40:20, 40:21, 41:21, 49:14, 70:16, 73:14,

125:16, 137:10, 144:3, 180:11
mean [32] - 26:8, 27:25, 50:14, 74:22, 93:5, 96:17, 98:12, 106:18, 111:21, 111:23, 112:24, 113:5, 114:4, 118:20, 123:8, 123:19, 126:15, 127:7, 130:8, 132:13, 143:10, 143:18, 144:19, 145:6, 145:21, 146:21, 147:7, 167:6, 168:14, 171:19, 173:9, 176:11
means [6] - 13:21, 14:6, 133:17, 142:20, 172:18, 173:19
meant [4] - 12:13, 56:14, 56:16, 56:21
measure [1] - 20:9
media [1] - 3:4
medical [5] - 59:13, 87:19, 116:3, 116:19, 116:20
Medical [4] - 32:2, 32:22, 32:25, 33:6
MEEKS [40] - 1:13, 5:4, 6:19, 17:11, 29:5, 30:5, 30:8, 119:9, 119:12, 119:25, 120:2, 120:13, 120:15, 121:5, 122:1, 122:4, 122:7, 148:12, 148:14, 148:17, 148:25, 149:12, 151:15, 152:12, 155:13, 156:11, 159:4, 159:8, 159:21, 161:12, 168:21, 172:13, 172:23, 173:6, 173:10, 173:16, 178:20, 179:23, 180:21, 183:25
Meeks [7] - 5:3, 5:16, 17:10, 119:8, 121:14, 175:22, 179:20
meet [41] - 12:21, 14:21, 16:19, 16:23, 17:2, 27:2, 34:11, 35:22, 36:16, 37:18, 37:20, 38:12, 38:24, 39:14, 39:20, 39:21,

39:22, 39:24, 40:2, 43:8, 43:9, 51:8, 53:9, 53:10, 57:24, 58:11, 67:21, 67:23, 94:11, 94:18, 94:25, 95:1, 95:10, 95:17, 95:19, 95:21, 121:23, 154:1, 154:2, 181:8
meeting [14] - 2:9, 2:19, 4:25, 6:9, 7:12, 7:23, 27:13, 39:8, 39:23, 56:8, 67:9, 83:4, 131:18, 146:11
meetings [5] - 7:2, 7:7, 7:19, 9:20, 132:3
meets [6] - 44:23, 54:9, 66:13, 126:20, 129:19, 150:23
MEMBER [100] - 7:2, 7:5, 7:10, 7:15, 7:23, 17:17, 83:22, 84:1, 86:8, 89:21, 100:23, 102:18, 104:10, 105:5, 107:3, 107:14, 107:20, 108:18, 109:6, 109:17, 109:22, 109:25, 111:17, 114:6, 115:3, 115:16, 115:24, 116:15, 117:10, 117:12, 118:17, 119:4, 122:9, 123:17, 124:11, 124:18, 125:1, 126:10, 126:12, 126:15, 131:9, 151:5, 151:8, 151:18, 151:25, 152:22, 153:13, 153:17, 153:24, 154:16, 155:5, 155:9, 155:15, 155:20, 155:22, 156:1, 156:7, 156:8, 156:9, 156:10, 156:24, 159:12, 159:17, 159:18, 159:19, 159:20, 160:13, 160:22, 161:2, 161:14, 168:2, 168:8, 173:7, 173:23, 173:25, 174:16, 174:23, 175:2, 175:11, 175:16, 175:21, 176:15, 177:2, 177:6, 177:9, 177:18, 177:20,

178:7, 178:9, 178:14, 180:16, 180:18, 181:1, 181:3, 182:1, 183:21, 183:22, 183:23, 183:24, 184:9 Member [17] - 1:14, 1:14, 1:15, 1:15, 1:16, 1:19, 1:19, 15:16, 103:3, 154:23, 156:12, 159:22, 161:5, 161:21, 178:17, 179:11, 184:1 member [7] - 4:20, 37:25, 83:25, 86:7, 89:19, 109:24, 178:25 members [13] - 62:5, 74:8, 77:7, 89:21, 98:9, 98:10, 117:8, 151:2, 152:19, 162:16, 182:3, 183:18 MEMBERS [22] - 1:12, 3:5, 92:1, 92:4, 151:3, 151:10, 151:20, 151:22, 154:19, 154:22, 155:1, 156:20, 159:14, 161:4, 161:8, 161:16, 161:20, 161:24, 167:1, 172:9, 182:4, 183:17 memo [4] - 43:6, 59:3, 80:25, 81:7 Memorandum [1] - 80:10 memorandum [2] - 57:19, 59:4 mention [2] - 111:24, 128:13 mentioned [13] - 29:13, 33:21, 34:3, 79:2, 87:17, 99:2, 101:6, 102:15, 110:10, 132:1, 132:22, 157:4, 180:13 met [17] - 7:16, 7:17, 34:19, 37:10, 37:17, 37:22, 38:8, 41:16, 51:9, 80:14, 81:10, 91:3, 131:22, 154:11, 169:16, 171:17, 172:5 methodology [2] - 36:8, 36:18	meticulous [1] - 56:10 MIA [1] - 60:9 Miami [1] - 92:17 mic [2] - 19:2, 114:12 Michael [1] - 50:7 microphone [3] - 8:19, 8:20, 162:12 mid [3] - 139:8, 139:10, 148:2 mid-block [3] - 139:8, 139:10, 148:2 middle [4] - 63:1, 68:13, 104:21, 105:4 might [16] - 2:4, 30:5, 73:18, 80:8, 84:7, 107:9, 119:10, 139:14, 148:25, 149:13, 150:8, 177:4, 183:3, 183:4, 183:9 mile [2] - 116:5, 116:22 Mill [2] - 86:9, 124:3 million [2] - 91:16, 148:9 mind [8] - 8:2, 26:13, 109:20, 125:22, 127:3, 136:25, 137:3, 137:5 mine [2] - 24:24, 50:1 minimize [1] - 22:11 minimizes [1] - 87:15 minimizing [1] - 24:2 minimum [5] - 52:17, 113:14, 129:13, 130:2, 165:14 minus [1] - 140:19 minute [7] - 18:15, 28:15, 81:25, 82:5, 82:9, 82:11, 87:9 minutes [24] - 8:9, 19:4, 28:11, 28:14, 30:21, 42:4, 43:3, 49:4, 49:5, 49:6, 49:8, 49:9, 55:3, 70:6, 80:3, 80:4, 82:6, 82:20, 82:22, 83:21, 92:7, 92:11, 98:2 Mira [3] - 89:18, 89:22, 91:23 misled [1] - 85:14 misperception [1] - 84:6 missed [2] - 177:5, 177:12 mistaken [1] - 26:14 mitigate [2] - 11:6, 12:22 mitigated [1] - 11:2	mitigating [1] - 12:11 mitigation [4] - 4:5, 24:4, 168:23, 170:8 mix [5] - 64:2, 64:4, 69:10, 94:7, 122:19 mixed [4] - 10:20, 19:19, 20:1, 30:25 mixed-use [3] - 10:20, 19:19, 20:1 mixture [1] - 64:13 modification [1] - 174:5 modifications [1] - 30:2 modify [4] - 141:21, 167:7 modifying [1] - 28:24 moment [4] - 60:4, 64:24, 85:6, 112:15 money [3] - 39:11, 43:18, 94:18 Monroe [1] - 24:21 month [1] - 117:22 months [2] - 24:19, 132:2 MOODY [12] - 1:15, 7:10, 122:9, 123:17, 124:11, 124:18, 151:18, 156:9, 159:19, 180:16, 182:1, 183:23 moody [5] - 7:9, 46:4, 122:8, 124:24, 181:25 morning [5] - 69:13, 72:20, 106:4, 106:15, 132:8 most [13] - 2:7, 17:15, 22:13, 37:1, 51:13, 69:13, 69:15, 100:17, 112:2, 116:22, 135:21, 143:18, 144:21 motion [40] - 99:5, 99:8, 99:18, 136:7, 148:18, 149:2, 149:8, 149:13, 150:4, 151:12, 151:14, 152:6, 152:13, 152:20, 154:20, 155:3, 156:6, 156:21, 159:2, 159:3, 159:6, 160:20, 161:10, 171:19, 172:11, 172:15, 173:1, 173:3, 173:11, 173:14, 173:22, 174:7, 174:21, 179:21, 180:10,	180:19, 181:22, 183:19 motions [1] - 148:19 motorcycle [7] - 72:21, 72:22, 104:16, 157:10, 157:11, 158:4, 158:6 MOTT [1] - 1:21 move [24] - 10:12, 19:17, 36:7, 36:10, 36:11, 36:17, 38:2, 52:8, 62:7, 88:4, 94:24, 95:4, 99:14, 112:16, 113:12, 116:12, 142:1, 142:24, 151:15, 155:6, 155:9, 160:22, 173:14, 180:2 moved [3] - 62:8, 156:24, 161:12 movement [1] - 143:4 moving [5] - 95:3, 109:1, 142:15, 143:6, 184:6 MR [262] - 5:16, 6:23, 8:12, 8:23, 9:1, 13:11, 17:16, 18:2, 18:11, 18:17, 18:19, 18:22, 18:25, 19:6, 27:18, 27:22, 29:12, 30:14, 30:23, 31:1, 31:5, 31:14, 31:20, 31:23, 32:18, 32:19, 42:6, 42:7, 42:10, 42:11, 42:14, 42:19, 42:21, 42:23, 42:25, 43:1, 43:2, 48:22, 48:25, 49:2, 49:6, 49:8, 49:12, 54:14, 54:22, 55:5, 55:7, 55:9, 55:10, 55:14, 55:16, 60:8, 60:13, 60:16, 60:19, 60:20, 60:23, 60:24, 61:3, 61:4, 63:12, 63:17, 63:19, 63:25, 64:15, 64:20, 64:21, 65:1, 65:3, 65:5, 65:10, 65:11, 65:15, 66:5, 66:10, 66:11, 66:17, 66:21, 70:2, 70:7, 70:9, 70:12, 70:14, 70:17, 70:18, 70:21, 70:22, 71:1, 71:2, 71:5, 71:6, 74:3, 74:8, 74:20, 75:4, 75:10, 75:16, 75:25, 76:6, 76:13, 76:14, 76:15, 77:4, 77:6,	77:7, 77:9, 77:10, 77:12, 78:22, 79:2, 79:12, 79:20, 79:23, 80:1, 80:4, 81:15, 82:8, 82:12, 82:15, 82:18, 83:17, 89:10, 89:15, 92:9, 92:11, 92:13, 98:1, 98:3, 98:5, 98:23, 99:24, 100:14, 100:16, 102:21, 103:5, 104:12, 106:5, 107:4, 107:7, 107:10, 107:24, 108:21, 109:9, 109:19, 111:3, 111:5, 111:23, 114:8, 114:13, 115:19, 115:25, 116:18, 117:11, 117:18, 118:18, 119:11, 119:18, 120:1, 120:11, 120:14, 120:20, 121:11, 122:3, 122:5, 123:15, 124:3, 124:14, 137:6, 137:13, 137:16, 137:20, 138:7, 138:12, 138:24, 139:7, 139:17, 140:8, 140:11, 140:17, 143:10, 145:5, 146:24, 147:5, 147:17, 148:7, 148:10, 148:11, 148:13, 148:22, 149:5, 149:15, 150:6, 150:16, 152:2, 152:5, 152:9, 152:14, 152:25, 153:9, 153:10, 153:15, 155:18, 155:21, 155:23, 157:1, 157:20, 157:24, 158:2, 158:10, 158:15, 160:5, 160:9, 160:15, 160:19, 162:3, 162:9, 162:15, 163:11, 163:14, 163:18, 163:21, 164:1, 164:2, 164:3, 165:20, 165:22, 165:24, 166:3, 166:9, 166:22, 167:12, 169:7, 169:11, 171:16, 171:21, 172:16,
---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

173:1, 173:13,
173:17, 174:6,
174:20, 175:1,
175:7, 175:12,
175:19, 175:23,
176:14, 176:16,
176:22, 176:24,
177:4, 177:8,
177:11, 177:24,
178:5, 178:8,
178:12, 178:23,
179:15, 184:10,
184:13, 184:19
multifamily [7] - 10:5,
65:8, 66:8, 66:12,
68:9, 88:22, 89:5
multiple [6] - 35:9,
66:6, 67:25, 68:1,
68:2, 96:6
multitude [1] - 34:12
multiuse [12] - 23:3,
23:11, 23:17, 61:11,
63:4, 122:18,
145:12, 163:1,
163:2, 164:21,
164:22, 164:23
multiuse-trail [1] -
23:3
must [7] - 14:6, 16:19,
16:23, 28:18,
169:16, 177:12
mutual [1] - 112:10

N

name [6] - 8:16, 19:3,
55:16, 74:10, 84:2,
92:18
near [1] - 102:5
nearby [2] - 105:2,
122:25
necessar [1] - 146:25
necessary [5] -
125:19, 166:15,
168:3, 169:5, 169:19
need [40] - 3:8, 4:20,
8:16, 15:22, 17:18,
25:17, 34:7, 35:20,
39:18, 39:19, 43:2,
46:23, 47:2, 47:19,
48:24, 54:3, 62:7,
95:7, 95:12, 95:19,
97:7, 99:8, 114:2,
121:2, 121:13,
121:15, 121:16,
121:18, 125:9,
129:15, 145:11,
149:5, 151:25,
152:2, 155:16,
158:8, 179:24

needed [6] - 22:2,
57:1, 86:16, 91:2,
95:15, 145:14
needs [5] - 86:24,
91:19, 110:9,
131:19, 145:8
negative [1] - 91:7
negatives [1] - 122:22
negligible [1] - 88:17
negotiate [2] - 75:11,
79:21
negotiated [4] - 75:15,
75:24, 79:24, 111:10
negotiations [3] -
75:19, 76:4, 79:9
neighbor [1] - 112:14
neighbor's [1] - 93:17
neighborhood [1] -
141:9
neighborhoods [1] -
20:22
neighbors [2] - 70:24,
112:7
Neptune [3] - 19:7,
19:8, 19:9
net [3] - 88:7, 102:7,
117:24
never [8] - 19:15,
33:21, 55:7, 73:13,
88:21, 125:17,
142:25, 177:23
new [13] - 20:5, 22:16,
23:11, 52:19, 67:21,
67:22, 74:25, 90:8,
101:22, 101:23,
129:25, 130:6, 139:5
news [1] - 72:14
next [17] - 15:12,
15:13, 27:24, 38:4,
45:4, 70:24, 73:20,
73:24, 75:2, 75:18,
76:5, 76:9, 99:14,
100:22, 134:10,
145:2
next-door [1] - 70:24
nice [1] - 142:6
night [1] - 123:2
nine [6] - 40:15, 40:18,
46:11, 93:16, 134:16
nines [1] - 48:3
ninth [1] - 91:10
nobody [2] - 69:2,
84:21
nodes [1] - 20:24
none [3] - 34:2, 88:10,
136:2
norm [2] - 16:2,
132:19
normally [3] - 37:7,
44:2, 132:20

North [1] - 1:8
north [1] - 87:25
Notary [1] - 1:9
note [10] - 9:13, 23:25,
25:13, 26:4, 43:19,
77:24, 93:22, 95:5,
101:19, 184:11
noted [1] - 32:4
notes [4] - 12:12,
61:19, 172:7, 186:11
nothing [6] - 32:13,
59:19, 61:7, 67:2,
117:15, 142:11
Notice [1] - 5:20
noticed [1] - 33:20
notification [3] -
54:13, 81:14, 89:7
notion [1] - 57:7
novo [3] - 13:20, 32:4,
169:9
nuisance [3] - 70:23,
71:11, 71:18
nuisances [1] - 41:2
Number [8] - 80:10,
81:11, 81:17, 100:2,
126:13, 156:16,
160:1, 168:6
number [19] - 27:2,
55:21, 108:10,
126:22, 129:8,
129:13, 131:17,
150:8, 155:3, 157:6,
157:13, 158:7,
158:13, 158:15,
158:16, 158:17,
165:14, 174:3, 180:7
numeral [3] - 167:19,
167:21, 168:6
nurse [1] - 117:24
nurses [1] - 116:9

O

o'clock [1] - 106:15
O'Shea [7] - 75:19,
80:17, 86:6, 86:9,
118:25, 124:2, 124:3
O'SHEA [4] - 89:10,
89:15, 124:3, 124:14
object [2] - 31:8,
31:10
objection [2] - 54:19,
81:24
objectives [8] - 20:8,
41:5, 46:18, 46:20,
46:22, 130:25,
131:1, 131:3
obligation [1] - 49:23
obtrusive [2] - 21:20,
22:12

obvious [1] - 165:1
obviously [8] - 15:1,
17:3, 49:20, 76:3,
122:14, 126:1,
141:25, 142:2
occupancy [2] - 89:5,
89:11
occupied [5] - 20:15,
47:7, 47:9, 88:21,
89:1
occur [1] - 88:21
occurs [1] - 125:17
October [1] - 22:6
OF [5] - 1:1, 1:3,
186:1, 186:3, 186:4
off-street [9] - 11:18,
24:12, 25:6, 25:12,
26:3, 52:10, 52:12,
81:11, 102:13
offered [2] - 10:24,
149:2
offering [1] - 104:9
office [7] - 59:13,
87:16, 87:19, 89:4,
89:6, 89:11, 108:14
Office [2] - 1:21,
164:16
officer [6] - 17:21,
38:2, 49:24, 92:25,
109:20, 137:23
Officer [1] - 1:18
offices [1] - 106:13
officials [2] - 62:6
OLIVER [1] - 1:14
on-site [1] - 74:18
once [5] - 99:7, 99:15,
113:2, 149:7, 152:9
one [111] - 5:9, 8:13,
8:19, 11:8, 14:13,
14:24, 16:23, 20:11,
22:4, 22:13, 22:24,
24:21, 25:6, 27:2,
29:11, 30:10, 37:9,
39:13, 40:5, 40:24,
41:3, 41:4, 41:9,
43:11, 43:19, 44:3,
44:5, 45:11, 46:16,
47:6, 48:1, 51:12,
52:23, 53:10, 55:15,
58:6, 59:5, 60:2,
61:17, 63:16, 64:1,
68:23, 70:19, 70:20,
73:8, 77:12, 78:24,
80:23, 82:3, 85:18,
87:8, 88:14, 88:19,
90:15, 93:15, 95:1,
95:21, 96:3, 96:21,
98:14, 100:13,
101:19, 103:24,
105:21, 106:13,

106:18, 106:20,
108:22, 110:21,
111:23, 112:2,
113:7, 114:16,
114:17, 120:21,
125:12, 126:5,
126:23, 127:20,
129:21, 131:3,
131:17, 132:8,
132:18, 132:19,
132:24, 133:5,
133:8, 133:9,
133:19, 138:13,
141:18, 145:10,
145:16, 145:25,
148:20, 149:1,
149:13, 162:24,
168:13, 170:16,
174:2, 175:23,
176:24, 177:7,
178:7, 178:25,
180:2, 181:4
One [1] - 76:3
one's [1] - 67:1
one-and-a-half [2] -
132:18, 132:19
one-bedroom [2] -
133:5, 133:9
one-half [2] - 88:14
ones [4] - 45:15,
60:17, 104:24, 126:8
open [11] - 10:9,
18:13, 27:8, 27:15,
28:17, 30:16, 50:22,
98:8, 137:11, 165:2,
166:5
operate [2] - 97:4,
97:23
operates [1] - 96:6
operating [3] - 65:25,
96:7, 137:23
operation [1] - 107:1
operations [1] -
166:11
opine [2] - 18:1,
105:20
opined [1] - 51:6
opinion [8] - 5:13,
6:11, 6:21, 7:20,
15:2, 50:13, 107:17,
111:20
opinions [1] - 5:15
opportunities [2] -
10:1, 112:8
opportunity [7] - 23:2,
23:3, 23:18, 86:11,
137:9, 144:24, 145:3
oppose [2] - 156:15,
159:25
Opposed [1] - 161:7

<p>opposed [18] - 16:7, 33:16, 34:4, 34:5, 46:25, 83:8, 140:18, 142:4, 151:21, 154:25, 156:14, 159:24, 161:23, 181:14, 184:3, 184:4, 184:5</p> <p>opposing [1] - 142:4</p> <p>opposite [5] - 69:5, 69:8, 69:18, 87:20, 96:5</p> <p>opposition [2] - 137:1, 137:8</p> <p>optimal [1] - 144:21</p> <p>options [3] - 98:11, 141:18, 172:16</p> <p>orange [1] - 83:9</p> <p>Orchid [1] - 74:11</p> <p>order [6] - 17:1, 35:8, 36:16, 61:18, 73:16, 169:16</p> <p>Order [2] - 4:6, 168:24</p> <p>ordinance [3] - 38:16, 49:22, 53:16</p> <p>oriented [1] - 12:14</p> <p>original [6] - 33:9, 59:8, 61:25, 71:20, 74:3, 146:8</p> <p>originally [1] - 123:23</p> <p>Orlando [1] - 138:2</p> <p>otherwise [5] - 5:5, 17:5, 52:17, 54:3, 91:8</p> <p>ought [1] - 106:24</p> <p>ourselves [2] - 19:15, 19:16</p> <p>outcome [1] - 6:15</p> <p>outcomes [1] - 21:18</p> <p>outline [1] - 67:8</p> <p>outlines [1] - 147:21</p> <p>outlining [1] - 9:10</p> <p>outpatient [1] - 111:13</p> <p>outset [1] - 99:2</p> <p>outside [1] - 142:16</p> <p>overall [3] - 10:6, 69:18, 184:16</p> <p>overcome [1] - 15:4</p> <p>Overlay [15] - 4:17, 9:12, 10:14, 13:17, 15:18, 15:24, 16:1, 19:13, 36:23, 51:14, 52:11, 53:4, 140:12, 170:25, 171:5</p> <p>overlay [5] - 9:23, 19:22, 52:15, 56:20, 67:16</p> <p>overlooking [1] - 134:23</p> <p>overpass [1] - 148:8</p>	<p>overturn [2] - 141:19, 172:18</p> <p>overturned [1] - 175:9</p> <p>overturns [2] - 28:23, 167:5</p> <p>own [2] - 58:9, 135:4</p> <p>owned [5] - 79:10, 101:6, 110:7, 139:18, 139:22</p> <p>owner [6] - 20:15, 26:25, 47:9, 74:3, 74:4, 75:24</p> <p>Owner [1] - 30:18</p> <p>owner-occupied [2] - 20:15, 47:9</p> <p>owners [10] - 32:1, 32:21, 50:1, 73:23, 73:24, 74:24, 74:25, 75:14, 89:22, 114:18</p> <p>ownership [4] - 74:14, 76:7, 79:15, 79:25</p> <p>owns [3] - 75:18, 139:13, 139:15</p>	<p>Paragraph [2] - 127:14, 128:11</p> <p>paragraph [1] - 163:4</p> <p>parallel [2] - 145:13, 166:5</p> <p>parcel [8] - 22:1, 73:17, 74:5, 75:13, 125:23, 126:1, 154:6, 178:11</p> <p>Pardo [2] - 141:3, 141:10</p> <p>Pardo's [1] - 136:18</p> <p>Park [1] - 70:13</p> <p>park [11] - 62:25, 63:3, 68:20, 68:21, 69:3, 97:11, 97:15, 97:18, 111:12, 115:23, 166:1</p> <p>parking [156] - 10:7, 10:8, 11:19, 11:20, 11:21, 23:24, 24:12, 24:14, 24:17, 24:25, 25:1, 25:7, 25:10, 25:12, 25:17, 26:3, 26:7, 34:11, 34:16, 35:18, 39:8, 39:23, 41:14, 43:15, 44:23, 45:23, 46:2, 46:5, 46:7, 46:8, 47:1, 47:2, 52:10, 52:12, 52:17, 53:1, 53:2, 53:6, 53:25, 54:1, 54:4, 58:25, 65:24, 67:18, 67:24, 68:3, 68:6, 68:8, 68:11, 68:17, 68:22, 69:4, 72:16, 72:17, 72:18, 72:21, 72:23, 73:5, 73:6, 75:11, 75:12, 75:20, 75:21, 78:10, 78:13, 81:12, 88:18, 89:2, 89:6, 90:23, 95:7, 95:8, 95:23, 95:25, 97:7, 97:8, 102:13, 102:19, 102:24, 103:9, 103:10, 103:13, 103:14, 103:23, 103:25, 104:2, 104:3, 104:8, 104:14, 104:16, 104:25, 105:3, 105:8, 105:14, 107:5, 108:19, 108:22, 109:2, 109:5, 109:9, 109:10, 109:14, 110:4, 110:9, 110:25, 113:14, 114:2, 121:8,</p>	<p>121:13, 121:15, 121:18, 122:23, 124:6, 124:7, 129:6, 129:8, 129:15, 129:17, 132:12, 132:16, 133:24, 134:24, 135:1, 138:4, 138:10, 138:12, 138:22, 139:5, 144:24, 145:3, 145:8, 145:11, 147:16, 148:1, 150:8, 156:16, 156:17, 156:18, 156:22, 157:3, 159:2, 159:7, 159:9, 159:25, 166:6, 174:3, 174:25, 175:5, 175:18, 175:20, 180:6</p> <p>Parking [1] - 25:3</p> <p>PAROLA [1] - 1:20</p> <p>Part [1] - 67:21</p> <p>part [14] - 13:4, 23:17, 101:22, 102:11, 105:10, 111:8, 114:4, 117:20, 143:10, 162:19, 166:4, 176:4, 178:11, 179:15</p> <p>parte [1] - 4:21</p> <p>partially [1] - 8:4</p> <p>participate [3] - 8:3, 17:25, 18:2</p> <p>participation [2] - 5:23, 6:9</p> <p>particular [19] - 6:12, 14:19, 14:21, 14:23, 21:18, 22:1, 24:20, 25:15, 30:10, 99:11, 115:8, 115:12, 115:14, 125:7, 126:17, 128:2, 144:1, 154:12, 170:13</p> <p>particularity [1] - 180:11</p> <p>particularly [2] - 23:6, 23:15</p> <p>parties [6] - 13:24, 14:10, 15:1, 17:20, 27:17, 53:3</p> <p>partner [2] - 74:13, 75:17</p> <p>party [3] - 5:24, 6:1, 27:19</p> <p>pass [3] - 117:7, 150:4, 150:5</p> <p>passing [1] - 77:18</p>	<p>past [6] - 3:10, 13:14, 24:19, 146:21, 160:12, 181:4</p> <p>path [11] - 61:11, 63:4, 90:6, 145:12, 163:2, 163:23, 164:21, 164:22, 164:23, 165:2</p> <p>patience [2] - 2:4, 2:23</p> <p>patients [4] - 107:2, 109:13, 110:12, 110:22</p> <p>Paul [4] - 7:16, 32:20, 92:16, 110:10</p> <p>pause [2] - 61:15, 71:19</p> <p>pavers [1] - 179:6</p> <p>Pavilion [2] - 33:9, 109:4</p> <p>pay [1] - 125:10</p> <p>Peachtree [1] - 84:3</p> <p>peak [11] - 88:8, 88:16, 89:5, 89:11, 106:3, 106:6, 106:9, 106:12, 106:25, 142:19, 142:20</p> <p>Pedestrian [1] - 23:7</p> <p>pedestrian [9] - 85:21, 139:4, 145:19, 146:3, 147:20, 147:24, 148:2, 148:23, 164:12</p> <p>pedestrians [2] - 85:3, 146:4</p> <p>Peninsula [3] - 103:12, 104:3, 138:10</p> <p>peninsula [10] - 32:25, 33:2, 69:9, 69:14, 70:25, 71:18, 77:16, 90:12, 90:16, 97:5</p> <p>people [21] - 2:7, 25:9, 53:19, 68:5, 87:20, 88:24, 96:7, 96:20, 97:14, 97:17, 106:6, 106:7, 113:25, 115:21, 133:17, 140:23, 140:25, 144:11, 144:13, 144:14, 147:11</p> <p>per [33] - 9:17, 10:2, 24:16, 24:21, 35:3, 35:6, 35:9, 64:7, 68:12, 68:18, 68:22, 88:19, 103:10, 103:13, 103:15, 103:19, 103:23, 104:1, 104:2, 104:4, 104:8, 113:21,</p>
P				
<p>p.m [10] - 1:7, 2:1, 87:18, 87:24, 88:2, 88:8, 88:16, 89:12, 89:13, 185:4</p> <p>P2 [1] - 110:18</p> <p>package [6] - 51:6, 66:18, 71:24, 168:13, 179:16, 179:17</p> <p>packet [1] - 15:20</p> <p>Padgett [4] - 7:22, 131:8, 136:12, 140:2</p> <p>PADGETT [9] - 1:16, 7:23, 131:9, 156:7, 159:12, 159:17, 161:2, 161:14, 183:21</p> <p>Page [10] - 80:12, 80:16, 80:17, 80:18, 80:19, 80:21, 80:22, 81:7, 81:11, 127:8</p> <p>pages [1] - 178:15</p> <p>painful [1] - 80:8</p> <p>Palm [12] - 74:11, 96:12, 96:17, 96:18, 106:17, 110:18, 138:14, 138:16, 139:1, 139:2, 145:20, 146:2</p> <p>palm [1] - 138:18</p> <p>panel [1] - 82:4</p> <p>paper [2] - 37:12, 176:17</p> <p>paperwork [1] - 17:22</p>				

115:11, 115:12,
117:6, 132:24,
133:16, 133:18,
133:19
per-acre [2] - 35:3,
35:9
per-unit [1] - 103:19
percent [11] - 35:14,
52:17, 72:22, 88:12,
88:20, 88:23, 88:25,
116:4, 117:23,
129:24, 133:10
percentage [2] -
157:13, 158:5
perception [1] - 84:22
perfect [1] - 143:21
Perfect [1] - 76:13
perfectly [1] - 129:25
perhaps [1] - 115:6
period [5] - 8:9, 22:5,
28:16, 99:7, 99:22
permissible [1] -
65:20
permissive [1] - 51:24
permit [4] - 52:11,
165:12, 166:13,
166:19
permits [1] - 52:15
permitted [1] - 9:15
perpetuity [1] - 164:14
person [4] - 100:9,
100:22, 133:8,
176:24
personally [1] - 75:5
perspective [1] -
66:23
Petrone [6] - 69:23,
70:1, 70:10, 70:12,
70:14, 83:14
PETRONE [5] - 70:12,
70:17, 70:21, 71:1,
71:5
Petrone's [2] - 69:6,
69:21
philosophically [1] -
122:10
phone [10] - 2:12,
2:15, 2:16, 4:23, 5:1,
7:5, 7:6, 7:10, 8:14,
106:10
phrase [1] - 56:22
physical [1] - 176:17
pick [1] - 79:18
pick-up [1] - 79:18
picture [8] - 2:12,
2:17, 92:20, 92:22,
96:10, 99:16, 129:2,
134:10
pictures [2] - 92:19,
106:10

piece [5] - 35:4, 37:12,
47:17, 139:20,
182:18
pieces [1] - 45:4
pitch [1] - 37:2
pitched [1] - 44:14
Place [1] - 141:3
place [6] - 21:2, 48:8,
52:23, 59:2, 87:6,
143:22
placement [1] -
165:13
places [1] - 52:21
Plan [15] - 4:3, 4:8,
4:16, 9:22, 23:7,
41:6, 64:5, 131:3,
168:18, 170:5,
170:11, 170:15,
170:24, 171:4, 171:8
plan [5] - 20:5, 20:7,
62:14, 63:1, 166:4
planned [2] - 90:10,
123:24
planned-for [1] -
90:10
planner [5] - 63:12,
110:6, 145:7, 181:11
planners [1] - 114:18
planning [3] - 21:5,
50:8, 79:17
Planning [1] - 166:12
plans [5] - 9:20, 10:4,
12:8, 124:16, 179:9
plant [1] - 73:12
planted [1] - 73:12
played [1] - 75:25
pledge [2] - 2:9, 2:19
Pledge [1] - 2:21
podium [23] - 8:24,
30:22, 31:19, 55:4,
60:7, 63:11, 64:25,
70:1, 74:2, 77:3,
79:1, 83:25, 86:7,
89:19, 92:8, 109:24,
115:18, 117:17,
124:2, 137:18,
157:15, 162:14,
178:22
Point [1] - 136:20
point [24] - 5:25, 17:4,
19:5, 27:8, 28:3,
28:13, 29:4, 42:4,
55:2, 57:22, 80:6,
85:18, 87:11, 90:22,
94:10, 94:12,
101:25, 138:15,
138:16, 143:17,
143:19, 148:22,
152:25, 157:2
pointed [2] - 38:14,

79:5
points [4] - 63:22,
138:13, 183:6
policies [6] - 21:6,
46:18, 46:19, 58:17,
58:18, 128:22
Ponte [2] - 86:10,
124:4
pool [1] - 134:22
portion [2] - 101:21,
164:8
portions [2] - 12:5,
164:25
position [1] - 102:16
positions [1] - 93:10
positive [3] - 37:15,
122:13, 171:16
positives [1] - 122:20
possibility [2] - 109:7,
143:6
possible [4] - 45:22,
66:12, 66:19, 128:20
potential [2] - 101:7,
109:8
potentially [1] - 75:9
pounds [1] - 17:12
practical [9] - 38:25,
39:4, 43:12, 53:17,
53:23, 66:25, 67:3,
126:2, 154:4
preferred [1] - 137:4
preliminary [1] - 72:7
premature [1] - 25:22
prepare [1] - 70:15
prepared [4] - 9:9,
55:3, 60:17, 70:18
prescriptive [5] -
12:13, 56:16, 56:21,
57:8, 131:18
PRESENT [2] - 1:12,
1:17
present [4] - 46:14,
55:3, 59:23, 178:25
presentation [7] -
30:21, 31:15, 42:22,
48:19, 63:5, 114:20,
115:9
presented [8] - 6:8,
13:23, 14:2, 30:11,
66:18, 172:4,
175:14, 179:9
presenting [1] - 9:3
presently [1] - 9:15
preservation [2] -
51:22, 51:24
president [1] - 110:1
presumably [1] -
114:21
pretty [5] - 100:25,
124:22, 133:20,

148:15, 155:21
previously [1] - 105:4
pricing [1] - 72:7
primarily [3] - 153:24,
154:5, 154:9
primary [3] - 20:7,
27:3, 64:12
private [1] - 138:18
pro [2] - 90:4, 91:18
pro-development [2] -
90:4, 91:18
problems [1] - 105:2
procedurally [1] - 17:4
procedure [1] - 125:4
proceeding [1] - 38:6
proceedings [4] -
29:2, 179:12, 185:3,
186:9
Proceedings [1] - 1:6
process [30] - 3:10,
10:23, 13:7, 13:9,
15:11, 17:7, 18:25,
19:4, 19:17, 20:18,
21:12, 21:23, 22:5,
22:21, 23:24, 24:23,
26:24, 27:24, 28:10,
28:19, 47:21, 47:25,
61:15, 72:2, 72:15,
112:6, 137:8, 176:5,
184:6, 184:22
product [4] - 26:8,
27:1, 112:12, 122:16
profession [1] -
114:19
Professional [2] -
186:7, 186:18
professional [1] -
114:9
professionals [4] -
114:10, 114:15,
116:10, 116:19
progress [2] - 20:9,
72:1
prohibits [1] - 50:25
project [111] - 4:11,
9:6, 9:18, 10:5,
11:10, 11:15, 11:19,
11:21, 11:23, 12:3,
13:4, 14:19, 14:21,
14:23, 21:25, 22:22,
23:10, 23:20, 24:8,
24:20, 26:11, 26:14,
29:16, 29:19, 29:23,
33:14, 33:23, 35:3,
35:9, 35:17, 39:12,
43:23, 43:24, 47:13,
54:18, 60:12, 61:22,
61:23, 64:3, 65:7,
65:8, 66:11, 69:12,
75:1, 75:2, 77:20,

85:8, 94:17, 95:23,
99:17, 99:19,
101:13, 101:15,
101:22, 101:23,
106:23, 113:23,
118:22, 123:22,
124:5, 125:5,
125:17, 125:18,
131:4, 131:22,
132:11, 132:20,
133:7, 133:11,
133:15, 133:18,
133:21, 136:17,
142:2, 142:3, 142:4,
142:6, 143:24,
147:3, 149:8, 150:5,
150:21, 150:23,
153:3, 162:1, 162:4,
162:20, 167:3,
167:4, 168:1,
169:13, 169:16,
169:17, 170:3,
170:7, 170:17,
170:18, 172:12,
173:15, 174:11,
175:13, 179:21,
180:3, 181:6, 181:7,
181:14, 181:18,
181:20, 182:6, 184:5
projected [1] - 117:5
projecting [1] - 110:8
projects [24] - 9:12,
12:15, 12:21, 16:6,
19:17, 23:21, 24:19,
37:2, 56:25, 68:10,
69:2, 90:10, 102:19,
103:2, 103:6, 105:8,
113:13, 114:21,
116:3, 116:23,
136:20, 142:24,
142:25, 170:1
promote [9] - 10:18,
19:23, 21:6, 46:21,
46:24, 49:15, 49:16,
51:15, 139:25
promotes [1] - 50:22
promoting [2] - 131:1,
131:2
proof [2] - 32:5, 57:14
proper [1] - 174:6
properly [1] - 90:9
property [65] - 9:7,
9:8, 9:14, 33:17,
35:4, 40:7, 40:10,
45:12, 46:9, 46:13,
47:17, 50:1, 52:13,
53:14, 59:22, 60:21,
61:5, 67:15, 74:16,
74:19, 75:6, 75:7,
75:23, 76:5, 76:9,

79:8, 79:14, 79:22, 86:15, 86:21, 93:13, 93:17, 93:18, 94:13, 101:4, 101:6, 102:3, 108:7, 108:13, 114:18, 119:21, 120:8, 120:16, 120:25, 123:1, 127:17, 127:18, 127:23, 127:24, 128:4, 128:5, 128:9, 130:17, 130:18, 131:12, 135:11, 135:12, 136:19, 143:3, 163:3, 163:24, 163:25, 164:10, 164:13, 182:18

propose [2] - 10:4, 172:15

proposed [23] - 4:2, 9:11, 9:14, 9:17, 26:15, 35:6, 40:5, 40:24, 41:5, 43:13, 43:16, 51:7, 101:13, 101:14, 127:16, 130:22, 168:1, 168:17, 170:1, 170:3, 170:4, 170:16, 173:15

prospective [5] - 75:6, 76:6, 77:19, 78:20, 101:7

prototypical [1] - 66:2

prove [8] - 39:6, 39:17, 40:12, 41:8, 46:22, 49:17, 63:6, 123:8

proven [1] - 123:8

provide [19] - 11:21, 12:22, 15:4, 15:18, 17:14, 56:24, 64:3, 64:7, 68:12, 68:18, 73:5, 86:16, 87:5, 104:8, 104:9, 110:25, 165:10, 166:10, 166:15

provided [18] - 10:8, 12:10, 14:4, 14:17, 41:25, 50:10, 60:17, 60:25, 61:1, 71:4, 78:5, 78:12, 80:11, 128:20, 129:7, 129:17, 171:11, 184:23

provides [10] - 4:4, 23:12, 47:18, 53:16, 84:14, 86:25, 88:19, 122:16, 168:23, 170:8

providing [6] - 14:10, 24:3, 68:2, 72:23, 77:23, 85:5

provision [3] - 37:10, 38:17, 170:14

provisions [2] - 53:9, 56:16

proximity [2] - 76:23, 78:15

Prudential [41] - 11:12, 11:25, 23:1, 23:8, 23:12, 59:10, 59:16, 78:1, 88:1, 88:3, 91:9, 93:21, 93:25, 96:18, 106:17, 106:21, 108:25, 110:2, 125:15, 125:20, 137:21, 138:11, 139:1, 139:3, 139:11, 144:14, 145:21, 145:24, 146:2, 147:12, 151:13, 153:3, 153:6, 153:11, 153:19, 154:18, 163:3, 163:23, 165:4, 165:6, 166:16

Public [2] - 1:10, 164:17

public [65] - 9:20, 9:21, 18:13, 23:16, 23:20, 25:11, 27:8, 27:10, 27:15, 27:16, 28:12, 28:16, 30:16, 39:16, 39:20, 39:21, 39:22, 39:25, 40:25, 44:7, 44:9, 44:11, 44:13, 44:20, 44:21, 45:7, 50:22, 51:1, 54:5, 54:8, 61:8, 61:9, 61:13, 62:5, 63:4, 69:12, 72:25, 78:17, 82:2, 82:7, 82:13, 82:16, 82:20, 82:23, 83:6, 83:16, 87:1, 91:24, 93:5, 98:8, 104:15, 109:10, 128:20, 130:20, 138:18, 151:24, 152:4, 152:17, 158:21, 158:23, 165:2, 165:3, 165:21, 166:6

PUD [1] - 111:9

purchased [2] - 79:14, 90:21

purpose [2] - 13:15, 27:24

purposes [1] - 15:25

pursue [1] - 72:11

pursuing [1] - 150:22

pushed [1] - 62:15

put [9] - 53:19, 57:12, 62:14, 111:21, 114:19, 147:14, 148:5, 182:25, 183:15

putting [2] - 76:1, 84:22

Q

qualitative [1] - 12:14

quality [2] - 19:19, 27:1

quantified [1] - 108:8

quantifying [1] - 123:5

quasi [8] - 4:19, 14:5, 37:6, 37:8, 38:1, 38:6, 49:23, 92:25

quasi-judicial [8] - 4:19, 14:5, 37:6, 37:8, 38:1, 38:6, 49:23, 92:25

questions [30] - 5:17, 17:4, 27:7, 27:11, 27:12, 28:2, 28:3, 28:7, 28:17, 31:21, 55:1, 60:6, 69:24, 81:5, 81:19, 98:12, 98:13, 98:21, 99:25, 100:4, 100:11, 100:24, 102:16, 124:23, 136:14, 151:6, 153:21, 166:24, 169:25, 172:8

quick [3] - 60:6, 69:24, 71:20

quickly [5] - 2:8, 41:22, 93:3, 103:8, 178:3

quite [11] - 34:1, 36:25, 43:3, 43:18, 112:24, 113:20, 122:21, 125:4, 128:14, 129:11, 131:4

quorum [3] - 8:1, 18:10, 18:11

quota [1] - 158:5

quote [1] - 158:4

R

rack [1] - 118:5

rail [1] - 166:4

railing [1] - 179:6

railroad [7] - 96:12,

113:13, 138:5, 139:11, 143:8, 147:8, 163:17

raise [4] - 93:24, 94:1, 127:11, 160:9

raised [5] - 96:22, 125:6, 160:11, 160:13, 160:15

raising [1] - 106:22

range [1] - 24:3

ranges [1] - 88:23

rate [5] - 88:13, 102:8, 117:4, 118:9, 118:12

rates [6] - 91:11, 117:5, 117:6, 117:20, 118:19, 118:24

rather [5] - 17:13, 59:16, 62:22, 64:17, 120:3

ratio [3] - 68:21, 102:20, 105:3

rational [4] - 130:3, 130:4, 130:11

rationale [1] - 26:23

ratios [1] - 73:6

reached [1] - 114:5

read [17] - 20:12, 25:2, 25:4, 29:22, 56:18, 59:7, 80:25, 104:6, 123:2, 126:23, 174:14, 177:3, 177:10, 177:12, 177:25, 178:3, 180:4

readily [1] - 68:20

reading [3] - 64:16, 120:11, 127:14

ready [1] - 112:16

real [13] - 2:8, 109:20, 110:1, 116:10, 119:14, 119:15, 119:18, 120:5, 120:9, 120:22, 121:4, 137:15, 150:8

realistic [1] - 88:24

reality [3] - 84:12, 88:21, 143:23

really [30] - 19:12, 19:15, 19:18, 20:2, 21:8, 21:24, 22:10, 22:22, 23:2, 23:8, 24:17, 25:24, 26:23, 27:2, 53:25, 56:14, 62:7, 67:1, 68:24, 88:5, 95:11, 96:2, 97:3, 126:6, 131:12, 135:14, 147:9, 171:6

realm [1] - 129:9

rearranging [1] - 143:7

reason [7] - 2:17, 69:11, 81:25, 116:7, 130:11, 131:15, 132:1

reasonable [1] - 129:10

rebutals [1] - 59:5

rebuttal [6] - 28:15, 48:20, 82:9, 82:11, 82:22, 92:6

receive [3] - 14:7, 14:9, 14:25

received [6] - 11:10, 11:15, 11:19, 11:24, 12:4, 21:14

recent [1] - 116:23

recently [2] - 5:10, 118:10

recess [1] - 83:2

reciprocal [1] - 75:21

Recitation [1] - 2:21

recognized [1] - 145:14

recognizing [3] - 21:11, 21:25, 129:14

recollection [1] - 124:17

recommend [1] - 82:3

recommendation [2] - 14:24, 21:16

recommended [2] - 10:24, 12:25

recommending [1] - 143:11

reconfiguration [1] - 127:1

record [33] - 5:7, 7:18, 13:23, 40:3, 41:21, 56:5, 57:11, 57:12, 60:10, 60:18, 61:2, 63:14, 71:3, 71:16, 80:9, 84:3, 90:2, 104:25, 105:1, 116:1, 153:25, 155:15, 155:18, 169:21, 169:23, 174:14, 177:3, 177:13, 178:1, 180:5, 181:22, 184:10, 186:10

recreation [2] - 10:9, 50:23

rectangular [1] - 139:20

recuse [2] - 5:14, 18:4

recused [2] - 18:8, 184:13

Redevelopment [2] - 1:20, 20:5

redevelopment [6] -

4:2, 19:22, 129:24, 130:6, 168:18, 170:5 reduce [6] - 39:15, 44:7, 52:16, 126:4, 130:16, 154:8 reduced [1] - 76:22 reduction [9] - 11:20, 12:4, 40:6, 40:25, 41:5, 127:16, 130:22, 157:2, 157:8 reference [4] - 9:25, 10:11, 87:9, 173:12 referenced [3] - 9:7, 10:14, 101:5 referencing [1] - 34:22 referred [1] - 164:4 reflected [1] - 56:5 reflective [1] - 12:14 refrain [1] - 27:12 refute [1] - 119:15 regard [11] - 50:18, 63:19, 69:7, 87:8, 88:18, 93:21, 108:18, 110:4, 155:10, 160:23, 162:3 regarding [3] - 55:23, 171:23, 176:2 regardless [2] - 105:17, 125:20 regards [4] - 93:19, 127:5, 154:11, 155:17 Regulations [2] - 4:12, 170:20 regulations [6] - 9:24, 10:15, 12:3, 64:12, 64:22, 67:19 reinforce [2] - 20:12, 47:2 reject [2] - 149:2, 180:2 related [7] - 4:10, 4:13, 6:14, 24:11, 106:7, 170:17, 170:21 relates [5] - 100:24, 101:3, 102:13, 105:22, 163:5 relationships [1] - 17:19 relative [1] - 66:2 relaxes [1] - 31:6 relief [2] - 11:6, 11:14 rely [4] - 50:2, 50:3, 155:23, 184:22 remain [1] - 78:21 remainder [1] - 80:5 remaining [1] - 52:15 remains [1] - 74:4	remand [1] - 29:1 remarkable [1] - 59:18 remember [6] - 4:19, 64:15, 97:19, 115:16, 131:19, 141:6 remind [4] - 18:5, 18:7, 132:25, 136:1 reminded [1] - 12:19 reminder [1] - 114:8 render [1] - 7:20 renderings [1] - 63:2 rent [1] - 117:19 rental [5] - 20:15, 47:7, 47:9, 117:5, 118:19 rental-occupied [1] - 47:7 rentals [1] - 118:15 rents [1] - 108:17 rephrase [1] - 152:12 report [25] - 8:6, 9:4, 9:9, 10:12, 13:5, 14:14, 14:15, 14:18, 15:5, 41:23, 41:24, 50:10, 50:11, 50:14, 50:16, 56:15, 57:14, 88:7, 91:5, 119:24, 123:3, 162:20, 170:12, 171:9, 186:9 REPORTER [2] - 169:1, 186:1 Reporter [2] - 186:8, 186:18 represent [4] - 31:25, 32:1, 32:21, 89:22 representation [3] - 5:18, 6:10, 6:20 represented [2] - 5:10, 101:11 representing [2] - 6:1, 92:16 request [31] - 9:5, 10:10, 11:1, 12:16, 15:23, 16:13, 17:5, 33:18, 35:13, 39:13, 44:6, 49:22, 54:16, 58:12, 91:20, 99:9, 99:12, 99:13, 102:11, 128:18, 149:21, 150:11, 150:12, 153:7, 154:12, 157:1, 157:4, 157:20, 160:19, 169:15, 184:14 requested [4] - 10:3, 33:14, 101:2, 153:11 requests [21] - 11:2, 12:7, 12:10, 16:19,	16:20, 16:21, 16:23, 29:14, 29:18, 29:24, 44:16, 50:9, 99:15, 99:20, 128:16, 149:17, 149:20, 149:23, 150:2, 171:6 require [4] - 26:3, 40:1, 53:8, 67:5 required [11] - 4:5, 34:1, 34:2, 35:18, 52:16, 52:18, 62:25, 113:21, 116:11, 168:23, 170:8 requirement [17] - 11:10, 11:20, 34:14, 34:15, 34:16, 35:20, 36:4, 39:2, 52:1, 54:1, 80:14, 111:9, 114:15, 121:21, 121:22, 154:5 requirements [19] - 14:22, 25:12, 26:7, 33:25, 34:12, 34:13, 37:14, 39:8, 39:23, 43:15, 44:24, 45:20, 50:3, 54:9, 95:25, 114:2, 150:24, 181:10, 181:13 requires [6] - 34:11, 37:8, 49:22, 95:12, 121:17, 140:9 reserved [1] - 128:7 reserving [1] - 158:21 reside [2] - 74:10, 115:7 residence [1] - 115:23 residential [23] - 9:5, 52:19, 52:24, 53:2, 53:5, 64:3, 64:4, 64:8, 64:9, 85:11, 86:17, 86:24, 86:25, 87:14, 87:25, 89:12, 90:10, 115:13, 122:14, 122:17, 130:1, 132:21, 132:22 residents [5] - 21:4, 87:4, 88:11, 109:8, 116:5 resolves [1] - 6:24 respect [3] - 37:20, 85:23, 90:20 respectful [1] - 51:16 respectfully [6] - 33:17, 34:7, 45:6, 52:4, 54:15, 91:19 respond [2] - 85:16, 94:8 responded [1] - 94:15 responding [1] -	182:10 response [18] - 43:14, 85:25, 92:1, 92:4, 151:3, 151:10, 151:22, 154:19, 155:1, 156:20, 159:14, 161:8, 161:16, 161:24, 167:1, 172:9, 182:4, 183:17 responsibility [1] - 146:25 responsible [3] - 90:5, 90:18, 91:19 restate [1] - 107:7 restrictive [1] - 16:3 result [10] - 39:16, 41:1, 62:13, 69:17, 72:9, 73:2, 84:25, 88:5, 88:7, 154:6 results [1] - 88:6 retail [1] - 87:3 returning [1] - 83:4 Review [3] - 16:7, 162:25, 165:8 review [28] - 9:6, 9:10, 9:11, 9:13, 9:17, 10:17, 10:23, 12:15, 14:1, 15:19, 16:7, 19:21, 56:25, 72:2, 114:20, 162:24, 164:6, 164:15, 165:11, 165:12, 166:11, 166:13, 176:4, 176:9, 176:19, 176:23, 179:1 reviewed [3] - 12:7, 12:16, 50:6 reviewing [1] - 51:5 reviews [3] - 9:21, 10:16, 169:13 revised [1] - 12:8 revisions [1] - 10:24 revitalization [2] - 10:19, 19:24 rezone [1] - 9:14 Richard [1] - 80:19 rights [18] - 26:18, 40:9, 40:21, 45:13, 45:24, 46:9, 46:13, 93:18, 108:7, 120:8, 120:19, 120:25, 127:22, 130:18, 135:8, 135:9, 135:19, 135:20 riparian [1] - 26:18 rises [1] - 136:21 Risk [1] - 164:16 river [58] - 11:14,	21:21, 22:12, 40:17, 47:14, 48:4, 48:11, 51:17, 51:23, 51:24, 53:20, 61:24, 62:8, 62:12, 62:19, 77:22, 78:2, 78:4, 78:6, 78:16, 78:18, 81:6, 84:12, 84:20, 84:23, 93:21, 93:24, 101:3, 108:4, 108:12, 108:15, 113:2, 134:9, 134:11, 134:15, 134:23, 134:24, 134:25, 135:1, 135:3, 135:5, 135:7, 135:8, 135:9, 135:10, 135:12, 135:13, 135:21, 135:24, 135:25, 136:2, 136:3, 144:7, 147:11, 165:16 River [4] - 12:6, 20:23, 164:9, 166:18 riverfront [5] - 92:21, 105:12, 134:22, 165:18 Riverplace [2] - 147:3, 183:2 Riverside [5] - 60:14, 103:9, 103:23, 118:10, 135:4 Riverwalk [49] - 10:8, 13:3, 22:9, 22:16, 22:20, 44:11, 44:18, 44:21, 45:1, 45:3, 45:8, 53:21, 54:6, 54:7, 61:11, 61:12, 62:13, 62:14, 62:24, 63:3, 78:7, 78:18, 84:15, 84:24, 85:7, 86:1, 87:2, 93:6, 93:7, 97:18, 97:19, 97:20, 102:6, 144:15, 164:8, 164:13, 164:21, 164:23, 164:25, 165:1, 165:6, 165:15, 165:23, 166:2, 166:7, 166:16, 166:17, 179:4, 182:21 road [3] - 138:22, 147:3, 183:1 Road [2] - 19:7, 84:3 roadway [1] - 138:19 role [10] - 18:22, 19:13, 19:20, 20:4, 36:24, 37:25, 38:1, 76:1, 92:25, 181:10 Roman [3] - 167:18,
------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

<p>167:21, 168:6 RON [1] - 1:15 room [4] - 3:4, 98:12, 112:3, 144:5 Room [1] - 1:8 roommate's [1] - 97:10 roughly [3] - 78:10, 110:14, 124:9 row [1] - 22:9 Rubio [5] - 80:18, 83:19, 83:20, 84:2, 86:4 Rules [1] - 31:6 rules [5] - 8:5, 34:18, 57:7, 57:8, 76:18 run [2] - 163:2, 164:13 running [2] - 49:20, 164:9 rush [2] - 106:3, 178:20</p>	<p>78:25, 85:5, 88:14, 88:15, 97:10, 99:10, 111:5, 121:5, 151:17, 151:18, 152:20, 153:3, 154:21, 155:12, 155:13, 159:11, 159:12, 161:1, 161:2, 161:13, 161:14, 180:15, 180:16 secondary [1] - 66:3 seconded [1] - 173:2 secondly [2] - 56:13, 57:10 seconds [2] - 42:19, 88:10 Section [2] - 10:2, 38:16 section [6] - 50:21, 51:12, 51:22, 140:11, 168:9 see [37] - 2:13, 6:24, 19:15, 19:16, 23:22, 24:8, 43:21, 46:13, 55:11, 77:25, 78:19, 84:18, 85:8, 88:6, 92:20, 93:15, 96:11, 105:6, 113:1, 113:2, 123:11, 127:5, 127:10, 130:4, 135:24, 135:25, 142:10, 142:23, 168:5, 168:12, 172:7, 176:18, 182:15, 182:18, 183:9, 183:10 seeking [5] - 20:17, 35:1, 50:20, 58:14, 72:12 seem [1] - 105:9 Seibert [1] - 94:12 send [1] - 30:3 sense [5] - 21:1, 48:8, 108:11, 113:17, 127:9 sentence [1] - 89:9 separate [7] - 16:21, 16:23, 75:17, 99:20, 143:25, 149:16, 150:1 separately [4] - 16:22, 29:14, 29:15, 99:3 serious [1] - 115:2 seriously [3] - 37:24, 37:25, 38:1 served [1] - 141:15 serves [1] - 124:17 service [1] - 89:25 session [1] - 83:4</p>	<p>set [18] - 13:14, 38:14, 38:15, 61:24, 62:18, 67:13, 84:15, 112:5, 124:15, 127:3, 154:3, 161:11, 165:12, 166:13, 176:4, 176:9, 176:18 setback [52] - 11:10, 11:11, 11:12, 12:5, 36:10, 36:17, 40:1, 48:5, 51:3, 58:1, 58:13, 59:10, 59:15, 59:16, 61:12, 61:16, 61:21, 62:1, 67:1, 67:2, 76:23, 78:6, 94:24, 100:3, 100:6, 100:24, 106:21, 125:15, 125:19, 126:22, 134:3, 134:6, 134:7, 134:18, 134:20, 140:5, 140:10, 143:17, 151:13, 152:22, 153:2, 153:4, 153:6, 153:10, 153:14, 153:15, 153:19, 154:18, 161:9, 161:18, 163:6, 163:14 Setbacks [1] - 50:21 setbacks [28] - 11:8, 24:12, 26:7, 34:10, 34:17, 36:1, 36:2, 36:8, 36:9, 43:11, 43:14, 44:5, 44:23, 45:10, 45:11, 50:20, 51:9, 52:8, 59:7, 76:20, 81:3, 95:3, 96:24, 96:25, 99:9, 122:24, 144:17, 153:1 sets [1] - 38:10 setting [4] - 132:23, 132:24, 133:19, 142:20 settings [1] - 145:9 seven [12] - 20:7, 27:2, 28:13, 41:7, 49:13, 58:3, 67:7, 68:9, 103:2, 103:6, 132:2 several [1] - 58:16 severe [1] - 50:25 severely [1] - 145:23 shall [16] - 51:23, 51:25, 52:2, 64:12, 128:19, 140:10, 140:12, 163:2, 164:7, 164:11,</p>	<p>164:23, 165:4, 165:10, 166:10, 166:15, 178:24 shape [4] - 125:23, 125:25, 154:6, 181:16 shaped [2] - 101:21, 154:10 share [1] - 117:3 shared [1] - 58:8 sheds [1] - 43:9 sheet [1] - 154:2 sheets [1] - 179:2 shifted [1] - 114:2 shifts [1] - 96:7 shipyards [1] - 118:7 shocked [2] - 132:13, 132:15 short [2] - 49:13, 50:17 shortly [1] - 148:17 Shoup [1] - 25:3 show [5] - 40:3, 66:23, 94:4, 132:4, 172:4 showed [6] - 2:6, 61:22, 61:23, 62:1, 62:4, 62:9 showing [2] - 77:21, 179:3 shows [4] - 68:9, 87:23, 129:7, 134:11 sic [3] - 30:19, 137:12, 183:2 side [12] - 43:22, 44:2, 71:13, 97:21, 106:18, 109:15, 111:12, 114:3, 127:13, 163:17, 163:19, 163:20 sided [3] - 112:17, 136:25, 165:5 sides [1] - 155:24 SIEBERT [5] - 65:3, 65:10, 65:15, 66:10, 66:17 Siebert [8] - 7:17, 7:24, 55:20, 64:24, 64:25, 65:3, 80:16, 83:13 Siebert's [1] - 116:2 sign [7] - 113:4, 151:21, 154:25, 159:24, 161:7, 161:23, 184:3 signage [3] - 165:5, 165:19, 165:20 signalized [1] - 139:2 significant [1] - 90:11 signing [1] - 17:22 signs [1] - 165:15</p>	<p>similar [2] - 33:13, 130:7 similarly [3] - 58:23, 61:8, 81:16 simple [1] - 63:8 simplifies [2] - 47:23, 47:24 simplify [4] - 20:18, 47:21, 100:9, 158:20 simply [4] - 90:18, 91:9, 118:4, 125:16 single [1] - 80:23 sit [4] - 98:3, 134:19, 143:3, 143:25 site [73] - 9:19, 12:8, 21:18, 21:25, 25:20, 25:23, 26:11, 34:5, 34:8, 34:9, 35:3, 35:7, 35:20, 37:4, 39:6, 39:15, 40:8, 45:23, 47:16, 54:4, 54:6, 57:2, 57:3, 59:9, 59:10, 59:12, 59:14, 59:19, 66:9, 66:13, 67:3, 68:6, 69:3, 73:13, 73:15, 74:18, 77:20, 86:13, 86:14, 86:15, 86:23, 87:15, 87:21, 90:22, 102:5, 104:25, 112:13, 116:8, 122:12, 122:13, 122:15, 124:8, 125:17, 126:17, 127:19, 127:20, 130:16, 132:13, 133:21, 133:22, 134:1, 138:20, 138:23, 144:18, 145:15, 146:9, 154:9, 181:7, 181:17, 183:10 sites [1] - 97:18 sitting [3] - 132:14, 140:25, 169:9 situation [2] - 138:25, 143:19 six [7] - 58:1, 58:3, 58:4, 81:13, 116:21, 132:2, 144:20 sky [1] - 111:15 sliced [1] - 144:19 slightly [2] - 35:5 slips [1] - 26:18 small [2] - 132:17, 139:20 smallest [1] - 66:12 socially [1] - 90:5 soften [1] - 144:8 sold [3] - 74:17, 128:3,</p>
S				
<p>safe [3] - 21:3, 146:3, 147:13 safety [6] - 41:1, 145:20, 146:3, 147:20, 147:24, 148:23 sale [1] - 136:4 samples [2] - 176:17, 179:2 San [2] - 23:10, 141:3 sat [2] - 111:22, 142:15 satisfied [1] - 30:10 saw [5] - 22:25, 23:2, 23:18, 113:8, 182:7 Sawyer [1] - 5:8 scale [2] - 85:16, 85:21 scan [1] - 81:1 scenario [3] - 70:22, 102:22, 112:4 schedule [3] - 3:17, 3:19 scheme [1] - 164:24 screen [1] - 62:11 seamless [1] - 31:15 Sean [10] - 55:20, 64:23, 64:24, 65:3, 65:5, 65:7, 66:21, 80:16, 83:13 second [39] - 3:12, 3:14, 11:13, 35:16, 37:23, 39:13, 40:23, 44:5, 47:6, 48:17, 61:15, 63:10, 69:24, 71:19, 74:1, 77:1,</p>				

<p>128:5 solutions [1] - 12:11 someone [1] - 115:4 something's [1] - 30:24 sometimes [2] - 127:12, 184:25 sorry [24] - 8:22, 19:9, 38:15, 42:8, 43:3, 44:1, 54:22, 89:10, 92:18, 103:14, 114:13, 120:12, 137:17, 152:3, 164:3, 167:13, 169:1, 175:23, 176:1, 177:4, 177:8, 177:11, 184:12 sort [3] - 22:12, 45:18, 144:6 sorts [1] - 55:12 sound [1] - 113:6 sounds [3] - 5:9, 122:11, 124:21 South [3] - 86:9, 124:3, 138:1 south [3] - 88:3, 164:8, 164:25 Southbank [5] - 9:7, 23:17, 33:1, 33:7, 44:11 southbound [1] - 138:15 Southside [1] - 113:23 Southwest [1] - 74:11 space [14] - 10:10, 24:21, 62:22, 63:3, 88:19, 101:12, 132:24, 133:19, 139:16, 142:8, 144:10, 144:24, 144:25, 157:11 spaces [54] - 10:7, 10:9, 11:21, 24:16, 25:9, 50:22, 53:25, 54:4, 68:18, 68:22, 72:16, 72:17, 72:18, 72:23, 75:12, 95:8, 101:17, 101:20, 102:24, 103:23, 103:25, 104:2, 104:3, 104:8, 104:14, 104:17, 109:16, 110:11, 110:13, 110:14, 111:2, 113:20, 121:13, 121:15, 121:19, 129:8, 129:14, 129:15, 132:19, 133:24, 150:11, 150:12,</p>	<p>157:3, 157:10, 157:14, 157:23, 158:2, 158:6, 159:10, 166:3, 174:3, 180:6 speakers [1] - 91:25 speaking [3] - 31:10, 83:15, 117:19 speaks [3] - 56:8, 109:21, 146:7 specific [6] - 13:3, 55:15, 64:6, 93:23, 163:5, 164:14 specifically [7] - 13:18, 19:20, 19:23, 51:14, 128:18, 144:1, 180:13 specifications [2] - 179:2, 179:13 Spector's [1] - 136:18 speech [1] - 49:1 spend [3] - 118:20, 119:2, 148:3 spent [3] - 125:4, 132:5, 143:15 spirit [1] - 51:11 spot [3] - 97:11, 111:21, 144:11 spots [5] - 68:11, 72:21, 109:7, 145:13, 146:6 square [8] - 10:9, 91:16, 115:11, 133:2, 133:3, 133:6, 133:15, 133:16 St [5] - 12:6, 20:23, 65:4, 164:9, 166:17 stabilized [1] - 123:10 staff [24] - 8:6, 9:1, 9:4, 12:7, 12:12, 12:16, 12:25, 14:18, 15:5, 50:13, 57:14, 72:25, 162:20, 164:4, 165:11, 168:11, 170:12, 171:9, 176:4, 176:21, 176:22, 176:24, 178:10, 178:25 staff's [2] - 14:14, 14:15 stage [1] - 13:14 standard [3] - 13:15, 14:9, 53:13 standards [7] - 4:14, 11:23, 24:3, 38:11, 113:15, 153:4, 170:22 standing [1] - 171:25 standpoint [1] -</p>	<p>146:16 standstill [1] - 90:16 start [13] - 2:18, 4:23, 8:6, 82:2, 82:6, 82:20, 82:25, 98:16, 98:17, 100:2, 140:18, 147:6, 151:11 started [3] - 31:23, 42:9, 131:17 starting [5] - 13:22, 36:11, 80:12, 136:7, 159:4 starts [1] - 81:6 State [1] - 1:10 state [2] - 19:3, 137:25 STATE [1] - 186:3 statements [6] - 59:6, 59:25, 60:1, 67:25, 84:8, 126:24 states [1] - 51:22 static [1] - 88:22 stay [4] - 3:18, 28:18, 88:3, 125:13 stays [1] - 87:25 stem [1] - 90:12 stenographic [1] - 186:11 stenographically [1] - 186:9 step [5] - 15:10, 15:12, 15:13, 51:17, 85:10 steps [4] - 51:4, 84:19, 134:22, 182:14 Steve [15] - 7:17, 31:1, 32:17, 34:24, 42:14, 54:23, 55:17, 87:17, 92:9, 94:20, 98:4, 115:19, 136:18, 148:7, 175:24 stickler [2] - 181:10, 181:12 still [19] - 32:5, 32:11, 32:14, 54:8, 62:10, 72:1, 72:12, 73:3, 82:8, 90:13, 93:25, 99:24, 104:20, 116:19, 129:13, 134:7, 135:24, 135:25, 160:16 stimulate [1] - 87:2 stop [1] - 53:13 stopped [1] - 139:2 stories [10] - 40:19, 46:11, 48:3, 124:5, 133:25, 134:5, 134:12, 134:14, 134:16, 134:17 straight [8] - 64:16, 64:17, 108:23,</p>	<p>108:24, 109:2, 109:3, 125:14, 131:15 Strand [5] - 86:22, 103:12, 104:2, 105:12, 141:5 strategic [1] - 110:1 strategy [1] - 20:6 street [22] - 11:18, 24:12, 25:6, 25:12, 26:3, 52:10, 52:12, 81:11, 97:13, 97:16, 99:9, 100:3, 100:7, 102:13, 135:5, 135:12, 135:17, 135:18, 138:19, 139:10, 148:1, 182:13 Street [2] - 1:8, 11:25 streetscape [14] - 11:23, 11:25, 73:8, 73:9, 73:16, 107:13, 126:10, 126:13, 160:1, 160:2, 160:4, 160:6, 160:21, 160:24 stress [1] - 8:13 strict [7] - 38:9, 38:20, 39:2, 49:24, 51:10, 56:14, 154:5 strictly [1] - 45:19 strip [1] - 23:1 structure [10] - 11:17, 57:3, 62:18, 65:20, 65:21, 66:20, 85:22, 86:1, 101:7, 144:6 structures [1] - 52:2 struggle [1] - 182:23 studied [3] - 88:9, 88:15, 103:7 studies [5] - 70:19, 71:8, 71:10, 110:5, 115:10 studio [1] - 133:7 study [13] - 60:11, 70:15, 72:3, 95:14, 117:4, 117:11, 117:21, 123:4, 146:20, 147:19, 147:21, 148:23, 166:11 stuff [1] - 45:18 style [1] - 132:20 sub [1] - 29:23 sub-items [1] - 29:23 subject [14] - 4:15, 15:8, 52:13, 67:16, 164:6, 164:15, 165:7, 170:23, 174:7, 174:11,</p>	<p>175:5, 175:13, 180:23 submittal [1] - 62:1 submitted [14] - 10:24, 13:23, 55:22, 58:2, 60:18, 61:2, 67:7, 70:15, 71:25, 72:3, 72:7, 72:19, 83:10, 179:14 Subparagraph [1] - 127:15 Subsection [1] - 149:24 substantially [21] - 14:8, 14:15, 33:13, 37:15, 37:21, 38:23, 40:4, 41:20, 46:14, 50:12, 54:11, 54:12, 57:15, 93:11, 120:6, 120:8, 120:23, 123:7, 149:19, 150:7, 181:21 substantially [8] - 40:6, 40:8, 45:12, 120:16, 120:18, 127:17, 127:21, 128:10 substantive [1] - 143:16 suburban [3] - 25:1, 67:18, 113:15 successful [1] - 113:4 sudden [1] - 112:22 suddenly [1] - 132:3 sufficient [1] - 180:10 suggest [2] - 25:3, 41:19 suggested [1] - 165:14 Suite [5] - 31:2, 55:17, 63:18, 70:13, 115:20 summarize [2] - 103:8, 103:16 summarizes [1] - 59:4 summarizing [1] - 103:18 summary [5] - 9:3, 9:9, 10:25, 56:6, 80:11 superimposed [1] - 77:20 supervising [1] - 74:18 supplemental [1] - 12:9 supplemented [1] - 71:9 support [14] - 12:17, 58:2, 71:16, 117:6, 149:20, 149:23,</p>
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<p>149:25, 155:25, 160:19, 169:22, 172:21, 181:20, 181:22 supported [3] - 58:3, 58:4, 94:12 supporting [3] - 12:9, 20:8, 83:7 supposed [5] - 50:24, 76:19, 167:15, 167:16, 176:11 surprise [1] - 73:21 surrounding [4] - 40:8, 50:1, 127:18, 139:21 suspect [4] - 97:10, 97:14, 97:17, 117:25 system [1] - 69:19</p>	<p>175:12, 175:19, 177:24, 184:10, 184:13, 184:19 teal [1] - 150:3 Teal [23] - 3:2, 5:8, 13:8, 17:9, 17:24, 24:2, 27:14, 32:4, 38:15, 50:13, 50:14, 81:24, 98:18, 149:1, 155:16, 156:25, 167:2, 167:13, 168:5, 169:5, 172:14, 174:5, 179:24 Teal's [1] - 31:4 team [1] - 115:17 technically [2] - 18:19, 153:1 ten [8] - 18:15, 97:18, 165:12, 166:13, 176:4, 176:9, 176:18 ten-minute [1] - 18:15 ten-set [6] - 165:12, 166:13, 176:4, 176:9, 176:18 tenant [1] - 76:6 tenants [5] - 25:21, 76:1, 76:2, 76:4, 101:7 Tenders [1] - 103:3 terminus [1] - 78:7 terms [15] - 5:18, 5:22, 5:24, 6:3, 15:6, 15:10, 15:22, 23:21, 26:6, 79:16, 84:8, 114:20, 117:4, 164:14, 170:14 testified [4] - 57:23, 58:9, 69:1, 71:9 testify [1] - 101:10 testifying [1] - 69:20 testimony [14] - 58:20, 58:25, 59:5, 63:23, 69:6, 73:22, 81:3, 81:8, 83:12, 116:1, 119:14, 119:23, 150:10, 171:11 Texas [1] - 116:16 textures [2] - 179:3, 179:7 THE [209] - 2:3, 2:22, 3:6, 7:1, 7:4, 7:9, 7:14, 7:21, 7:25, 8:13, 8:25, 13:6, 17:9, 17:24, 18:9, 18:12, 18:18, 18:21, 18:24, 19:2, 27:5, 27:21, 28:8, 29:10, 30:7, 30:15, 30:24, 31:4, 31:13, 31:16,</p>	<p>31:22, 42:3, 42:8, 42:13, 48:16, 48:24, 49:4, 49:9, 54:21, 54:24, 70:4, 70:8, 80:2, 81:22, 82:10, 82:14, 82:16, 82:19, 83:3, 83:18, 83:23, 86:4, 89:8, 89:14, 89:16, 89:20, 91:23, 92:2, 92:5, 97:25, 98:2, 98:7, 99:23, 100:1, 100:15, 100:18, 102:17, 107:6, 107:8, 107:12, 107:16, 114:12, 115:14, 117:16, 119:7, 122:6, 122:8, 123:16, 124:24, 126:9, 126:11, 126:14, 131:7, 136:11, 137:7, 137:14, 137:19, 138:3, 138:8, 138:21, 139:4, 139:13, 139:23, 140:9, 140:13, 140:22, 144:22, 146:10, 147:4, 147:15, 148:16, 148:19, 149:10, 150:3, 150:15, 150:25, 151:4, 151:6, 151:9, 151:11, 151:17, 151:19, 151:21, 151:23, 152:3, 152:8, 152:15, 153:18, 154:13, 154:17, 154:20, 154:25, 155:2, 155:7, 155:12, 155:14, 156:3, 156:14, 156:21, 156:25, 157:9, 157:16, 157:22, 158:1, 158:8, 158:14, 158:25, 159:6, 159:11, 159:13, 159:15, 159:24, 160:7, 160:11, 160:18, 160:20, 160:25, 161:3, 161:7, 161:9, 161:13, 161:15, 161:17, 161:23, 161:25, 162:8, 162:11, 163:8, 163:13, 163:16, 163:20, 165:18, 165:21, 165:23,</p>	<p>165:25, 166:8, 166:21, 166:23, 167:2, 167:23, 168:3, 168:10, 168:22, 169:1, 169:2, 169:10, 171:13, 171:18, 172:6, 172:10, 173:8, 173:20, 173:24, 174:15, 174:17, 174:22, 175:22, 176:10, 176:20, 176:23, 177:15, 177:19, 177:22, 178:2, 178:16, 179:13, 179:18, 180:15, 180:17, 180:22, 181:2, 181:24, 182:2, 182:5, 183:18, 184:3, 184:12, 184:17, 184:20 theoretically [2] - 30:9, 113:13 therefore [1] - 16:9 Therefore [1] - 56:23 they've [6] - 38:23, 118:1, 118:10, 131:25, 135:15, 142:22 thinking [1] - 125:5 thinner [1] - 101:15 third [5] - 11:18, 35:25, 40:5, 45:11, 170:16 thoughts [1] - 107:18 thousand [4] - 117:22, 133:2, 133:16 thousand-foot [1] - 117:22 thousands [1] - 132:6 three [37] - 4:9, 25:5, 28:14, 35:11, 37:19, 45:14, 49:5, 49:6, 49:20, 50:19, 58:24, 68:13, 68:14, 68:19, 83:20, 93:23, 96:3, 102:18, 102:20, 103:19, 103:20, 104:7, 105:13, 114:17, 116:25, 133:4, 133:12, 138:14, 143:14, 167:14, 169:11, 169:12, 169:15, 171:23, 172:4, 180:12 three-bedroom [1] - 133:4</p>	<p>three-way [1] - 138:14 throughout [4] - 63:5, 67:24, 69:9, 91:16 TICKELL [9] - 111:5, 137:13, 137:16, 137:20, 138:7, 138:12, 138:24, 139:7, 139:17 Tickell [8] - 7:6, 109:19, 109:25, 121:11, 121:25, 137:13, 137:18, 137:20 tier [1] - 84:24 tiered [2] - 134:21 tiers [1] - 84:15 ties [1] - 22:14 timer [3] - 54:13, 81:14, 89:7 timing [1] - 42:7 to/setback [1] - 80:13 today [33] - 2:23, 3:1, 3:25, 5:13, 6:8, 6:9, 6:21, 7:20, 14:10, 15:8, 15:17, 33:14, 35:11, 55:20, 58:15, 58:16, 63:23, 74:5, 101:15, 101:19, 102:1, 111:20, 114:7, 132:14, 155:24, 158:24, 171:10, 171:12, 174:8, 180:23, 180:24, 183:15, 184:23 today's [1] - 160:10 together [3] - 44:17, 45:14, 183:11 took [6] - 54:22, 61:19, 62:16, 62:17, 75:11, 106:11 top [8] - 34:13, 36:7, 85:9, 118:5, 118:8, 118:11, 118:14, 140:14 topics [1] - 64:1 Toronto [1] - 113:7 total [5] - 149:3, 158:6, 163:9, 163:12, 164:11 totality [1] - 106:23 totally [2] - 12:13, 56:21 touch [1] - 55:24 tough [3] - 102:8, 102:9, 184:25 toughest [2] - 102:10, 102:11 tour [1] - 75:5 towards [1] - 72:4</p>
T				
<p>T's [1] - 139:1 Table [1] - 147:20 table [1] - 44:2 talks [5] - 107:25, 127:15, 128:15, 128:17 tall [6] - 48:10, 85:11, 85:15, 85:22, 86:1, 129:2 taller [1] - 101:17 tallest [1] - 26:17 Tampa [1] - 138:1 Tapestry [1] - 70:12 targeting [1] - 20:16 task [2] - 36:24, 36:25 TCEA [1] - 170:14 TEAL [55] - 1:21, 5:16, 6:23, 13:11, 17:16, 18:2, 18:11, 27:18, 27:22, 29:12, 30:14, 98:23, 99:24, 100:14, 100:16, 123:15, 149:5, 149:15, 150:6, 150:16, 152:2, 152:5, 152:9, 152:14, 152:25, 155:18, 155:21, 155:23, 157:1, 157:20, 160:5, 160:9, 160:15, 160:19, 162:3, 162:9, 163:21, 164:2, 169:7, 169:11, 171:16, 172:16, 173:1, 173:13, 173:17, 174:6, 174:20, 175:1, 175:7,</p>				

tower ^[5] - 61:22, 61:23, 101:18, 101:21, 102:1
towers ^[1] - 26:16
town ^[1] - 110:8
townhomes ^[1] - 22:8
townhouses ^[1] - 133:13
track ^[2] - 96:12, 147:9
tracks ^[2] - 96:13, 139:12
traditional ^[1] - 10:21
traffic ^[46] - 33:4, 69:7, 69:8, 69:13, 69:14, 69:15, 69:16, 69:17, 70:15, 70:19, 70:23, 71:7, 71:8, 71:10, 71:12, 71:14, 71:15, 71:17, 72:3, 87:8, 87:12, 87:16, 87:24, 87:25, 88:2, 88:7, 96:2, 96:5, 96:9, 96:16, 105:22, 105:24, 106:16, 106:20, 106:24, 113:14, 122:22, 124:20, 130:7, 145:8, 146:20, 147:19, 147:21, 148:22, 166:10
trail ^[3] - 23:3, 23:11, 122:18
trailer ^[1] - 139:19
train ^[9] - 33:3, 33:5, 96:13, 96:14, 106:11, 142:11, 142:14, 142:17
trains ^[3] - 90:12, 90:15, 138:5
transcript ^[1] - 186:10
transit ^[2] - 87:6, 114:1
transition ^[2] - 85:20, 85:25
Transportation ^[3] - 4:7, 168:25, 170:10
transportation ^[1] - 145:7
transverses ^[1] - 138:20
trash ^[1] - 79:18
travel ^[1] - 88:24
treatment ^[1] - 147:7
tree ^[2] - 73:12, 73:13
tremendous ^[2] - 86:25, 182:10
trends ^[1] - 105:16
triangle ^[1] - 139:21
triple ^[1] - 167:22
trips ^[1] - 88:4

Tropia ^[3] - 1:9, 186:7, 186:18
true ^[3] - 47:5, 94:22, 186:10
try ^[10] - 33:23, 43:7, 84:6, 100:1, 100:18, 105:20, 139:25, 145:3, 146:14, 162:22
trying ^[15] - 3:20, 37:1, 37:2, 38:22, 45:16, 46:7, 85:19, 85:23, 97:4, 100:9, 105:6, 110:25, 132:6, 142:7, 146:1
tuck ^[1] - 142:7
turn ^[3] - 78:8, 130:22, 141:11
turned ^[2] - 8:14, 141:10
twenty ^[2] - 70:8, 70:9
twenty-five ^[2] - 70:8, 70:9
two ^[30] - 25:11, 26:15, 45:4, 58:5, 70:18, 71:8, 79:22, 80:3, 80:4, 84:24, 91:15, 108:21, 111:7, 114:16, 114:18, 116:2, 116:22, 118:8, 133:4, 133:9, 133:11, 137:16, 137:22, 138:13, 148:9, 153:1, 168:19, 176:10, 178:15, 180:3
two-and-a-half ^[2] - 91:15, 148:9
two-bedroom ^[2] - 133:4, 133:11
two-tier ^[1] - 84:24
type ^[3] - 6:6, 28:7, 131:22
types ^[3] - 27:23, 66:7, 179:6
typically ^[1] - 36:25
typo ^[1] - 80:21

U

ultimate ^[2] - 4:15, 170:23
ultimately ^[4] - 18:6, 21:10, 24:7, 146:2
unbelievable ^[1] - 74:22
unclear ^[2] - 5:23, 27:20
under ^[15] - 41:8,

41:10, 57:25, 70:22, 74:5, 80:13, 80:15, 81:2, 81:6, 81:7, 81:8, 106:17, 111:9, 126:21, 133:16
underground ^[1] - 79:3
underneath ^[3] - 78:12, 79:4, 81:3
underpark ^[1] - 25:23
underparked ^[1] - 122:23
understood ^[2] - 53:5, 119:12
undertake ^[1] - 36:24
undertaking ^[1] - 23:6
unfortunately ^[5] - 72:6, 72:11, 91:6, 111:11, 139:7
unique ^[16] - 20:13, 21:1, 21:24, 22:1, 47:3, 48:8, 57:2, 73:19, 86:13, 86:14, 86:15, 86:23, 87:21, 122:15, 133:22
uniqueness ^[1] - 126:17
unit ^[21] - 24:16, 24:22, 35:8, 68:10, 68:12, 73:3, 103:10, 103:13, 103:15, 103:19, 104:6, 113:21, 115:12, 115:13, 132:18, 132:19, 132:24, 133:1, 133:16, 133:18, 133:19
units ^[26] - 35:6, 47:8, 47:16, 53:20, 54:3, 62:14, 62:16, 62:18, 62:22, 64:7, 65:23, 70:19, 70:20, 71:22, 72:4, 72:5, 72:11, 72:12, 102:23, 123:25, 132:18, 133:4, 133:5, 134:1, 134:23
University ^[1] - 76:2
unless ^[7] - 5:14, 8:20, 32:17, 34:18, 44:18, 59:15, 98:4
unlike ^[2] - 36:24, 36:25
unloading ^[1] - 78:14
unrebutted ^[1] - 96:23
unusual ^[1] - 73:20
up ^[73] - 2:6, 16:24, 21:15, 24:1, 24:10, 24:15, 24:16, 26:8, 26:10, 28:1, 28:17,

30:25, 34:21, 36:10, 36:15, 38:2, 40:16, 48:10, 49:2, 49:15, 51:17, 52:7, 57:5, 60:5, 60:9, 63:9, 63:13, 64:7, 64:23, 65:14, 67:12, 69:23, 72:22, 73:25, 76:11, 76:25, 78:24, 79:18, 83:23, 84:19, 85:10, 89:1, 95:8, 96:12, 96:13, 96:16, 96:17, 96:18, 97:20, 98:9, 98:21, 106:11, 106:16, 109:4, 112:9, 114:10, 114:15, 118:11, 121:12, 132:4, 132:7, 134:22, 140:8, 140:13, 144:8, 145:13, 150:20, 162:11, 176:7, 178:3, 182:15, 183:6
uphold ^[4] - 28:25, 141:23, 155:9, 167:9
upstairs ^[1] - 2:5
urban ^[11] - 10:21, 20:17, 24:4, 77:15, 87:3, 114:18, 132:23, 133:19, 145:8, 181:11
urge ^[1] - 37:24
useful ^[1] - 110:17
uses ^[12] - 9:14, 9:15, 52:19, 53:5, 64:2, 64:4, 64:10, 64:13, 69:10, 85:5, 94:7, 122:19

V

vacancy ^[1] - 88:23
vacant ^[1] - 76:9
vacated ^[1] - 101:20
valuable ^[1] - 108:13
valuation ^[1] - 61:6
value ^[17] - 19:16, 22:22, 59:23, 91:8, 91:13, 101:4, 102:3, 107:22, 107:23, 108:5, 108:17, 119:20, 120:7, 120:24, 122:25, 123:7, 141:14
value-added ^[1] - 19:16
values ^[6] - 40:7, 120:17, 127:17, 127:18, 130:18,

135:2
variance ^[1] - 52:5
various ^[3] - 57:23, 62:4, 85:16
Vedra ^[2] - 86:10, 124:4
vehicle ^[2] - 78:12, 79:3
ventures ^[1] - 35:1
Ventures ^[3] - 9:4, 33:14, 50:6
Ventures' ^[1] - 54:5
verify ^[1] - 179:7
version ^[1] - 66:6
versus ^[1] - 87:16
Vestcor ^[1] - 24:20
vet ^[1] - 112:8
veterinarian ^[1] - 93:14
viability ^[2] - 118:20, 118:21
viable ^[3] - 43:16, 43:24, 64:9
vice ^[1] - 109:25
Vice ^[1] - 1:13
VICE ^[39] - 5:4, 6:19, 17:11, 29:5, 30:5, 30:8, 119:9, 119:12, 119:25, 120:2, 120:13, 120:15, 121:5, 122:1, 122:4, 122:7, 148:12, 148:14, 148:17, 148:25, 149:12, 151:15, 152:12, 155:13, 156:11, 159:4, 159:8, 159:21, 161:12, 168:21, 172:13, 172:23, 173:6, 173:10, 173:16, 178:20, 179:23, 180:21, 183:25
vicinity ^[1] - 115:23
View ^[2] - 86:9, 124:4
view ^[22] - 11:14, 40:17, 46:11, 46:12, 81:6, 102:10, 108:3, 108:12, 108:15, 121:1, 127:25, 128:1, 128:2, 128:6, 128:7, 135:7, 135:8, 135:10, 135:21, 136:2, 136:3
views ^[9] - 77:22, 101:3, 101:8, 101:24, 108:1, 112:22, 113:2, 135:3
violates ^[1] - 131:12
visibility ^[1] - 77:22

<p>visit [1] - 97:15 visitors [3] - 21:4, 110:12, 110:22 visits [1] - 114:23 vistas [3] - 77:22, 78:16, 78:21 vital [1] - 64:9 vote [13] - 18:1, 18:4, 18:6, 29:15, 29:16, 29:19, 99:12, 136:9, 152:10, 155:25, 167:3, 184:15, 184:18 voted [6] - 29:17, 56:10, 99:3, 99:15, 174:8, 180:23 votes [3] - 99:19, 184:14, 184:17 voting [11] - 18:3, 105:19, 107:17, 153:18, 154:14, 154:24, 156:13, 159:23, 161:6, 161:22, 184:2</p>	<p>161:18, 163:7, 163:18, 163:20, 163:24 wayfaring [1] - 165:18 wayfinding [3] - 165:5, 165:15, 165:20 Wayne [2] - 70:12, 83:14 ways [5] - 23:9, 24:13, 65:8, 65:12, 144:20 wealth [1] - 114:22 Wednesday [1] - 1:6 week [1] - 17:21 weigh [1] - 16:10 Welch [1] - 80:20 welcoming [1] - 51:5 welfare [1] - 41:1 well-known [1] - 8:15 west [1] - 138:20 Wester [5] - 63:11, 63:17, 77:3, 80:22, 83:13 WESTER [6] - 63:17, 63:25, 64:20, 77:6, 77:9, 77:12 wester [2] - 94:2, 96:24 Wester's [3] - 63:12, 68:8, 96:10 whatnot [1] - 78:18 whatsoever [1] - 143:4 whereas [1] - 88:1 whichever [1] - 29:3 whole [22] - 21:12, 21:23, 29:16, 29:20, 74:23, 80:25, 99:18, 99:19, 112:4, 132:12, 133:7, 133:9, 149:9, 150:5, 162:2, 162:4, 167:3, 167:8, 168:15, 169:17, 179:21 wide [1] - 51:4 widening [1] - 44:10 wider [1] - 145:12 width [3] - 163:5, 164:10, 164:11 willing [1] - 48:18 woke [1] - 132:7 Wolfson [3] - 33:8, 86:19, 116:23 Women's [2] - 33:8, 109:3 wonderful [4] - 112:13, 147:10, 182:14, 182:22 wondering [1] - 115:10</p>	<p>word [1] - 56:17 word's [1] - 174:12 words [7] - 16:3, 53:5, 58:6, 66:14, 66:15, 68:7, 68:17 work-in-progress [1] - 72:1 workers [1] - 21:4 Works [1] - 164:17 works [4] - 25:19, 25:20, 94:2, 146:16 workshop [5] - 21:17, 22:8, 143:11, 143:25, 146:10 workshops [3] - 9:21, 112:5, 132:3 world [6] - 48:2, 66:8, 127:5, 129:11, 133:1, 143:21 worried [1] - 153:2 worst [2] - 89:3, 102:22 worst-case [1] - 102:22 worth [1] - 150:22 Worth [3] - 116:4, 116:16, 116:20 wrapped [1] - 176:7 writing [1] - 55:13 wrote [1] - 41:23</p>
W		Y
<p>wait [3] - 31:11, 156:25, 174:17 waiting [2] - 2:6, 142:17 waivers [1] - 36:22 walk [8] - 22:19, 37:23, 38:18, 62:23, 78:7, 86:23, 99:21, 113:25 walkability [5] - 20:21, 22:15, 48:1, 48:5, 122:17 walkable [1] - 20:23 walking [1] - 86:21 wall [3] - 84:12, 84:23, 92:20 WALLACE [1] - 1:18 walls [1] - 51:1 Walt [2] - 118:25, 124:3 Walter [4] - 75:19, 80:16, 86:6, 86:9 wants [3] - 92:19, 98:4, 175:9 watch [1] - 142:9 watched [1] - 142:16 water [3] - 153:5, 153:13, 153:15 waterfront [17] - 12:3, 13:3, 20:25, 48:7, 48:9, 48:14, 58:25, 78:5, 107:13, 153:4, 153:19, 161:9,</p>		<p>y'all [3] - 143:8, 145:2, 146:22 year [1] - 64:7 years [6] - 33:12, 50:8, 63:13, 118:8, 137:16, 137:22 yes/no [1] - 19:15 yesterday [2] - 145:22, 145:24 yourself [7] - 63:15, 65:2, 69:22, 70:10, 73:18, 74:7, 83:24</p>
		Z
		<p>zero [1] - 153:7 Zone [3] - 4:17, 10:14, 170:25 zone [2] - 9:23, 19:22 zones [1] - 51:18 Zoning [15] - 10:15, 13:17, 14:22, 15:18, 16:1, 36:16, 49:25, 54:9, 94:22, 95:24, 96:1, 97:1, 121:19, 170:20, 171:5 zoning [1] - 5:11</p>