

17 safety involving this.

18 In closing, I think the one thing I  
19 want to stress, and I took the time tonight to go  
20 down to the site, and there is a section opposite  
21 where this development is proposed where that  
22 pipeline has fixtures and vents and stuff that  
23 come out of the ground. There is absolutely no  
24 surveillance cameras in that area. There is not  
25 even a sign saying do not park within X feet of

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Drasheff - Direct

1 this area, and most disturbing to me, there were  
2 three cars, a large utility vehicle and a van,  
3 all parked there. What comes to my mind is the  
4 World Trade Center in 1993 and Times Square a  
5 couple years ago.

6 Q. In fact, you had a unique experience  
7 in that regard, didn't you, mayor?

8 A. Well, prior to becoming involved  
9 politically in Guttenberg I worked for 35 years  
10 with the Port Authority. I did police planning,  
11 police security studies, was very involved in the  
12 World Trade Center bombing so I know what a  
13 vehicle bomb can do. And it's the world we live  
14 in, and I think everyone will rest a lot easier  
15 if we dot that I and cross that T.

16 The question will be asked, whether  
17 you ask it now or after it happens. The  
18 difference is after it happens, we'll all be

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19 sitting there trying to explain why did we miss  
20 an opportunity. And I urge you to -- I have not  
21 heard back from Homeland Security. We have asked  
22 them to do a security assessment. I think a  
23 prudent thing for this board to do would be to  
24 join in that request and to wait until you see  
25 the results of that before you make a decision.

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1 Thank you.

2 THE CHAIRMAN: Okay, Mr. Lamb.

3 MR. LAMB: Thank you, Mr. Chairman.

4 First, Mr. Chairman, to the extent I haven't, I'd  
5 like to move all the exhibits that be marked for  
6 identification into evidence.

7 MR. MUHLSTOCK: All the exhibits  
8 will be considered in evidence.

9 MR. LAMB: Thank you. Secondly, the  
10 letter that I sent to the board on May 29th, I  
11 referred to the Palisades Slope Stability Study  
12 as recommending on this site netting and I was  
13 incorrect. Actually it's a gabion wall, although  
14 the report discusses netting. So I just wanted  
15 to clear that up. References to netting were not  
16 accurate and should be replaced by gabion wall.

17 THE CHAIRMAN: Thank you.

18 MR. LAMB: Before I provide my  
19 summation I have another motion to dismiss this  
20 case. There has been no proofs still as of this  
21 date that on an undersized lot case the developer

22 has not offered all or part of the property to  
23 the Galaxy and to the North Bergen Municipal  
24 Utilities Authority. If you want to look at the  
25 Cox treatise on land use, they have a whole set

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1 of appendices and forms for this precise thing;  
2 Form 21, 22 and 23. Form 21 is notice to  
3 adjacent property owners for undersized lot  
4 cases; Form 22 is application offered to adjacent  
5 property owners. So essentially our Land Use Law  
6 has a procedure as to what happens when you have  
7 an undersized lot case in a residential setting.

8 You heard the testimony from the  
9 Galaxy board member. As of this date I can  
10 represent to you that there has been no  
11 subsequent letter addressed to the galaxy  
12 offering all or any part of the property. And  
13 because this is a 2.3 acre residential project  
14 proposed on a five acre minimum, I believe that  
15 as a matter of law the applicant has to satisfy  
16 that requirement before it can proceed.

17 MR. MUHLSTOCK: Mr. Alampi, you want  
18 to respond to the motion?

19 MR. ALAMPI: Certainly. We're  
20 familiar with the body of case law. These laws  
21 deal with undersized lots of a typical building  
22 size or configuration. In most communities you  
23 have 50 by 100 or 75 by 100 or 100 by 100

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24 parcels. And in those situations you have  
25 sometimes an irregular lot or a 30 by 100 or

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1 whatever. The cases that deal with the issue all  
2 deal with those smaller scaled type of properties  
3 where one could easily dispose of property and  
4 either make it attached to the adjacent property  
5 if they chose to purchase it or to make it  
6 conforming.

7 We have already established clear  
8 evidence that there was no availability of other  
9 property available to us; above us is Boulevard  
10 East, across is River Road, on north side is the  
11 MUA and on the south side is the Galaxy. No one  
12 expressed any desire that they would sell us  
13 property.

14 With regard to the MUA, they always  
15 have condemnation rights, they have never  
16 affected those rights. They're fully aware of  
17 this application.

18 This is a two and a half or 2.3 acre  
19 parcel in a five acre zone. Hudson County, five  
20 acres of developable land, very hard to find. I  
21 don't know if there's any five acre parcel in  
22 this zone in this town but maybe I'm wrong. I  
23 understand the I-Park or next to the I-Park is a  
24 six acre site, the Riverview project. But you'd  
25 be hard pressed to find such a property.

1                   This is an issue which is which does  
2     not implicate this type of application within  
3     these parameter sand this size. I urge the board  
4     to deny this motion and proceed to the hearing.

5                   MR. MUHLSTOCK: I would recommend to  
6     the board that the motion be denied. The board  
7     has heard the case. I'm not familiar with any  
8     case law of this type of property on this type of  
9     application that would warrant a definitive offer  
10    to neighboring property owners. So I'm  
11    recommending to the board that the motion be  
12    denied and we go forward.

13                  MR. LAMB: And I understand Mr.  
14    Muhlstock's recommendation, but I pointed out  
15    during my cross-examination of the developer's  
16    planner that it was the developer in their  
17    application in their rider that said it was  
18    relevant to see if there was any property,  
19    adjacent property to acquire and the converse of  
20    that situation is to sell. So if it was relevant  
21    to acquire property, it's equally relevant to --

22                  MR. MUHLSTOCK: Just because it's  
23    relevant doesn't mean that you're entitled to a  
24    motion to dismiss. I'm recommending to the board  
25    that the motion be denied.

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1 THE CHAIRMAN: Okay. What's the  
2 Board's pleasure?  
3 MR. AHTO: I make a motion to deny.  
4 MR. SOMICK: Second.  
5 THE CHAIRMAN: Moved and seconded.  
6 All in favor?  
7 MR. ALAMPI: Motion to deny the  
8 application or --  
9 MR. MUHLSTOCK: No, no, to deny the  
10 motion.  
11 MR. ALAMPI: Use the words reject.  
12 He was packing up and running out.  
13 MR. MUHLSTOCK: Okay, all in favor?  
14 (Chorus of ayes.)  
15 THE CHAIRMAN: Opposed?  
16 (No response.)  
17 THE CHAIRMAN: All right. The  
18 motion is denied.  
19 MR. LAMB: Thank you. With respect  
20 to my summation, I just want to say briefly, I  
21 have never been involved in a site plan  
22 application in my 30 plus years of practicing law  
23 where the correct rear yard setback was not  
24 shown. I made a motion after the applicant's  
25 case, I understand it was denied, but you now

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1 have enough testimony from lots of witnesses to  
2 determine how this board wants to interpret the  
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3 rear yard setback. If you want to grant a rear  
4 yard setback under these circumstances, and we  
5 respectfully believe you should not, you have to  
6 -- I believe it's incumbent upon you to identify  
7 the extent of the rear yard setback. And you  
8 don't even have a site plan that shows it. You  
9 have some testimony from the Galaxy's planner  
10 which discusses that it's you actually a negative  
11 setback. It's negative 32 feet into the cliffs.  
12 That's what the testimony was.

13 So I think you first have to decide  
14 does the applicant need a rear yard setback  
15 variance and are you going to grant it. But you  
16 don't even have a site plan that shows it. You  
17 have testimony from our planner. And I think  
18 it's incumbent for the board to specifically  
19 identify how you calculate the rear yard setback.

20 Okay, I'm going to continue.

21 THE CHAIRMAN: Yes, please.

22 MR. LAMB: I'm not going to address  
23 the offer to sell the property because we just  
24 went through that and I still think that's a  
25 relevant issue. One of the things I think you

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1 have to do is assess the credibility of the  
2 developer in its case before the board. You've  
3 heard lots of witnesses, and the board always has  
4 to decide well, is it going to be accurate,

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5 correct, plausible, feasible, what are the legal  
6 arguments; you have to take all of that into  
7 consideration. I understand the argument with  
8 cliff, Palisades cliff and cliff face, but for  
9 anybody to stand up, any professional to stand up  
10 and say to this Board that governs property with  
11 which has Palisades cliffs throughout, that the  
12 Palisades cliffs on, I think it was Exhibit O-12,  
13 was 100 square feet of rock on the top of that  
14 body is absolutely ridiculous.

15 I can't tell you how much time we  
16 spent on that issue. We had a geotechnical  
17 expert come in, Ms. Greco, and we calculated  
18 again going back to the rear setback. We took  
19 test pits and found the rock and did an analysis.  
20 And despite every expert of the developer saying  
21 yeah, that's how you do it, every question that I  
22 asked to each expert was have you ever been  
23 involved in a case where that happened, one case  
24 where to calculate the setback you do six or  
25 seven or eight test pits and find the rock and do

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1 that. This board and other municipalities in the  
2 Palisades cliffs area I venture to say have  
3 never, ever done that. And I think that is a  
4 ridiculous assertion and it basically focuses on  
5 the fact that this developer is trying to  
6 excavate and intrude into the Palisades cliffs.  
7 There is no doubt about it.

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8                   They obviously needed a substantial  
9     variance, but when you got the plans and the  
10    first submission, there is no rear yard setback  
11    in it because they were going to come up with  
12    this concoction. And, frankly, with all do you  
13    respect, that's all it is, it's a concoction.

14                  And if you want to go to the cliff  
15    face, we had geologists testify. I'm not even  
16    going to get into all that. The bottom line is  
17    on no place did it say the exposed rock cliff  
18    face. The only expert, our expert actually got  
19    the treatise on cliffs. He was the only one that  
20    cited the treatise on cliffs. But it's common  
21    sense.

22                  If you read your master plan, your  
23    reexamination reports, your zoning ordinance, you  
24    take all of that and you take every reference to  
25    the Palisades, there are a couple references as

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1     Mr. Alampi has adeptly pointed out to the cliff  
2     face, but almost all the references are to the  
3     Palisades cliffs or the cliffs area. If you take  
4     your zoning ordinance, if you take your zoning  
5     ordinance and you go to the very last page of it,  
6     the last page, what's the most recent  
7     pronouncement on Palisades cliffs? And you have  
8     the township, the very last page -- and Mr.  
9     Muhlstock raised this during the proceedings --

10 it is a resolution from the Township of North  
 11 Bergen that specifically says you got to  
 12 carefully look at disturbing the Palisades cliffs  
 13 area. That's important to do that. That's  
 14 critical to do that. And I think, and it's my  
 15 opinion, that this application when it proposes  
 16 such a substantial rear yard setback, assuming  
 17 that's your decision, that you cannot say that  
 18 that's not a substantial intrusion into the  
 19 Palisades cliffs. There's nothing about this  
 20 application, at least with respect to the rear  
 21 yard setback that preserves those cliffs. It's  
 22 contrary to the direct township resolution, the  
 23 last pronouncement that's distributed in your  
 24 zoning ordinance.

25 MR. MUHLSTOCK: Well, it says

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1 specifically it should, "The Board should require  
 2 specific testimony in order to determine any  
 3 impact on the Palisade cliff area and remedial  
 4 efforts to be undertaken." That's specifically  
 5 what it says.

6 MR. LAMB: Let's read the rest of it  
 7 Mr. Muhlstock, "in order to assure that the  
 8 Palisades is adequately protected and not  
 9 visually impaired," that's the rest of it.

10 You don't even have a setback  
 11 variance, in our opinion, well, it's 40 feet at  
 12 the first habitable floor and they only have 20

13 feet. Nobody talks about the fact that if you  
14 have a window to the rear of the building, what  
15 do you do? You go out and you see the cliff  
16 there; that's the view? Well, in this case  
17 you've got a negative 32 feet in there.

18 Building coverage. Building  
19 coverage, it's excess by 25 percent of the entire  
20 requirement. You've heard lots of testimony  
21 where the requirement is 25 percent of 100,000  
22 square feet. This is 31.66 percent; it's 25  
23 percent over. It's not 2 percent over or five  
24 percent over or they need a little extra space to  
25 make this work. It's 25 percent in excess of the

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1 maximum. And respectfully, that is not small and  
2 that is not insubstantial.

3 Come to the number one issue.  
4 Irrespective of the size of building and the  
5 setbacks, the only entity that proffered a  
6 pipeline expert is the Galaxy, and they did it at  
7 substantial cost and expense. I can tell you,  
8 and I think I speak for my clients, that the  
9 comment or the, I guess the opinion, that we  
10 should have brought him in earlier or we should  
11 have done anything it's as if the Galaxy has got  
12 to spend its money to make sure that this is  
13 safe, and, respectfully, that is not fair. We  
14 believe that the developer has the burden of

15 proof on safety in connection with respect to the  
16 multitude of variances that were summarized by  
17 Mr. Steck, and we believe that if the developer  
18 doesn't provide it, the board should provide it.

19 It is not appropriate for this board  
20 to accept a bunch of letters from Transco or even  
21 its engineer when none of them are a gas pipeline  
22 expert that is subject to cross-examination. And  
23 if you look carefully at what our expert said,  
24 uncontroverted, you have to analyze the specific  
25 risk with respect to this project, and you have

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1 to then take those risks and provide mitigation  
2 measures. That's what he said. Actually it's a  
3 lot of common sense, but you're talking the a  
4 person who studied lots of disasters and that's  
5 what he said. He said so far he looked at  
6 everything, he read at every transcript, he look  
7 at almost every piece of correspondence; he said  
8 there's nothing in there to do that.

9 Now, one of the interesting points  
10 is when I was in the -- before the board of  
11 adjustment on the predecessor of this  
12 application, Mr. Alampi's predecessor counsel was  
13 talking to Transco. We've had three years of  
14 discussions with Transco. We hear, we allege  
15 that there's changes to the plan. What change to  
16 the plan? Who wanted the change? What was the  
17 problem? Did the developer do the whole plan?

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18 Do every change? None of that is on the record.  
19 All of a sudden right before the vote the letter  
20 comes in from an attorney yeah, we saw the site  
21 plan. I have every confidence that they don't  
22 mind a building this big; that's not the point.

23 The expert said, do a risk assessment  
24 analysis and then when you identify the risks,  
25 then you look at how to mitigate it. Is there a

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1 risk with land slides? Well, we did uncover this  
2 county report. The county report doesn't even  
3 have a reference to a gas transmission line or  
4 the proposed project. It says it's got the risk  
5 with put gabion walls on there now. They're  
6 concerned about it now without all this other  
7 stuff.

8 Now, I would, in my common sense, say  
9 that is one type of risk that Transco -- well,  
10 now they have it, the board suggested and I  
11 responded to Mr. William's letter -- Mr. Steven's  
12 letter and sent it to him, but I'd like Transco  
13 to say yeah, now we've looked at the geologist  
14 reports and looked at the types of soils and  
15 there's two different types of soil, and let's  
16 look at the water, let's make sure that there is  
17 no problem with this. That's what we want.  
18 whether the building cuts into the cliffs or not.

19 Now, when you add cutting into the

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20 cliffs, the issue of slope stability is even  
21 worse. When you get into the negative setback,  
22 it's even worse. And that's all we ask. All our  
23 expert said was you need to identify risks and  
24 address each one. And he said that they could do  
25 that. But he questioned why aren't they here.

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1 We've asked. You know, I've had discussions with  
2 their attorney for three years. We've asked  
3 throughout this proceeding where are they, why  
4 aren't they here? Doesn't that raise a red flag  
5 to anyone? Why -- they have not even attended.

6 If you want to look at the Board of  
7 Adjustment transcript proceedings, a Transco  
8 engineer did appear in that prior proceeding and  
9 objected to the application and then he was taken  
10 off of the case. So if you want to do that, you  
11 can do that, but there's nobody here.

12 Now, we know that Transco needs an  
13 easement. And Mr. Alampi after -- I don't know,  
14 I stood up in four, five meetings in a row and I  
15 sent a bunch of letters and finally we got the  
16 proposed right-of-way agreement. But what  
17 happened with the right-of-way agreement? The  
18 right-of-way agreement didn't have one of the  
19 construction details and maintenance requirements  
20 that your board engineer got from Transco and  
21 said oh, well, these are all the maintenance  
22 requirements that are going to be there. He's

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23 the one that found the 11 pages of two riders of  
24 what has to happen. But where is that attached  
25 to the right-of-way agreement? Disappeared.

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1 Don't know where it is, hasn't come out yet.  
2 Eleven pages single spaced of requirements of the  
3 developer shouldn't do this and they shouldn't do  
4 that and they shouldn't do that. Gone. You got  
5 a right-of-way agreement that basically says you  
6 have an easement and there's not requirement on  
7 it.

8 The One Call. We were very clear on  
9 The One Call. Yeah, you have to have -- you have  
10 to notify One Call. But you heard I think it was  
11 Mr. Rabin or someone indicate during these  
12 proceedings that on this very property by this  
13 very developer they sent in machinery; they  
14 didn't do The One Call. On this property, they  
15 got fined. On this property, this developer got  
16 fined. So testimony from or letters from Transco  
17 or engineers saying well, everything is going to  
18 be fine and they have to do The One Call; first  
19 of all, we're giving you a simple example why The  
20 One Call didn't work on this property with this  
21 developer, number one. And number two, we also  
22 said we have an expert that says there's lots of  
23 disasters where there's representatives of the  
24 utilities on site and the thing goes. It's a

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25 disaster. So we don't think that The One Call,

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1 while it does certainly help provide some measure  
2 of protection, doesn't do it all.  
3 This property is substantially  
4 undersized. This is not a case where there's a  
5 five acre minimum and the developer has 4.5.  
6 This is not even close. I suspect, at the  
7 beginning I've looked at this about whether you  
8 needed -- whether this was a conditional use  
9 variance and I understand it's not really listed  
10 under conditional use. My theory -- and it's  
11 only my theory -- is that the township really  
12 meant that this wasn't going to be used for  
13 multi-family residential. And they said well,  
14 it's a 2.3 acre parcel, we're going to put five  
15 acre minimum. But they didn't really think  
16 through the fact, well, is that a C variance or a  
17 D variance; is that going to be an easy variance  
18 to get over or a more difficult variance to get  
19 over, that's what I suspect.

20 And having said that, there were  
21 questions asked by Mr. Alampi to Mr. Steck, well,  
22 yeah, there's a less of a density. We all know  
23 that there are lots of restraints, requirements  
24 and criteria that mold a project. It's not just  
25 density. It's not just type. It's rear setback,

1 front setback, side setback, the parking  
2 requirement.

3 I have been involved in a case where  
4 the parking requirement wiped out an approval  
5 that you could go 12 or 13 stories because the  
6 parking was too onerous. So it wasn't the height  
7 of the setbacks or anything, it was the parking  
8 that did it. Not in any case I had before this  
9 board, I should clarify that. I'll save that  
10 argument for another hearing.

11 THE CHAIRMAN: I'm going to remember  
12 you said that.

13 MR. LAMB: In the end, we believe  
14 that this is an overdevelopment of the property.  
15 And it's an unreasonable overdevelopment because  
16 of the negative setback, the substantial building  
17 coverage, the, yeah, they used the rear setback  
18 intrusion to kind of cheat on a couple feet on  
19 the side yard on the Galaxy side. I think  
20 Mr. Steck said it was another one and a half or  
21 two feet. You know, from the Galaxy side, any  
22 foot away from this project, whether it's one  
23 foot or two foot or five feet, is better. But  
24 one thing that we maintain which is a fundamental  
25 difference, if they said well, we're going to

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1 scrunch this building down and it kind of bulges  
2 at the seams, and, yeah, we comply with the  
3 setbacks but the problem is that it's bulky, it's  
4 kind of short and fat. Well, you heard Mr. Steck  
5 say, well, you can go taller because taller is  
6 okay in this context and give some more  
7 additional side yard setback.

8 In this case, if you comply with the  
9 building coverage or more readily comply, what  
10 could you do? How could you better this project?  
11 Well, would you add another setback from that  
12 right-of-way access that you can't have any  
13 landscaping? That might be one way to better it.  
14 Would you put a little more distance from the  
15 Galaxy because you didn't have to go -- it wasn't  
16 bulging, it was not the Cinderella's sister's  
17 feet in that shoe, which is what this is.

18 You heard a lot of questions asked  
19 about -- from Mr. Steck. And Mr. Alampi did his  
20 usual thorough job. He asked about the 1994  
21 Master Plan. He asked about the 2003 Master Plan  
22 Reexamination Report. He asked about the 2009  
23 Master Plan Reexamination Report. Does anybody  
24 remember the questions that I asked to their  
25 planner, the developer's planner; did you ever

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1 review the master plan, the reexamination report  
2 of 2003 or 2009 or any of that? The answer was  
3 no. Their planner did not review one of the

4 critical documents in this case and they have not  
5 satisfied their burden of proof with respect to  
6 arguing to the board that this is not detrimental  
7 to the master plan as amended and revised and  
8 implemented.

9 Finally, I just want to say this,  
10 there's only one transmission expert that  
11 testified and his testimony was uncontroverted.  
12 Nobody said you're wrong, you don't need to  
13 assess the risks. There's nobody else that came  
14 here under cross-examination subject to  
15 attorney's review and public review that  
16 countered that. And I think that of all this.  
17 If you told the people here well, we have to make  
18 it a little bigger but we're going to really make  
19 sure that this is safe.

20 We believe that as a result of this  
21 you should deny this project. Frankly, I'm a big  
22 boy, I've been in front of a lot of boards, I  
23 kind of have a feel when the board -- what's  
24 going to do but I'm not going to predict it, but  
25 if the board decides to approve this project --

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1 and we think it should be denied -- but if they  
2 decide to approve it, the only thing that I can  
3 say in that eventuality -- and I don't like to  
4 address the fact that my position is not going to  
5 be successful -- but the only thing I want to say

6 is, at the very least, if you're going to do  
7 that, make it a condition that Transco come in at  
8 the another time with an expert and do the risk  
9 analysis and do the mitigation measures and do it  
10 under oath as a condition of approval, if you're  
11 going to approve it, and then at least we can  
12 address probably one of the most important issues  
13 in this case which is the safety. Thank you.

14 THE CHAIRMAN: Mr. Alampi.

15 MR. ALAMPI: You almost convinced  
16 me.

17 THE CHAIRMAN: Almost.

18 MR. ALAMPI: But not quite, and I'll  
19 tell you why. Why don't we just start off with  
20 what happened here tonight. We dealt with  
21 Mr. Steck as the planning consultant. I've known  
22 Mr. Steck over the years, many of our clients  
23 have employed his services, and I think he is a  
24 recognized authority. But tonight I didn't  
25 recognize the same person. He started off with

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1 the most basic premise in zoning which is with  
2 the setback for the easement. It's Hornbook law.  
3 When we say in the legal profession Hornbook law,  
4 textbook law, we say, look, this is so basic that  
5 we're going to teach these young people who don't  
6 know anything when they're in law school, we're  
7 going to tell them this is the law because they  
8 couldn't figure that out for themselves. And so

9 we teach them these things and we tell them,  
10 don't challenge this, this is the law. This is  
11 so solid in the law, just accept it. Don't  
12 torture yourself. There will be many other  
13 things that you'll have to twist and turn when  
14 you take the bar exam but for this, this is  
15 basic. So we all know in our profession whether  
16 you're a planner, whether you're an engineer, an  
17 attorney, a board, that the ownership of the  
18 property remains with the owner. It allows an  
19 easement or use in an limited way, and in fact  
20 guarantees that there won't be a structure on  
21 there. So with the guarantee that there wouldn't  
22 be a structure and limiting the box or the  
23 footprint of what would be developed, you're  
24 guaranteed by law constitutionally that you don't  
25 get double counted on the easement. You don't

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1 have the easement plus 20 feet. It's unlawful.  
2 It's a taking.  
3 what's the case, John? You know all  
4 the cases. The one is south Jersey, with the  
5 wetlands.  
6 There are cases with this. So we  
7 were stay with the issue of the testimony from  
8 Steck that starts to say, well, look -- and then  
9 he was very careful. I must have counted tonight  
10 30 times or more where he said, well, in my

11 opinion. He's very careful to say that. He's a  
 12 professional. He's an intelligent man. He knows  
 13 that this is his opinion, not that this is fact  
 14 or the law. And I respect that. I mean, he's a  
 15 professional witness; that's his purpose. But  
 16 again, when you start to get down to that level  
 17 of parsing an application and talking about the  
 18 easement being not the setback when the easement  
 19 is going to be kept clear, free from structures  
 20 and debris; there is no parking on the easement,  
 21 overnight parking; there is no storage. Out of  
 22 the blue comes well, there's storage. I don't  
 23 know where these people get this. But the issue  
 24 doesn't end there.

25 Then there were various questions

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1 that talked about other elements of the  
 2 application and it was a gross stretch. It was  
 3 an exaggeration of theory on some of the issues.

4 The concept well, perhaps, you know,  
 5 if you take the front setback, the measurement  
 6 and sidewalk, and now it's a front setback. Your  
 7 planning consultant, who I'm sure participated in  
 8 the drafting of the ordinance, who is familiar  
 9 with the history of the ordinance, who is  
 10 familiar with the people who were involved with  
 11 the preparation of the ordinance and then  
 12 applying her expertise has pronounced on this  
 13 issue three or four times; put it to sleep, there

14 is no front yard setback. But this is the thing  
15 that really gets me, take the building, even  
16 though you're less than 40 percent of the density  
17 and it's not enough because you're intruding into  
18 the rear yard, and consolidate the footprint  
19 because you have an excess coverage. When I ask  
20 isn't that a function of the reduced height by  
21 keeping the building below the maximum height;  
22 no, not at all. Well, I can't understand that.  
23 I mean, obviously if you have a building and it's  
24 so many floors, if you add another floor, you can  
25 do it -- and have the same number, you can do it

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1 on a smaller footprint.  
2 So there's a credibility issue here  
3 all right, and the credibility starts with the  
4 testimony offered by the objector's planner.  
5 The height is important. I think I  
6 established that if you really have had the  
7 opportunity to read the Master Plan from 1994,  
8 even the predecessor in 1987 and the  
9 Reexamination Reports in 2003 and 2009, you read  
10 the entire document and then you start to  
11 understand what the people involved with the  
12 master planning process were concerned with, what  
13 issues they were concerned with. There is no one  
14 here that's going to say that the Palisades are  
15 not a precious resource; they are. There is no

3-30-11 Appleview  
16 one here that is going to say you have to be  
17 careful and try to maintain what there is of the  
18 Palisades.

19 I guess the difficult question is  
20 what exactly is the Palisades. One could argue,  
21 as we did initially, that the Palisades is the  
22 sheer exposed rock face. This board rejected  
23 that. This board and the planner reviewed it and  
24 said maybe you're right, Mr. Alampi, maybe your  
25 applicant is correct in reading the ordinance,

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1 the language, the text of all these documents,  
2 not just the ordinance, but the master plan and  
3 the reexaminations, and they always talked about  
4 cliff face but that's not what we meant. And, by  
5 the way, everyone knows what we meant and we know  
6 what we meant. So the applicant has taken review  
7 of that and has acquiesced and agreed and said,  
8 well, I could be a strict constructionist and  
9 prove you wrong, but we want to work within the  
10 spirit of the ordinance. We want to have this  
11 board review it in a way where the Board is  
12 comfortable with what is being proposed, and so  
13 we subject ourselves to your jurisdiction and we  
14 agree a variance is implicated.

15 I have reserved my right. There is  
16 no doubt that this hearing is going to proceed  
17 down the road to Jersey City in the Superior  
18 Court. I have no doubt about that. But I'm

19 preserving my right on that legal argument and  
20 yet at the same time we've said there is some  
21 confusion in the way the ordinance is worded.  
22 Then there is a Figure 14 exhibit, and there are  
23 other factors, and then there is the study done  
24 by the county of the Palisades and the stability.  
25 And overall I think we all know what we're

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1 talking about, the overall steep slope region.  
2 So this applicant has accepted that  
3 the variance has become implicated while  
4 preserving its legal right to retain its  
5 argument. And I'm not double talking. What I'm  
6 saying is okay, now we prove out the case. I  
7 think at the finale of questioning of Mr. Steck,  
8 we proved out the case. And if my witness,  
9 according to Mr. Lamb and, you know, he's an  
10 excellent attorney, he's got a very sharp mind,  
11 he has a great recollection of the facts, and  
12 even though he was speaking quite quickly, he hit  
13 all bases, he is denigrating the quality of our  
14 planning expert. And I say to you, thank God  
15 Peter Steck came here tonight because he proved  
16 my case for me. I believe that he complimented  
17 my case, that he supported my case with the rear  
18 yard setback.

19 we talked about positioning of the  
20 building. We talked about reconfiguring the

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21 footprint, make it the typical, traditional,  
22 everyday, plain, ordinary, rectangular shape,  
23 bring it forward, raise the height. Does that  
24 give you more view of the Palisades? The  
25 so-called public purpose; the answer was no, yet

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1 I advocate that you pull away from the rear and  
2 you raise the height. It doesn't make sense.  
3 We know that the area in question is  
4 guarded on the north and the south by two  
5 formidable structures; that whatever you do on  
6 this site you still have to go from an angle.  
7 When you drive along River Road, you have to look  
8 at an angle at the property. You're not dead-on,  
9 head-on 24 hours a day. And right across from us  
10 dead-on, head-on is an easement controlled by  
11 Transco. There's nobody going to be there,  
12 living there, recreating there, directly across.

13 So, we understand that we have to  
14 make efforts in this application to be sensitive  
15 to the Palisades, to be flexible in our design  
16 and to work with the view of the Palisades to and  
17 from the Palisades. So we go back to the master  
18 plan dichotomy. We talk about the overall  
19 document, we pluck out the issues that dealt with  
20 the Edge Cliff Zone, and then we talk about the  
21 different studies and different parts of that  
22 review and that document as to what they were  
23 talking about. We don't just take one sentence

24 and one paragraph. And we learn that they were  
25 talking about creating an opportunity. And this

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1 conversation, by the way, this public  
2 conversation with this borough with the county,  
3 with the planners is, well, we want to have -- we  
4 want people to have access to the waterfront.

5 Has anybody here heard of the Hudson  
6 River Walkway? That was an issue. The access to  
7 the walkway, the access to the waterfront. We're  
8 across the street from the waterfront, but the  
9 issue was the access to the waterfront on the  
10 lower level. And on the upper level the access  
11 to the Palisades, meaning some promontory, some  
12 observatory, some way to enjoy the Palisades, to  
13 visualize it, to see it, to have a view from it.  
14 We're not talking about being down on River Road  
15 which traditionally had large buildings,  
16 industrial buildings, warehouses, car washes and  
17 all in that area recreating at the base of the  
18 Palisades. We're talking about the view from the  
19 top and the access to the waterfront across the  
20 River Road to the waterfront.

21 And I think it's important to note  
22 those issues and distinctions because ultimately  
23 it led to a change of the zone in the P3, which  
24 of course is just north of this subject property,  
25 and they retained the P2 designation. Even when

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1 I tried to get an admission that black on white  
2 one of the reexamination reports spoke  
3 specifically about the P3 designation might be  
4 appropriate here, ultimately the governing body  
5 decided to leave it as the P2. But what did they  
6 do; they took the 85 foot height and reduced it  
7 to 75 feet from the highest point or the center  
8 line of River Road. Well, that tells me that the  
9 height of the building is an important issue and  
10 any reduction in the height should be well  
11 appreciated; any increase in the height would so  
12 insensitivity to the Palisades.

13 Is the application perfect; no.  
14 Could the application be made into a 20-unit  
15 garden apartment; I guess so. But this is a high  
16 density, multi-dwelling zone. What do we mean by  
17 that? Does that mean that I'm entitled because I  
18 could do the math and calculate 172 units that I  
19 have a right to build 172 units? I agree with  
20 Mr. Steck, the applicant is never guaranteed  
21 absolutely in all instances the full build-out  
22 under the ordinance. The applicant is entitled  
23 to a build-out up to a limit, provided it can  
24 address sensibly other elements of the ordinance.  
25 We're down to 59 units. We're under

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1 40 percent of the density. We're reduced 20 feet  
2 in the height. Arguably, if there's an  
3 inconsistency it's 17 and a half feet, but I  
4 believe it's 20 feet in the height. These are  
5 important features of this development. This  
6 shows that this a modest development, it's well  
7 under the criteria for the zone, it's well under  
8 the yield that the zone allows, and it shows some  
9 sensitivity.

10 With regard to the rear yard, we've  
11 addressed the fact that by keeping the height at  
12 the level that it is, by configuring the building  
13 with the two wings and a centerpiece with an open  
14 courtyard, you force the floor plan to be such  
15 that it elongates the building and it intrudes  
16 into the rear yard. Let's get one thing  
17 straight: Your steep slope ordinance will  
18 identify the steep slope but does not restrict  
19 any disturbance in the steep slope. The steep  
20 slope exists and you have to monitor it and it  
21 does address the rear yard, but there can be a  
22 disturbance. It has to be measured.

23 Of course we don't want to do what  
24 we've seen up the street where they've taken  
25 these huge, you know, monolithic chisels to the

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1 rock and chiseled away the rock face like what

2 was alluded to, a quarry. No, we don't want to  
 3 do that. But you have to understand that the  
 4 debris, the dirt, the vegetation such at the base  
 5 is not only some debris that fell from the top to  
 6 the bottom, it was also the sediment that flowed  
 7 from the river some time ago. Of course, I'm not  
 8 talking ten or 15 years ago, I'm talking a way  
 9 long time. But it is the sediment, it's part of  
 10 the tidal flow. All of that is loose rubble.  
 11 There is no major excavation to speak of and  
 12 there is no scarring of the rock face.

13 A lot has been said by Mr. Steck and  
 14 other witnesses about the rear yard setback not  
 15 being justified. How does that relate to the  
 16 so-called public purpose? The purpose of the  
 17 zone was to show sensitivity to the Palisades and  
 18 to show -- and to create more view of the  
 19 Palisades. You can't see anything behind a  
 20 building. The going back into the grade doesn't  
 21 really affect the view of the Palisades,  
 22 certainly not from the top and not from the  
 23 front. It's affected by the limitation on either  
 24 side of the property and the width of the  
 25 property.

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1 We have huge structures that are to  
 2 the north and the south of the subject property  
 3 and that interferes with the site view.

4 We talked about the Transco  
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5 dichotomy. This is serious business. No one is  
6 making light of it, least of all the applicant;  
7 the applicant who could have ultimate liability  
8 should they be careless, the applicant who has  
9 his life savings into this property, the  
10 applicant who wants to do a wonderful, beautiful  
11 housing development consistent with the zoning  
12 that it was intended to be, the applicant whose  
13 hired expert witnesses, who's authorized his  
14 engineer and attorney to interface with the  
15 Transco people, recognizing that Transco has  
16 certain protocol. It is an outright lie to say  
17 that the right-of-way agreement, naked as it was  
18 proposed by the attorney for Transco, is the  
19 final agreement. It's an agreement subject to  
20 detailed negotiation and attachment of records.  
21 What you should all know is if you read the  
22 utility plan on the site plan, if you take the  
23 utility plan and you go to note 5.3 on the  
24 plan -- and this has been here for a year now --  
25 and if you go to this utility plan, and you go to

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1 5.3 all work shall comply "with requirements for  
2 construction or maintenance activities published  
3 by Williams." It's in the plan. It's  
4 incorporated in the plan. It's in the notes.  
5 The easement is being drafted and upgraded.  
6 There is no mystery here.

7 Then you have Transco who may be  
8 reluctant to come to the board because they're  
9 not the applicant. I don't control them.  
10 They're a big corporation. It takes me days to  
11 reach their attorney just to get a question  
12 answered.

13 The Transco protocol is incorporated  
14 in the plans, will be incorporated in the final  
15 agreement and will be subject to review and  
16 approval, but I will not have a third party, a  
17 private third party regulate my property. I will  
18 have the government regulate it. I will have the  
19 borough, the Township of North Bergen, the County  
20 of Hudson regulate it. I will not have a private  
21 property owner who is adjacent to my property for  
22 the most part regulating and controlling my  
23 property. We won't do it. It's an act of  
24 malpractice. It's malfeasance. It's wrong.  
25 what we will do is we will do everything and meet

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1 every regulation and meet every protocol,  
2 federal, state and local. We will address it, we  
3 will abide by it, we will be careful, we will  
4 force Transco to comply and we will comply, the  
5 borough, the township will comply. We have no  
6 reason not to comply.

7 Why would we want to build a building  
8 and create a dangerous condition? The dangerous  
9 condition that is being discussed is concerned

10 about the construction phase. I don't believe  
11 that anyone is concerned with the building itself  
12 once established and once occupied as a tranquil,  
13 residential use is the issue. It's the  
14 construction. We all know that.

15 MR. MUHLSTOCK: Mr. Alampi, if the  
16 board were to get -- if the board were to  
17 consider approval of the application and later on  
18 the board were to receive a response from New  
19 Jersey Department of Homeland Security, and  
20 assuming that the response required somehow the  
21 applicant to come back to the board and  
22 necessitated some consideration of the site plan,  
23 would the applicant be amenable to doing that?

24 MR. ALAMPI: Absolutely.  
25 Absolutely. We are subjected to and regulated by

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1 government agencies on every level. We  
2 understand that the Transco line, although  
3 adjacent to our property for the most part -- and  
4 tonight there were several references about the  
5 gas line being on our property in the easement  
6 area. The gas line up at the top, the so-called  
7 maintenance area, 90 feet in the air, and you  
8 can't get up there except by donkey is up in the  
9 corner of the property. And there's a sliver  
10 that cuts across along with the Guttenberg sewer  
11 easement, otherwise the Galaxy would have a

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12 different kind of problem with the sewerage.  
13 It's up at the top of the property on an angle  
14 shooting into the MUA property and then it comes  
15 down the side.  
16 You have to wonder why did it go on  
17 that side of the property line instead of our  
18 side? We're happy it's on the other side. But  
19 even though it's on the other side of the  
20 property line, we provided this 20-foot access  
21 easement because Transco asked us and said it  
22 doesn't look like you're going to build there, it  
23 doesn't look like you're going to really have any  
24 activity there, and we know land is valuable, but  
25 we would like to have some room from time to time

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♀

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1 if we need to do anything on our pipe, if we need  
2 to change anything, if we need to work on it, and  
3 how would we do it because to tell you the truth,  
4 we go over on the MUA property and we have  
5 vehicles or equipment on top of the line, that's  
6 not going to work. So they were going to  
7 trespass on my property anyway.  
8 I said, okay -- in consultation with  
9 the borough engineer and it happened Boswell also  
10 is concerned about the sewerage easements and  
11 such with Guttenberg -- perfect, let's make it  
12 nonexclusive, allow the Township of Guttenberg --  
13 and I know that we're not buying off Guttenberg  
14 with an access to the sewer if it's a condition  
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15 that's untenable, but why not provide it to them.  
16 If I'm going to provide it to North Bergen, I'll  
17 provide it to Guttenberg and to Transco, and  
18 we're reserving to ourselves the use of that area  
19 because we are the owners. This is a good thing.  
20 It actually enhances, I believe, the safety  
21 issues that are concerned.

22 And going with the Transco issue, we  
23 didn't build the line, it's been there since  
24 1960. It goes through the Galaxy. It goes  
25 through Guttenberg. It goes through North Bergen

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1 Bergen. There's a big project now on 69th  
2 Street, I understand, a big construction project  
3 that has huge machines all over the place on top  
4 of that line.

5 But things do happen. We see the  
6 great tragedy in Japan, and it's overwhelming to  
7 even consider what happened there. We see the  
8 other tragedies where there's been explosions of  
9 gas lines; we understand that. We know that  
10 airplane crashes occur and it's a terrible thing,  
11 but don't we still use airplanes? How did the  
12 expert witness who testified here, how did he get  
13 here? He flew here. There's an element of risk  
14 but it's every day life.

15 I'm not equating air flight with a  
16 gas line, what I'm saying is there are thousands

17 of lines of this gas line throughout the country  
 18 to distribute the gas throughout the country and  
 19 it goes through our property. I live in Paramus.  
 20 Behind my house and up the way where I live every  
 21 day I see these yellow poles. It's the gas line.  
 22 I don't think it's a 36-inch gas line but it's a  
 23 gas line. I did a beautiful development in  
 24 Westwood on the reservoir for the United Water  
 25 Company. The set back from the gas line for the

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1 houses was five feet. I was shocked. I said  
 2 that can't be. That's the law, five feet.  
 3 So what we're saying is this: In a  
 4 perfect world maybe we wouldn't have a gas  
 5 transmission line ever, maybe we would be  
 6 something different, but we're building what is a  
 7 project or a development which is permitted in  
 8 the zone. It's what we call a primary permitted  
 9 use. We're building so far below the density and  
 10 height. We massaged the plans, as you all know,  
 11 you've seen three or four generations of these  
 12 plans over the years. At one time it was 120  
 13 some odd units. We dealt with the issue of  
 14 traffic knowing that full well that traffic is  
 15 not an issue here; parking is adequate. It's a  
 16 good project and I think all the issues were  
 17 addressed properly both ways by the experts, by  
 18 the applicant, and even in the opposition issues  
 19 were raised and brought forth and expert

20 testimony. Just because I cross-examined a  
21 witness and he's not my witness, doesn't mean you  
22 discount the testimony. You accept the  
23 testimony.

24 I urge you to approve this  
25 application. We will comply with every

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1 regulation on every level. We will adhere to any  
2 safety protocol, and if there's a mandate that we  
3 have to meet and it changes the details of the  
4 site plan, we'll be back. We have to be.

5 Thank you, Chairman, I did not intend  
6 to ramble. Thank you.

7 THE CHAIRMAN: Thank you.

8 MS. GESUALDI: Chairman, on behalf  
9 of the Town, we want to first insure that our  
10 sewer easement is preserved, number one.

11 THE CHAIRMAN: I'm sorry?

12 MS. GESUALDI: That our sewer  
13 easement is preserved. Number two, we want to  
14 insure a reasonable development on the site if  
15 approved without a substantial impairment of your  
16 master plan and zoning ordinances. But, lastly  
17 and more importantly and strikingly, Mr. Alampi  
18 said that he wasn't trying to equate airplane  
19 travel to a gas line. And I find that intriguing  
20 because ten years ago we would never have thought  
21 of airplanes as huge bombs that would have killed

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22 people. And in today's age we have a gas  
23 pipeline which is 36-inches in width which, in  
24 our view, poses a substantial risk to the  
25 residents.

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1 We heard the mayor's own testimony he  
2 went down to the site tonight; there is no video  
3 cameras there at present and there were three  
4 vehicles parked right upside that gas line and  
5 anything could have happened. We don't know  
6 what's taking place there or not. And at every  
7 month, meeting after meeting after meeting these  
8 rooms are filled with residents whose concerns  
9 are primarily based over that gas line. And it's  
10 really interesting that Transco hasn't been here  
11 to address these questions at all. And,  
12 candidly, on behalf of the Town and on behalf of  
13 the residents I think everybody would have felt a  
14 little bit more at ease if Transco had been  
15 available to answer some questions.

16 Perhaps everything would be okay,  
17 perhaps some other remedial efforts could have  
18 been made. Yes, we have the March 28th letter  
19 from their counsel, but we're not sure what kind  
20 of information was submitted to their counsel  
21 with regard to the construction. I'm not trying  
22 to suggest that any information was not  
23 submitted, but perhaps some more information  
24 should have been it submitted. And I certainly

25 think that in light of the concerns, I think that

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Marjan

1 just like Mr. Lamb did state on the record, I  
2 think that they should be here to answer some  
3 questions, and I think that this really is a big  
4 issue for this project. Safety. And we all  
5 heard with regard to the mayor's request for a  
6 security vulnerability assessment from Homeland  
7 Security.

8 We are living in very different  
9 times, folks. And I think because of that it  
10 behooves this board to make sure that this  
11 project will be secure for the residents. That's  
12 all. We're not trying to impede the builder's  
13 ability to build. We know that a development  
14 will go up. We want to make sure that it's  
15 reasonable and that it's safe. That's all.  
16 Thank you.

17 THE CHAIRMAN: All right. Thanks.

18 The last part of this, I do want to  
19 take statements from the public. Couple things,  
20 please keep your statements brief, no more than  
21 three minutes, hopefully a lot less than three  
22 minutes, make one point and please don't repeat  
23 the same point over and over again.

24 BIJAN MARJAN, having been previously duly sworn  
25 by the Notary Public, was examined and testified

♀

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Marjan

1 as follows:

2 THE WITNESS: One question if I may  
3 ask of the board. Can I address it to the board?

4 THE CHAIRMAN: Actually you can make  
5 a statement but no, the board has got to  
6 deliberate.

7 THE WITNESS: I'm sorry?

8 THE CHAIRMAN: The board needs to  
9 deliberate -- unless it's --

10 THE WITNESS: I just wanted to know  
11 how many boards members live within 20 to 100 --

12 MR. MUHLSTOCK: That was a question  
13 that was asked by someone else. It was  
14 objectionable.

15 THE WITNESS: The second question is  
16 may I address a question to Mr. Lamb? I have a  
17 legal question.

18 MR. MUHLSTOCK: No, you can only  
19 make a statement at this point. Questioning is  
20 over.

21 THE WITNESS: Okay. I mean, it was  
22 basically I just wanted to know if the, you know,  
23 the board would be in the event of an incident --  
24 and, again, I don't know how many of you live  
25 even close to it, but if there's surviving

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1 members of the community in the event of an  
2 incident, would the board be legally liable for  
3 having made a decision. That's all.

4 RAVINESH VARMA, having been previously duly sworn  
5 by the Notary Public, was examined and testified  
6 as follows:

7 THE WITNESS: Mr. Chairperson and  
8 the board, thank you very much for having me  
9 back. I'm not against development. I don't  
10 think anybody over here sitting down here is  
11 against development. I think what we are  
12 concerned about is overdevelopment, and that is  
13 what the problem in our city right now. We've  
14 been here -- I've been here several times  
15 addressing this problem. I even spoke to you,  
16 ma'am, last time I came down. And all those  
17 problems still exist, still does. We still have  
18 the problems out there. We don't see no signs  
19 out there. And in reference to the problem with  
20 the pipeline, I've lived in San Bruno, California  
21 in '82. I've seen the things blown out. And I  
22 feel each and every person over here spending his  
23 time, it's over 10:00 right now, they're really  
24 concerned.

25 what I would like from the board

Celeste A. Galbo, CCR, RMR

♀

Kronick

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1 right now that you please have some respect for  
2 us. When you consider, when you take your

3 verdict out, please think about us. We are  
4 really concerned what's going to happen to our  
5 city. We want to live here. We want to live  
6 here very happily and peacefully. Thank you.

7 THE CHAIRMAN: Yes.

8 DAVID KRONICK, residing at 7855 Boulevard East,  
9 North Bergen, New Jersey, having been duly sworn  
10 by the Notary Public, was examined and testified  
11 as follows:

12 THE WITNESS: This board has a very  
13 awesome responsibility because what you decide  
14 tonight will have a very significant impact on  
15 thousands of lives for many years to come. In  
16 this case your decision will impact such things  
17 as life and death, population density, traffic,  
18 air quality, environmental considerations,  
19 vistas, aesthetics and quality of life issues for  
20 sure.

21 After all the presentations,  
22 testimony, arguments were heard, there is no  
23 doubt in my mind that this project should be  
24 rejected. The reasons are many, but the  
25 strongest, most convincing has to do with safety,

Celeste A. Galbo, CCR, RMR

8

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Kronick

1 and you've heard that from many people. The real  
2 life and death issue. Since we have witnessed  
3 gas pipe explosions across the country in recent  
4 months and those communities did not have  
5 anywhere near the population density that we have

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6 in the area that's to be developed -- and surely  
7 no amount of rateable can replace a single  
8 life -- with the hospital and sewerage facility  
9 probably within the 1000 foot range, an explosion  
10 could be very devastating resulting in a loss of  
11 lives and property.

12 We have heard expert testimony from  
13 Robert Cuniff, a certified geologist, not a  
14 geotechnical engineer, with impeccable  
15 credentials state that the project will be on  
16 what is more than a 30 degree slope, therefore  
17 clearly in conflict with the steep slope  
18 ordinance of the town and the county. He  
19 mentioned that drilling could cause vibrations  
20 that could have a deleterious effect on an old  
21 gas pipeline. Where we haven't been told  
22 anything about the condition of the pipeline. He  
23 furthermore noted that the New Jersey Geological  
24 survey identified four rock folds within a two  
25 mile radius of the site. And just a quarter of a

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♀

Kronick

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1 mile from where we're talking about building  
2 there was a mudslide and a huge boulder that fell  
3 into the steel mesh netting. These two events  
4 occurred only about two years after the project  
5 was completed in North Bergen.

6 Whereas, the Township passed a  
7 resolution recognizing the commitment to the

8 preservation of the Palisades, the county also  
 9 recognizes the beauty and value of the Palisades.  
 10 Approval of this project would clearly,  
 11 clearly -- I repeat that -- fly in the face of  
 12 the resolution making it totally meaningless.  
 13 whereas the geologist gave a more scientific  
 14 definition of the face of the cliff, this project  
 15 would clearly block two-thirds of the cliff face.  
 16 Again, why would we want to contradict our  
 17 objections.

18 This project calls for significant  
 19 variances. For example, more than 100 percent  
 20 for the lot size and even greater variance for  
 21 the rear setback. It makes no sense to grant  
 22 these variances in light of the proximity to a  
 23 36-inch high pressure pipeline and the clear  
 24 danger this possesses. We would literally be  
 25 setting ourselves up for a catastrophic event.

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♀

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Jamieson

1 why would North Bergen want to play Russian  
 2 roulette with its citizens?

3 There are many alternative uses that  
 4 would be appropriate from offices to medical and  
 5 other possibilities. These alternative uses  
 6 would require less municipal services, conform to  
 7 the zoning requirements without variances, be far  
 8 enough away from the cliff not to need ugly and  
 9 expensive mesh, and far enough away from the  
 10 pipeline that the risk of an accident would be

11 significantly reduced. Hopefully maybe even  
12 encouraging the return of birds and small mammals  
13 and trees and vegetation that we once had there.  
14 This would be a win-win situation for everyone;  
15 the area residents, the developer, the township  
16 and, yes, what remains of our 200 million year  
17 old natural treasure that we hold near and dear,  
18 the Palisades cliff. That is our Yosemite Park,  
19 our Grand Canyon. That's what we have in North  
20 Bergen; let's keep it. Thank you.

21 JODIE JAMIESON, residing at 8600 Boulevard East,  
22 North Bergen, New Jersey, having been duly sworn  
23 by the Notary Public, was examined and testified  
24 as follows:

25 THE WITNESS: My name is Jody

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Jamieson

1 Jamieson, as you heard. I am the Hudson  
2 Meadowlands Group chair for the Sierra Club, and  
3 I've been following this for quite some time. We  
4 have adopted a resolution opposing the Apple View  
5 development application and I'm going to read it  
6 to you. "Whereas, the Apple View, LLC is  
7 proposing to build a five-story 59 unit condo  
8 complex on the River Road in North Bergen; and  
9 whereas, the Apple View plan would require  
10 several zoning ordinances variances including lot  
11 size, building coverage, front yard setback and  
12 rear yard setback of which the Apple View

3-30-11 Appleview  
13 application only acknowledges the first two, and  
14 the variances are so substantial as to  
15 effectively change the zoning ordinance and are  
16 inconsistent with the purpose of the P2 Zone;  
17 whereas the building coverage limit is 25 percent  
18 and the Apple View plan is proposing 31.6  
19 percent, a 26 percent increase in the allowable  
20 coverage; and whereas the Apple View plan  
21 violates the goal of the P2 District, an area  
22 designated to allow development while preserving  
23 views of and from the Palisades; and whereas the  
24 Apple View plan violates the Township of North  
25 Bergen's resolution adopted on May 28th, 2008 to

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7

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Jamieson

1 insure that the Palisades is adequately protected  
2 and not visually impaired by any development; and  
3 whereas the Apple View plan violates the New  
4 Jersey and Hudson County Steep Slope Ordinances  
5 by cutting into the Palisades steep slopes;  
6 whereas the Apple View plan threatens flood prone  
7 steep slope areas with soil erosion and Hudson  
8 River water contamination by occupying all  
9 natural permeable surfaces on the buildable  
10 portions of the lot; and whereas the Apple View  
11 plan proposes to build on land with capped  
12 contaminated soil containing elevated levels of  
13 carcinogens including benzanthrane,  
14 benzo(a)fluoranthene, benzopyrene and if the Apple  
15 View project breaks grounds these toxins can

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16 become airborne and there are windows of  
17 neighboring residents there as close as 40 feet  
18 or they can be spread to other properties along  
19 River Road through water runoff; and whereas the  
20 project is adjacent to Transco's 36-inch high  
21 pressure transmission natural gas pipeline that  
22 supplies approximately 50 percent of Manhattan's  
23 natural gas; and whereas the project proposes to  
24 use heavy pile driving and vibrating soil  
25 compression equipment, within 16 feet of the 60

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7

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Jamieson

1 year old pipeline risking to destabilize the  
2 Transco pipeline and threatening to destabilize  
3 Ferry Road and the garages of two hi-rise  
4 condominium buildings, the Galaxy and the Summit  
5 House; and whereas this is a highly populated  
6 neighborhood with thousands of residents,  
7 hundreds of low-rise dwellings and over 30  
8 hi-rise buildings, a major hospital, two vital  
9 county roads, two sewerage treatment plants all  
10 within the likely glass burn radius of this  
11 natural gas pipeline; and whereas the North  
12 Bergen Planning Board has abdicated the  
13 responsibility to address the pipeline safety  
14 concerns, contrary to the objective of its zoning  
15 ordinance as set forth in Article Roman I, 1.3-D  
16 to promote the public safety by providing  
17 protection against fire, explosion, noxious fumes



3-30-11 Appleview

21 MR. MUHLSTOCK: You can say whatever  
22 you want. It's not coming into the record.

23 THE WITNESS: Okay. Many North  
24 Bergen residents living in the northern part of  
25 the town, especially along Boulevard East and

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♀

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Wong

1 River Road, are drawn there because of the views  
2 of the historic Hudson River and the Palisades  
3 cliffs. Both are known worldwide, and the  
4 Palisades cliffs has been described as a very  
5 unique geological formation in the eastern United  
6 States. Both are valuable and irreplaceable  
7 natural resources that benefits the Town of North  
8 Bergen and sustains its property values.  
9 Unfortunately these natural resources also draw  
10 developers who will then proceed to destroy these  
11 resources with developments that are either  
12 outsized for the lots in which they are located  
13 or of a scale that blocks out any views of the  
14 cliffs or river except for the select few who  
15 will move into these developments.

16 While a developer has a right to  
17 develop his property so long as it's in  
18 accordance with North Bergen Zoning Ordinances  
19 and state regulations, the Apple View application  
20 is the wrong application for the wrong site. The  
21 footprint of the proposed development is an  
22 increase of 25 percent over what is allowed. The

3-30-11 Appleview  
23 developer is asking you to waive the ordinance  
24 for his benefit. Allowing a variance of 25  
25 percent excess removes any meaning to the

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‡

Wong

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1 original zoning ordinance. It goes beyond the  
2 purpose of allowing variances, and in the case of  
3 Apple View, the magnitude of the excess sets a  
4 bad precedent. Why have any zoning ordinances  
5 then?

6 Peter Steck testified that there is  
7 over 17,300 square feet as a result of the  
8 oversized footprint. Why would you allow this  
9 unnecessary excess in granting a variance? This  
10 application and its variances violates the town  
11 resolution intended to protect the Palisades  
12 cliffs and exposures the site to land slides,  
13 water drainage problems and erosion by disturbing  
14 the steep slopes.

15 A certified geologist, Robert  
16 Cunniff, has testified that the Palisades cliffs  
17 extends to its face whether covered by slope  
18 soil, vegetation or rocks. And it is, as he  
19 stated, in a textbook that describes the  
20 Palisades cliffs as going from the top of the  
21 cliff down to its base. And perhaps you could  
22 also describe this as what Mr. Alampi described  
23 in earlier in his comment about a Hornbook law.  
24 This is probably a Hornbook law because I have --  
25 in researching for a geologist we've spoken to

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♀

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Wong

1 many throughout the country. Many of them  
2 laughed at the definition of the Palisades cliffs  
3 as coming out of dictionary as given by the  
4 technical -- geotechnical engineer. I believe  
5 that this definition that was given to you in the  
6 report by the geologist, Robert Cunniff, is a  
7 classic 101 definition of the Palisades cliffs.

8 No one who's seen the current site of  
9 Avak, the nearby development on River Road who  
10 retained the same geotechnical engineer used by  
11 this developer can argue that the exposed rock at  
12 the base of the cliffs is not part of the  
13 Palisades cliffs. And the construction workers  
14 are now hard at work demolishing these cliffs at  
15 that site. But Avak and the Churchill site were  
16 not protected and preserved as the May 2008  
17 resolution intended. The resolution refers  
18 protection of the cliff area and not -- does not  
19 differentiate with what the Apple View developer  
20 is calling the visible cliff face. This  
21 development should not be a third example of the  
22 failure of North Bergen to protect its natural  
23 resources.

24 Land slides and rock falls on the  
25 Palisades cliffs in Hudson County including a

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♀

Wong

1 documented mudslide at the Churchill Estates  
2 Development by the county are common.  
3 Additionally, a large boulder was dislodged and  
4 fell in March of 2009. This is a picture of the  
5 boulder. And I took this picture myself and I'm  
6 under oath. This is the boulder that fell. It's  
7 lodged in the netting.

8           Additionally, there was a collapse  
9 of the Palisades cliffs two to three miles north  
10 of the Apple View site on Route 5 in Edgewater  
11 last May. And the local newspaper covered it and  
12 the front page, if any of you did not see it, it  
13 was published in the Bergen news and it was a  
14 collapse of the cliffs.

15           And I'm pointing this out because  
16 there was some questions of some board members of  
17 our geologist about collapses and mudslides and  
18 earthquakes. Now, he did not have the  
19 information I have here tonight which is why I'm  
20 showing you this.

21           In addition, the questions of the  
22 severity of the Palisades cliffs stability  
23 brought on by the Union City 14th Street viaduct  
24 collapse several years ago prompted the Hudson  
25 County Division of Engineering to commission a

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♀

Wong

1 study in 2008 which is Exhibit No. 16 and is  
Page 152

3-30-11 Appleview

2 known as the Palisades Slopes Stability Study.  
3 It is a study on the stability of the Palisades  
4 cliffs and includes a priority recommendation  
5 noted on page 32 for what is currently the Apple  
6 View site, and also referenced on page 20 in the  
7 report as the North Bergen MUA south six. It  
8 recommends a gabion retaining wall and this was  
9 before the Apple View application was filed.  
10 Apple View's plans for removal of the base of the  
11 steep slopes, including moving some of the soil  
12 around and installation of a swale, does not come  
13 close to a retaining wall which is what was  
14 recommended by the county.

15 The Apple view site plans and  
16 variances has not taken any adequate measures to  
17 protect property and lives against land slides,  
18 rock falls, mudslides, et cetera. The  
19 development will unnecessarily disturb and damage  
20 the Palisades cliffs if you grant the developer's  
21 request for the variances. The Apple View  
22 development is an unwarranted taking of the  
23 town's natural resources by a select few in the  
24 name of questionable tax rateable and is a gamble  
25 that this development with it's unique dangers

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7

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Wong

1 and liabilities will sustain a risk-reward ratio  
2 for the town. Please do not put your residents  
3 at risk; this is the wrong development for the

4 wrong site.

5 As a personal observation and as a  
6 long time North Bergen resident I'm greatly  
7 disappointed in the lack of fiduciary  
8 responsibility of this board in taking the lead  
9 in demanding the attendance of a representative  
10 of Transco to appear at these public meetings and  
11 to answer the questions posed by either this  
12 board, its own expert consultant or those of the  
13 safety experts for the Galaxy Towers Association.  
14 It is important that they appear here in person  
15 and not a letter from a lawyer which can be  
16 interpreted in many different ways. The person,  
17 the representative from Transco should be here to  
18 answer the questions so the public could hear his  
19 answers and judge accordingly. It is a matter of  
20 overseeing the safety of your town residents and  
21 nothing else matters.

22 You also have a liability if there is  
23 an event with this 60 year old pipeline that  
24 results in injuries and fatalities. Also there  
25 is a liability to the taxpayers of North Bergen

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♀

Shaw

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1 because of your failure to act. Thank you.  
2 HERBERT SHAW, residing at 4402 Liberty Avenue,  
3 North Bergen, New Jersey, having been duly sworn  
4 by the Notary Public, was examined and testified  
5 as follows:

6 THE WITNESS: At one time or another  
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7 I complained about you don't have a seismology  
8 report and you should have one because the  
9 Palisades are, especially in the area of the  
10 Cliffside, Edgewater and North Bergen border, are  
11 subject to the 125th Street New York fault. The  
12 last report was from Edgewater in 19 -- no, in  
13 2009 in which a woman complained that she was in  
14 bed and her Apple Blackberry was vibrating off  
15 the shelf and it did fall off. This was a  
16 reported earthquake. It comes from New  
17 Jersey.com and it's entitled "Earthquake Prompts  
18 Flood of 911 calls." It was traced to the fault  
19 in New Jersey, Ramapo fault upon which it extends  
20 into New York City. The Indian Point Atomic  
21 Station is on it. It's related but not directly.

22 You cannot make a decision without a  
23 seismic report. You mentioned the Homeland  
24 Security; well, you don't have to go to the  
25 Homeland Security because there's something from

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Olsen

1 the Department of Environmental Protection Land  
2 Use Management New Jersey Geological Survey. And  
3 it's entitled "Earthquake Risks in New Jersey."

4 You cannot make a decision without  
5 expert opinion on this. I'm no expert, I just  
6 took a look on the Internet, surfed a little bit  
7 and found this, and also there's an excellent  
8 book on it, 1968 by the The Museum of Natural

9 History in New York City entitled "Geology of New  
10 York City and Environs" published by Shubert 1968  
11 in which he has a diagram showing that the 125th  
12 Street fault goes across Manhattan and it  
13 reappears in New Jersey around Gorge Road. And I  
14 ask you why do you think they call it Gorge Road  
15 for? Because there's a depression there caused  
16 by this fault just the same as they call River  
17 Road River Road because it's by the river. Thank  
18 you.

19 THE CHAIRMAN: Thank you. Last one.  
20 RUTH OLSEN, having been previously duly sworn by  
21 the Notary Public, was examined and testified as  
22 follows:

23 THE WITNESS: Mr. Alampi said in his  
24 summation that the developer was very concerned  
25 with safety. But he also said that he

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olsen

1 representing the developer would not tell Transco  
2 what to do, could not tell them to come here and  
3 testify. But the word subpoena has been used  
4 quite a few times as a possibility, and I don't  
5 think the developer ever requested possibly that  
6 the board, the planning board could subpoena,  
7 would you subpoena them because I can't tell them  
8 what to do. He also said further on that he  
9 would not allow a private company to tell me how  
10 to build on my land, to tell me what to build or  
11 how to build it. He did say the government, yes,

3-30-11 Appleview

12 can tell me, North Bergen can and the planning  
13 board can. So I say that it is up to you as the  
14 planning board and he has already stated that you  
15 can tell him how to build.

16 Then I believe after that it was Mr.  
17 Muhlstock I think who said to Mr. Alampi if we  
18 approve this application and then we get a letter  
19 from Homeland Security after its approved telling  
20 us that there are issues that have to be  
21 addressed, safety issues that have to be  
22 addressed, would you be willing to come back to  
23 the board and hear what they have to say, and Mr.  
24 Alampi said yes. But what happens if  
25 construction is already started? I cannot think

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Rodgers

1 that they're going to waste much time if it's  
2 approved starting construction and having all of  
3 that -- all of the equipment and all of the  
4 excavation and if it's already constructed and  
5 Homeland Security says you're crazy to do this,  
6 then what? It may or may not be too late.

7 what I'm asking you as somebody who  
8 was in Tower 3 who would be incinerated if I'm  
9 home and for everybody else who would be affected  
10 by this, including you, you might not be  
11 incinerated, you may not be burned but you will  
12 be affected, is to get Transco here. And I heard  
13 somebody say well, we're not experts, we don't

14 know the questions to ask. But we had a pipeline  
15 expert that gave a list of questions, a list of  
16 very good questions to ask. You had those. Get  
17 Transco here, get Homeland Security here before  
18 you approve; don't wait until it's done, for our  
19 sake and I really think for the sake of all of  
20 you. Thank you.

21 CATHY RODGERS, residing at 7004 Boulevard East,  
22 Guttenberg, New Jersey, having been duly sworn by  
23 the Notary Public, was examined and testified as  
24 follows:

25 THE WITNESS: I live facing this

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Ng

1 property, I'm in the Galaxy and I face north and  
2 northwest and I am a really sound sleeper. So  
3 all the ambulances and things and police cars  
4 that come down Ferry Road don't wake me. What  
5 wakes me, particularly in the summer, is the odor  
6 from the sewerage treatment plant. The noxious  
7 odor is so strong that it pulls me out of sleep.  
8 I don't know how anybody can imagine living a few  
9 feet from those open cesspools because that's  
10 what they are. I'm at least however many feet, a  
11 hundred feet, I don't know how many feet.

12 A VOICE: 300.

13 THE WITNESS: 300, thank you. And  
14 it wakes me in the middle of the night. You're  
15 going to put children in this building next to  
16 these open sewerage treatment pools. What's the

17 responsibility of the board to public safety?

18 Thank you.

19 SIAT NG, residing at 7004 Boulevard East,  
20 Guttenberg, New Jersey, having been duly sworn by  
21 the Notary Public, was examined and testified as  
22 follows:

23 THE WITNESS: So I think Mr. Alampi  
24 sort of insinuated that Mr. Steck had had some  
25 credibility issues. I like that topic, I'm going

Celeste A. Galbo, CCR, RMR

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Ng

1 to stay on that a little bit because I think  
2 that's a very important point to be considered by  
3 the board when they make a decision on this  
4 application.

5 I want to point out that at the  
6 planning board hearing of September 29, 2010 Mr.  
7 Bertin was cross-examined under oath by a member  
8 of the public regarding what why he thought the  
9 pipeline would be safe. Mr. Bertin responded in  
10 quotes "The other thing is Williams will be on  
11 site, the entire time. Every time there's been a  
12 backhoe on this site, every time there has been a  
13 drill rig on this site, Williams has had an  
14 inspector there watching and that's going to  
15 happen during this project." This was on page 84  
16 of the transcript.

17 Mr. Rabin and Mr. Lamb had mentioned  
18 both times now about the illegal excavation that

3-30-11 Appreview  
19 took place in 2007, and I want to point out that  
20 in that incident Mr. Bertin was instrumental in  
21 doing the excavation, and in that incident  
22 Transco wasn't on site. So in addition to the  
23 fact that his failure to put in a One Call before  
24 making the excavation, undertaking the excavation  
25 activities, he actually was not telling the

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Ng

1 entire truth and was under oath at the planning  
2 board hearing on September 29th. I think that's  
3 a little about a credibility issue.

4 Relating to this also is at the last  
5 hearing Mr. Alampi also floated my name around  
6 because of FOIA, Freedom of Open Information Act,  
7 that I made, Mr. Alampi showed an e-mail response  
8 from Mr. Coy of PHMSA. I feel obligated to point  
9 out that Mr. Alampi failed to circulate any  
10 immediate response by me to Mr. Coy stating that  
11 there are many inconsistencies in the answers  
12 provided. And these inconsistencies I could give  
13 you a full list of them, and this is based on my  
14 various discussions with Transco engineers in the  
15 past few years. There have been different  
16 answers given by Transco at different times. One  
17 of the examples -- and this is critical and I  
18 hope you will take this into consideration -- is  
19 that when we asked for any repair records of  
20 Transco in the FOIA request, the answer was no  
21 but in my conversation with the current engineer

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22 of Transco he had mentioned that in the recent  
23 past years the pipeline was exposed along the  
24 cliffs and that was because of a sinkhole created  
25 by chronic water runoffs running off the cliffs,

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Ng

1 and this was not reflected in any of the response  
2 that we got. Then again this is, you know, a big  
3 area of credibility; who is right. You know,  
4 even with the best of intentions we need to get  
5 the documentation. We need to get the backup to  
6 determine all these facts.

7 THE CHAIRMAN: Okay, thank you.  
8 You're over your three minutes.

9 THE WITNESS: Okay.

10 MR. RABEN: We appreciate your  
11 allowing a few additional questions --

12 THE CHAIRMAN: It's 11:00 at night.

13 THE WITNESS: Can I just make one  
14 concluding statement?

15 THE CHAIRMAN: And you've been  
16 talking for five years.

17 THE WITNESS: I want to point out  
18 that even with the best of intentions, accidents  
19 do happen. Transco had 64 incidents in 22 years  
20 causing \$43 million in damages. That's 64  
21 incidents in 22 years, that's average of what,  
22 two, three a year. If any one of these incidents  
23 took place in our area, the consequence will be

3-30-11 Appleview  
24 devastating and I want everyone to please bear  
25 that in mind as you make a decision.

Celeste A. Galbo, CCR, RMR

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Rabin

1 THE CHAIRMAN: All right. Thank  
2 you.

3 JEREMY RABEN, having been previously duly sworn  
4 by the Notary Public, was examined and testified  
5 as follows:

6 THE WITNESS: I do appreciate your  
7 giving us this time to make a statement which  
8 we've been waiting a long time to make. You  
9 know, I do think this project should be turned  
10 down for all of the excessive variances and the  
11 over building. A much smaller project would have  
12 been much more suitable on such a constrained  
13 property, but obviously the biggest issue here is  
14 the gas pipeline. Above everything else for  
15 turning it down, that's the biggest reason.

16 The Apple View applicant has not  
17 proven that it would be safe. To approve it on  
18 some conditional future basis that would allow  
19 them to start construction would seem very  
20 irresponsible. We're talking hundreds even  
21 potentially thousands of people could be killed  
22 if this thing were to explode, and it does  
23 happen. These explosions do happen. We've seen  
24 numerous ones around the country just during the  
25 period of this application. BP was an example of

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Celeste A. Galbo, CCR, RMR

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Rabin

1 a corporation that cut corners and didn't do the  
2 proper due diligence to protect what they were  
3 doing. We've seen San Bruno where the records  
4 stated a pipe that didn't have any welds on it,  
5 it turned out it was covered with welds, some  
6 were insufficient; the pipe ruptured because of  
7 that and eight people were killed. That resulted  
8 in an immediate \$100 million liability being put  
9 up. There was eight people. This could kill  
10 hundreds of people. Imaginary what \$100 million  
11 would be if hundreds of people -- how much more  
12 we're talking about in liability.

13 This comes down really what the  
14 board I think should be thinking about is the  
15 credibility of Transco and the credibility of  
16 Apple View. And Transco as has been stated,  
17 they've got exposed pipe down on River Road that  
18 has no cameras protecting it. It could be  
19 attacked. They haven't bothered to show up at  
20 these hearings. One worker who objected to this  
21 project was pulled and told he couldn't speak.  
22 So clearly they haven't made the efforts that  
23 they should be making given the possibilities of  
24 vast tragedy here.

25 And as far as Apple View is

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1 concerned, we've heard that Mr. Bertin gave false  
2 testimony that there was always somebody on site  
3 when they did backhoe or drilling. We know that  
4 that isn't true. We know that he was fined. We  
5 know that he didn't mention any of that in his  
6 testimony on the pipeline safety. And he is the  
7 only person provided by Apple View that provided  
8 any testimony about the safety of this project.  
9 So given that credibility, they could have hired  
10 a pipeline expert five years ago. For some  
11 reason they chose not to. So I think you should  
12 hold all that against them.

13 And my last point I'd like to say is  
14 that when people talk about San Bruno, they no  
15 longer talk about a town. When they talk about  
16 Edison, they no longer talk about a town. Pearl  
17 Harbor is not a harbor, it's a place of a  
18 tragedy. Do you want to take even the tiniest  
19 risk that you will be part of the responsible  
20 factor of making North Bergen a place that will  
21 be famous a hundred years from now the way Pearl  
22 Harbor or the World Trade Center are. Because  
23 that's the kind of tragedy that we're talking  
24 about. Buildings a half mile away would risk  
25 being burned and people at close range would be

Celeste A. Galbo, CCR, RMR

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Rabin

1 incinerated. And this is factual, it was  
2 testified before you by a gas pipeline expert who  
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3 has testified before Congress and is considered  
4 one of the outstanding people in gas pipeline  
5 safety. So I hope the board will do the right  
6 thing. I hope you will not approve this project  
7 because of all the variances, and I hope you will  
8 not approve it because they have not demonstrated  
9 the safety of this project. Thank you very much.

10 MR. FERNANDEZ: I just want to clear  
11 something up. It's about the fourth time that I  
12 hear that the applicant is going to start the  
13 project. Before a shovel goes into the ground,  
14 all prior approvals must be in place; zoning, any  
15 state mandates, that all has to be in place  
16 before the permits get issued. So they're not  
17 going to start digging with the exception of  
18 digging holes, little holes, but there's not  
19 going to be any heavy construction going on.

20 THE WITNESS: But they have done  
21 digging, considerable digging on the project,  
22 including illegal digging.

23 MR. FERNANDEZ: Test pits.

24 THE WITNESS: And illegally digging  
25 by the pipeline 10 feet from the easement.

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Cassin

1 MR. FERNANDEZ: They won't see  
2 permits issued if it gets approved until all the  
3 prior approvals are in place.

4 A VOICE: They should stop all the

5 digging now.

6 THE CHAIRMAN: This gentleman. This  
7 is the last one.

8 JEFF CASSIN, residing at 7400 River Road, North  
9 Bergen, New Jersey, having been duly sworn by the  
10 Notary Public, was examined and testified as  
11 follows:

12 THE WITNESS: My name is Jeff Cassin  
13 and I'm a resident of North Bergen. I live at  
14 The Views at Hudson Pointe, and I'm a member of  
15 the board of trustees there. I'm speaking for  
16 myself and my wife.

17 We want to make -- we know that the  
18 Galaxy has hired an attorney in opposition to the  
19 project. We've been following along for somewhat  
20 close to half a year now, and we've lived there  
21 for about two years. My building didn't have an  
22 attorney representing us here and one thing I'd  
23 like to say is thank you to the Galaxy for having  
24 someone who is taking a hard look at the issues  
25 in terms of opposition.

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Cassin

1 But I wanted to let the board know  
2 that there are concerned residents in other  
3 buildings, there are concerned residents of North  
4 Bergen who are concerned about the safety of this  
5 project and the feasibility and whether the  
6 project makes sense. And we're hoping that the  
7 board will take a careful, considered approach

8 in evaluating this decision.

9 I had two quick other points to  
10 make. One, Mr. Alampi made the point that they  
11 would be everything they can that to protect the  
12 safety of the project and they do have an  
13 interest in doing so. I did come here once  
14 before and asked a question, in fact had an  
15 exchange with Mr. Alampi during the questioning  
16 of the geotechnical engineer. And I had asked  
17 the question about technology and the test pits  
18 that they had dug and whether there was a  
19 superior technology available. The geotechnical  
20 engineer has said there was another technology  
21 available, but she couldn't determine whether or  
22 not it was superior, that would be a  
23 determination for a geologist. I asked if a  
24 geologist was being brought in by the applicant  
25 and was told no. I don't feel that's doing

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Cassin

1 everything you can to make sure our project --  
2 the project is safe and that's really where we're  
3 concerned.

4 One other question or one other  
5 statement I wanted to make was I heard Mr. Alampi  
6 allude to the easement that's granted for  
7 Guttenberg, North Bergen, and the Transco. He  
8 said it's a nonexclusive easement where Apple  
9 view will also have access on that easement. I

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Celeste A. Galbo, CCR, RMR

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CERTIFICATE

STATE OF NEW JERSEY )

:ss

COUNTY OF BERGEN )

I, CELESTE A. GALBO, a Certified  
Court Reporter and Notary Public within and for  
the State of New Jersey do hereby certify:

That all the witnesses whose  
testimony is hereinbefore set forth, was duly  
sworn by me and that such is a true record of the  
testimony given by such witnesses.

I further certify that I am not  
related to any of the parties to this action by  
blood or marriage and that I am in no way  
interested in the outcome of this matter.

In witness whereof, I have hereunto  
set my hand this 14th day of April 2011.

CELESTE A. GALBO  
License No. 30X100098800