

1. FLAG SALUTE & CERTIFICATION OF COMPLIANCE

Chairman Yechiel Herzl called the meeting to order at 6:00 p.m. with the Pledge of Allegiance and Ally Morris read the Certification of Compliance with the NJ Open Public Meetings Act:

“The time, date and location of this meeting was published in the *Asbury Park Press* and *The Star Ledger* and posted on the bulletin board in the office of the Township of Lakewood at least 48 hours in advance. The public has the right to attend this meeting, and reasonable, comprehensive minutes of this meeting will be available for public inspection. This meeting meets the criteria of the Open Public Meetings Act.”

2. ROLL CALL & SWEARING IN OF PROFESSIONALS

Mr. Garfield, Mr. Stern, Mr. Sabel, Mr. Herzl, Mr. Isaacson, Mr. Meyer were present.

Mr. Terence Vogt, P.E., P.P., C.M.E. was sworn.

3. MEMORIALIZATION OF RESOLUTIONS

1. **SD 2442 Joseph Atlas**
1002 West Kennedy & 4 Teaberry Court Block 27, Lots 1.24 & 48
Minor Subdivision to adjust lot lines

A motion was made and seconded to approve. All were in favor.

2. **SP 2377AA 1626 Massachusetts Ave, LLC**
1626 Massachusetts Ave Block 524.27, Lot 74.02
Change of Use/Site Plan Exemption to convert a house to a school

A motion was made and seconded to approve. All were in favor.

3. **SP 2354 RBM Properties, LLC**
1985 Rutgers University Boulevard Block 1609, Lots 28.02 & 28.03
Preliminary and Final Major Site Plan for a building addition

A motion was made and seconded to approve. All were in favor.

4. **SD 2441 Fifth Point Holdings LLC**
120 Massachusetts Avenue Block 445, Lot 2
Preliminary and Final Major Subdivision to create 44 lots

A motion was made and seconded to approve. All were in favor.

4. PUBLIC HEARING

2. **SP 2374 Congregation Toldos Yaakov Yosef**
670 Squankum Road Block 104, Lots 13 & 59.01
Preliminary and Final Major Site Plan for a school

Mrs. Morris said this application has agreed to carry to the August 18th public hearing at the request of an objector who couldn't be here tonight. An announcement was made as to the same.

- 1. SP 2109A RD Lakewood, LLC**
Pine Street & New Hampshire Ave Block 961.01, Lots 2.02 & 2.03
Amended Preliminary and Final Major Site Plan for a hotel

Mrs. Morris said Mr. Jackson has a conflict with this applicant, therefore Mr. Ulaky is here, he is will the firm that typically represents the Zoning Board.

Mr. Jackson said yes, let the record reflect that I am stepping down virtually from the dais. I will log out.

Mr. Adam Pfeffer, Esquire, appeared on behalf of the applicant and said to clarify, Mr. Jackson I believe has a conflict with the objector, not the applicant.

Mr. Ron Gasiorowski appeared on behalf of an objector and said evidently Mr. Jackson at some time in the past had represented Mr. Cary Tajfel, who is a principal of the entity that is objecting. Neither I nor Mr. Tajfel have any objections to Mr. Jackson sitting in on this, however he has voluntarily chosen to step down. I'm not questioning his integrity in regards to this.

Mr. Jackson said I logged back in. I had previously represented the objector and that's why I'm stepping down. I don't represent him currently or anything but out of an abundance of caution I'll be stepping down.

Mr. Herzl said thank you.

Mr. Vogt said as per our letter dated March 11, 2020, page 2 under Project Description, The applicant is seeking amended preliminary and final major site plan to construct a five-story hotel on Lot 2.02. The previous approval SP 2109 included a five-story hotel and a bank. The amended site plan which the Board is looking at tonight slightly reduces the footprint of the hotel and has removed the bank in lieu of additional proposed parking spaces. Page 3, under Submission Waivers, they include A-2 sheet size, B-2 topo within 200', B-4 contours within 200', B-10 man-made features within 200 feet, C-13 Environmental Impact Statement, C-14 Tree Protection Management. We support the waivers for reasons stipulated in the letter.

A motion was made and seconded to support the submission waiver requests in accordance with the engineer's recommendations. All were in favor.

Mr. Vogt said under Zoning on the bottom of page 3, hotels are a permitted use in the DA-1 Zone. Variances are required for parking setbacks, including the parking access drive for the hotel on Lot 2.02. Similarly, proposed parking lot access drive behind the hotel would be 5' from neighboring Lot 2.06 versus the code standard of 20'. The Board will have to act on those, as well as variance relief as identified for the sign area variance. Continuing on to Design Waivers, one is required from curb proposed along the Pine Street frontage. Comment 2, for the driveway width exceeding the maximum code allotment of 30'. Finally, a design waiver is required for not proposing buffers along the side and rear property lines. I believe that's all the relief.

Mr. Pfeffer said I'm not sure how many of these members were around when we came before the Board several years ago for a very similar application which was approved. As indicated, there have been some changes. What happened since then is the original application which was for a hotel and a bank site, an appeal was filed. We ended up going to Ocean County Toms River Superior Court. Judge Ford affirmed the decision. It then went back up to the appellate division, and they overturned the approval. They didn't overturn it based on the hotel use, the issue was

that our notice did not indicate that there is a liquor license or that there would be a liquor license associated with this hotel. As is law, any hotel with 100 rooms has the right to ask for a liquor license. The appellate division thought that, and there is one other case similar to this where the notice did not put the public on notice that a liquor license would be possibly at this site. And they thought the application was deficient for notice purposes. Since that time, the parking requirements for this site has changed. I believe it was updated during the Master Plan, and more parking is now required for basically the same hotel footprint. Basically the hotel hasn't really changed aside from some small modifications from that original approval and we'll get through all that shortly. As far as the application, what you're seeing and what was previously approved, the issue really wasn't on the use and was on a technicality. We've taken out the bank pad site to provide for more parking, and we now meet or exceed the requirements, I'll have Brian testify to that. Additionally since then there were a lot of questions about certain site features which are now existing.

Mr. Gasiorowski said I want to be clear on the record, my client has no opposition to this property being utilized as a hotel or a hotel with a liquor license. What we are going to comment upon are the various variances and waivers that the applicant is seeking concerning setbacks and buffering to adjacent properties.

Mr. Brian Flannery, professional engineer and professional planner, appeared on behalf of the applicant and was affirmed. He said this application as indicated is for a 5-story hotel with 138 rooms and 193 parking spaces. The design waivers that we are asking for, the first is from providing curbing along Pine Street frontages along Lot 2.03. As indicated in this submission, this is for two lots. 2.02 and 2.03. The property for the hotel is 2.02. The regional stormwater basin is on 2.03. I'll mark our exhibits which were submitted and are available online. A-1 is the aerial which shows the site. In red it shows both of the lots. We are on Pine Street, you can see the Blue Claws stadium and the other properties that are developing in this redevelopment area. We only have two properties, one is the regional stormwater basin, which is actually part of this application and is already constructed. The other neighbor is to the north, and is an existing office building which as you can see on A-1 is currently partially developed.

Mr. Herzl asked where the objector is.

Mr. Flannery said the objector is on Route 70.

Mr. Herzl said can you show me on this map?

Mr. Flannery said no. Maybe Mr. Gasiorowski could explain where the objector is.

Mr. Herzl said so it's not in the vicinity of this.

Mr. Flannery said that is correct. A-2 is a colored version of the Site Plan. It shows the regional basin which has been constructed. It shows our site with the proposed 5-story hotel and the proposed parking, as well as the setbacks from New Hampshire and Pine Street. It shows the two adjoining property lines, one which we have an access drive on, and there is an easement for that drive, on Lot 2.03, which for the record is part of this application as indicated in Terry's report and the plans. They will stay as two separate lots because 2.03 is a regional basin that was built by the first applicant that was coming in in this area. We also have A-3, which is the Site Plan without the color. A-4 is a rendering of the Courtyard by Marriott. I would assume all of us here know what that looks like, it's a well-recognized product that's being proposed for the site by an applicant that knows how to run this type of facility and it's a very standard type of facility that I hope the Board understands what's in it but I will go through it in detail so that it's clear to the Board and the public exactly what's being proposed here. So it's the hotel which will have a liquor license, as all the Courtyard by Marriotts and as far as I know any hotel that's over 100 units typically has, and the other facilities. I think it would be helpful for the Board to go over some of the history. This entire area where the Blue Claws is, the Township back in the 90's studied that area and they designated it an area in need of redevelopment. And they came up with a redevelopment plan which was done June 25, 1990. The Township subsequently adopted

and Ordinance on September 24th... the first Ordinance was adopted on June 1, 2000, which established the Cedarbridge Redevelopment Area, the DA-1 Zone. And there was an update to that in September 24, 2015. So this is a property which received a CAFRA approval, which was planned by the Township, and it was planned to redevelop this underutilized piece of property into uses that suited the needs of the general public of Lakewood. In the DA-1 Zone, section 18-903L of the UDO, Cedarbridge Redevelopment, under permitted uses, J, is hotels or conference centers. This is clearly a permitted use as the objector has indicated. There is no objection to the use. The definition of hotel or resort hotel, which is what's listed as the permitted use, the Township Engineer had suggested, because there was no definition of that prior to the last application, and the governing body adopted a new definition for hotel/resort hotel, on November 14, 2019, Ordinance number 2019-50. It added the definition is a place of lodging that provides temporary sleeping accommodation and supporting facilities that may include, but not limited to, a lobby, a full-service restaurant, cocktail lounge, meeting rooms, banquet facilities, and convention facilities. It typically provides a swimming pool or other recreational facilities. And this project falls squarely into that definition. To go through the architectural plans that were submitted, on the ground floor of the proposed Courtyard Marriott, we have a lobby, reception area, offices, and meeting rooms. A pool, a gym, a laundry, a bistro, and a café with dining. Obviously in those areas the liquor license would be applied so that alcoholic beverages can be served. The basement has mechanical and electric rooms, storage, a kitchen, and a reception hall. Again, in the reception hall alcoholic beverages would be permitted to be served, as is typical of this type of hotel. Stories 2, 3, 4 and 5, a typical floor plan is submitted that shows four different unit types. A king, a kind deluxe, a queen-queen, and a king suite. With a total of 138 rooms that would be provided on those floors 2-5. I want to make it clear exactly what's being proposed so there's no confusion. It's my understanding, hearing from Mr. Gasiorowski, that he has no complaint with the uses that are being proposed because they are consistent with the Ordinance. I will continue through the report with respect to the relief that's needed.

Mr. Stern said is there a wedding hall in this?

Mr. Flannery said there is no wedding hall. The plans that are submitted show what's typical for a Courtyard by Marriott, and this is something that it's their product. They're not doing a special Lakewood Courtyard, they're doing a Courtyard by Marriott, and it indicates in the basement that there's a reception hall.

Mr. Herzl said this revised plan, the building is bigger than it was originally?

Mr. Flannery said no it's smaller, and there's more parking than before.

Mr. Herzl said is it safe to say that all the variances were existing before?

Mr. Flannery said I'd like to go through the variances because my testimony is that the relief that's being requested is deminimus. If we go through them one by one, you'll understand why I feel that way.

Mr. Herzl said I also want to know if it was granted previously.

Mr. Pfeffer said one more thing, I want to clarify this is not a reception hall for a wedding. It's more, there are meeting rooms. So if there are conferences, and they have a luncheon thereafter, that's the type of reception hall it is. Not for a wedding. We're not doing a wedding hall, is that correct?

Mr. Flannery said correct. And the bistro that's there is also for the people. It's a hotel and conference center in accordance with the Ordinance and in accordance with the standard Courtyard by Marriott model.

Mr. Herzl said and you're not asking for any variance on parking?

Mr. Flannery said that is correct. We exceed the parking requirements substantially. On page 3 of Terry's letter, this is a permitted use. Under 2, he indicates variances are required for parking setbacks. 2A indicates that the parking lot access drive for the hotel on Lot 2.02 extends onto Lot 2.03. As I indicated earlier, this application is for both lots. So we aren't violating a setback to a neighbor. We are in an easement that was envisioned by the governing body, in an easement that was envisioned by the CAFRA permit when the regional basin was included, and in addition the Ordinance says that parking must be 20' away. It says nothing about access aisles. So it's my opinion that that's not a variance and we don't need a variance for 2A, but in an abundance of caution I will go through the proofs because the relief that's needed would be a C2 variance where the benefits have to outweigh the detriments. It's my opinion there are no detriments and the benefit is you can properly utilize the site to provide the type of use that the governing body envisioned.

Mr. Stern said who owns 2.03?

Mr. Flannery said I believe it's the Township.

Mr. Herzl said you're not consolidating the lots, right?

Mr. Flannery said no.

Mr. Vogt said you raise an excellent point. If the lots were consolidated, this would be one property and there would be no variance as far as the setback goes. The reason the variance exists is because that basin lot is going to stand alone as a Township lot, is that correct Brian?

Mr. Flannery said that is correct, I checked the map to confirm that that is owned by the Township. The Township has signed off on this application and it will remain. In an abundance of caution, I'm going to give you testimony for that variance.

Mr. Stern said I'm looking at this map. 2.03 is owned by the Township. Unless I'm reading this wrong, your road isn't just infringing on an easement, it's on 2.03, correct?

Mr. Flannery said it is on 2.03 in an easement that was granted by the Township of Lakewood, the owner of the property, for this application.

Mr. Stern said this is really important. The Township granted you this easement, so the owner of the property is in a sense waiving... I don't see how this is a problem. If the owner of the property granted an easement, they're the party of interest.

Mr. Flannery said that's exactly where I was going to go when I got to the justification for the variances.

Mr. Vogt said I agree with Bruce's rationale, however technically it's still a variance. We're simply asking that the applicant make the proofs.

Mr. Herzl said thank you.

Mr. Flannery said item 2B on page 4 indicates a proposed access drive for the hotel would only be 5' from neighboring Lot 2.06. Neighboring Lot 2.06 is the site that was under development, a commercial site. Again, the access drive is 5' from the property. The Ordinance clearly says no parking within 20', not no access drives, so we're getting in a situation where it's an access drive, it's not parking. I have to point out there are a couple of spaces within that 20', and for those we clearly need the variance. I will give the proofs for that, I think it's de minimus because the neighbor

has parking, we have parking. There's no need to buffer the two sites. We could comply with that provision of the Ordinance by knocking off those couple of parking spaces but my professional opinion is that to eliminate the couple of parking spaces that are within 20' of a property line where they are creating no adverse impact on anybody would be a mistake. The benefits of having additional parking, even though we have more parking than we need by the Ordinance and more parking than is customarily provided for a facility of this type. A lot of times in Lakewood, an applicant comes in and says we have more parking than is required by Ordinance, and the Board and the neighbors to themselves say well it's more that required by Ordinance but you need more than the Ordinance specifies. In this particular case, we've provided, similar to other applications, the Ordinance in Section...

Mr. Herzl said if you wouldn't have this parking, you would still be totally conforming with the parking?

Mr. Flannery said that is correct. We need 153 spaces, we've provide 194, so we are well in excess of the parking requirement even if we get rid of these few. If the Board feels differently than I, that they'd like to knock out a few parking spaces, we will knock out as many as you want because we don't feel that we need them. We feel we've provided more than is required but we wanted to make sure everyone was comfortable with the parking.

Mr. Herzl said my personal opinion is I'd rather give you the variance and keep the extra parking.

Mr. Flannery said I've done a lot of Lakewood applications and I have seen that the relief for buffering that isn't essential or doesn't make sense to the Board, to provide additional parking, it's always been the Lakewood opinion that the additional parking is a benefit.

Mr. Vogt said I want to put on the record we don't have an issue with either variance request. Because this project has gone to court at least twice as a I understand, in the event it does again we simply want the record clear.

Mr. Flannery said and the same relief was required on the prior plan and granted, and we've now reduced the size of the building and increased the parking. The biggest increase to parking comes because we removed the bank site that was there and replaced it with additional parking. So we have a site now that complies. In my opinion it's a virtually by-right application. The additional variance that we need which again in my opinion is deminimus, is with respect to the sign. We have a standard Courtyard Marriott sign. It's 84 square feet, the Ordinance only allows 75 square feet. I don't think anybody driving by is going to notice the 9 square feet. It's a Courtyard by Marriott which is a quality company, it's a quality operator that we're bringing to this site. Relief, in my opinion, is deminimus, and it would make sense for the Board to grant that relief. Going through the Master Plan of 2017, the vision statement on page 7 indicates encourage growth and development in appropriate locations consistent with established land uses. I think when you look at A-1 and you see the land uses, and you look at the redevelopment plan that was made for this property, this certainly satisfies that development in appropriate locations consistent with established land uses. Additionally, it says provide sufficient educational, recreational, and community facilities to meet future needs. Again, the governing body said we need this area developed, we need ratables, we need facilities that will be a benefit to the people of Lakewood and the general public, and we are providing that type of a facility. It's my opinion that clearly meets that goal. On page 23 of the same Master Plan, it talks about traffic congestion and a shortage of parking and it says there have been ongoing problems in Lakewood Township. These issues which are fully explored in the circulation element must be addressed. This can be done in part with sound land use planning that promotes reduced reliance on vehicles through compact development, footprints, facilities, access to public transit... We are providing a facility which is in close proximity to the Blue Claws stadium, which has been a very successful project for Lakewood. And it provides the benefit that the governing body envisioned. Under the Municipal Land Use Law, 40:55D2, under purposes of the act, A is to encourage municipal action to guide the appropriate use or development of all lands in the state in a manner which will promote public health, safety, morals, and general welfare. It's my testimony that this does this. It provides and excellent ratable for Lakewood and it provides an excellent facility for the residents of Lakewood. It also says provide sufficient space in appropriate locations for a variety of agricultural,

residential, recreational, commercial, and industrial uses, and this also does that. My testimony is clearly that the Board can grant this relief without substantial detriment to the public good and it will not substantially impair the intent and purpose of the zone plan and zoning ordinance. As I indicated, the de minimus relief that I feel is needed for the access drive, in an easement that the governing body granted, on a lot that's part of this application, for the couple of parking spaces that are within 20' of the property, and for the 9 additional square feet, to get the C2 variance we need to show it relates to a specific piece of property. This is a property that was part of a redevelopment plan. I think that makes it specific on face value. The purposes of the MLUL would be advanced, and I read them to you. The variance can be granted without substantial detriment to the public good. The only public that's impacted by these minor reliefs are the Township who granted an easement and an adjoining property owner who's not here, who wasn't here last time, and by his absence I assume he has no objection to it. The variance will not impair the intent of the zone plan and zoning ordinance, and such de minimus relief would certainly not rise to that level. And the benefits substantially outweigh the detriments. My professional testimony is there are negligible detriments and the benefits are additional parking spaces and a standard sign that's suitable for a quality company that's coming to town. Continuing back in Terry's report...

Mr. Pfeffer said in the report, if you could address the design waivers...

Mr. Flannery said the design waivers are on page 4. Design waiver 1, a waiver for proposing curb along Pine Street frontage on Lot 2.03. Again, 2.03 is the Township lot. It's a regional basin with a CAFRA approval. If the Board is not familiar with it, let me explain. CAFRA is not curb friendly. CAFRA likes water to run over land, CAFRA likes vegetative infiltration and that type of arrangement. We are curbing our property in accordance with the Ordinance. We are requesting relief from this because a higher authority said don't put the curb there, let the water run right in. So that's the purpose of that design waiver, based on the prior CAFRA approval for the whole area that was done for the Redevelopment Area. A design waiver is required for the proposed driveway width of greater than 30'. If this driveway was 30', it would be hazardous. A bigger driveway is better. Every time I have to justify getting a bigger driveway, it occurs to me that someone should change the Ordinance with respect to that to put in criteria where bigger than 30 is better. It's my testimony that this relief should be granted also. Item 3 is from proposing buffers along the side and rear property lines. Again the side property line is to the Township. If we look at this as an application with two lots, and there are applications where people come in with two lots and they're going to be different uses which is what this is, 2.03 is going to remain as a basin, 2.02 is going to be the hotel. They don't need a buffer between each other. When we look to the north, the property to the north is a parking lot. You can see that on A-1. We would buffer our parking lot from their parking lot, it makes no sense. What's been provided there provides the relief. Section 18-803 of the Ordinance clearly says that buffering is required when the Planning Board determines that buffering is needed to prevent adverse visual impacts. There's no adverse visual impacts here. Providing additional buffering there would only limit parking. So it could be done, we'd have to lose parking, and again we are providing 193 where 153 are required. Those additional parking spaces are a benefit that clearly justify any of the relief that we are asking.

Mr. Isaacson said does Lot 2.03 need the access road for anything? I'm curious if it serves both lots or if there is no vehicle access needed to that lot at all.

Mr. Flannery said it would provide access if there's maintenance that needs to be done. Do they need it? No, they don't need it. They have frontage all along Pine Street. My personal opinion is you're better off not parking on Pine Street. They also have access from both of the two adjoining lots to the north. It's not something that's needed, it's something that's beneficial to Lot 2.03. Clearly the governing body felt that way when they granted the easement allowing it.

Mr. Herzl said an easement stays forever?

Mr. Flannery said correct.

Mr. Stern said unless both parties agree to retracting it.

Mr. Flannery said correct. Going through the other comments, I'm tempted to do it quickly since the objector has indicated that his objection is to the relief, but just anticipating it may go to court, I'd like to touch on all the comments that need any clarification. On page 5, it indicates a circulation plan has been provided for review. RVE is indicating there are a few minor tweaks that are needed during resolution compliance. Certainly we would provide those tweaks. Item 4 indicates that we provided 153 parking spots. The parking has been provided in accordance with...

Mr. Herzl said Brian, 193. You said you provided 153, it's 193.

Mr. Flannery said 153 is required, 193 is provided. Excuse me for mixing them up. We are providing 44 spaces than are required by Ordinance.

Mr. Stern said on number 3, why isn't there an entrance on New Hampshire? Why don't you have a right in on New Hampshire. I'm curious from a circulation stand point, why don't you have two entrances?

Mr. Flannery said we would need County approval for that, and the County disagrees with you. They feel you have a four-lane roadway, with turning aisles and stuff, that all the traffic movements should occur on Pine Street. Scott Kennel is also on the line, he's the traffic engineer for the applicant, and if you'd like to ask him the question... Just to summarize, the County would need to approve that since it's a County roadway, and their opinion is that it doesn't make sense. As an engineer who's dealt with traffic, I was employed by the Department of Transportation back in the 70's, I would agree also that if you can have your movements work safely on the minor road, it's better than mixing something up on the major road.

Mr. Stern said you don't want to have back up on New Hampshire, I got it. Thank you.

Mr. Flannery said or, we are in Lakewood, so people going out when they're not supposed to. It's better to have all those turning movements occur on Pine Street.

Mr. Herzl said it's a major highway, New Hampshire. It's dangerous. I agree.

Mr. Flannery said item 5 indicates some site triangles that need to be tweaked, which we would agree to do that. Item 6 indicates again some minor tweaks with respect to the loading zone and we would comply with that. Item 9 indicates that the sign is 20'. The sign area is the only variance that is required, and it's that extra 9 square feet. The HVAC units will be on the roof. Item 11 asked for testimony that the building height will be below 75 feet, and my testimony confirms that, the architectural plans do as well. Item 12, we did provide a rendering. It's a Courtyard by Marriott, I think everybody knows what they look like. But for anyone who doesn't, the rendering is here. Item 13 is clarifying testimony with respect to the number of rooms, and the number of rooms will be 138 on floors 2 through 5. The only other comment in the RVE report is with respect to the traffic impact, and RVE indicates on New Hampshire Avenue we have a level of service D, and on Pine Street we have level of services C, B, and E, depending on the time. I don't think that's any surprise for any of the Board members that are familiar with the traffic in Lakewood.

Mr. Herzl said and New Hampshire is not being impacted, because you have no entrance over there anyway.

Mr. Flannery said it's impacted to an extent that this will generate traffic, but we need a County approval for that and it's a permitted use. We will make the improvements needed to accommodate the impact of the traffic.

Mr. Garfield said is there any way you have of directing traffic in without crossing traffic?

Mr. Flannery said again, Scott Kennel is the traffic engineering. I think that will be a good question for him.

Mr. Garfield said ok I will hold off. Is there a pool on the hotel?

Mr. Flannery said yes, on the first floor there is a pool and a gym.

Mr. Sabel said if this were to be a wedding hall, how many parking spots would you need?

Mr. Flannery said if it was a hall per Lakewood Ordinance standards, I think it would be similar to a hall in the basement of a shul. That's 1 per 100 square feet. So that would mean 67 parking spaces are required. I think it's certainly reasonable to anticipate that half of them are going to be people staying at the hotel. Again, we have a traffic engineer who can testify on this, but my testimony would be that much greater than 50% of the people coming to the wedding stay at the hotel. So at 67, half of that is 33, 34, and we have 40 extra spaces.

Mr. Sabel said and Mr. Pfeffer's statement that it's not going to be a rental, it's going to be for the hotel...

Mr. Flannery said the intention is it's a Courtyard by Marriott. Nobody tells them what to do, they tell you what to do. They're a quality company, and it's gonna be run the way that other Courtyard by Marriotts are.

Mr. Herzl said how big is the room downstairs?

Mr. Flannery said 6,700 square feet.

Mr. Herzl said so according to your calculations that would be 67 parking spaces.

Mr. Flannery said correct.

Mr. Sabel said the left turn going out of this property is going over double... page 3 out of 11 in the site plan, it goes over almost the left turning lane for Pine Street. I think that's going to create a huge cluster, and having just a right turn in on New Hampshire, I doubt anybody is going to make an illegal left out of there. I think if we present it to the County as just a right in...

Mr. Herzl said is Pine Street a County road or a Township road?

Mr. Flannery said it's a Township road.

Mr. Herzl said and how close can you make another entrance on Pine Street?

Mr. Sabel said on New Hampshire.

Mr. Herzl said on New Hampshire, the County doesn't want it.

Mr. Sabel said we don't know.

Mr. Flannery said we do, and Scott Kennel who is the traffic expert, he can give you his opinion too, which I'm quite confident will be the same as mine, that the County doesn't want it. I've been making applications to the County

since 1983, and I have a very good idea of what they want and don't want, and it's based on traffic engineering safety principles. And just like if you're on the corner of Route 9, they don't let you have an entrance in because they want the turning movements not to disrupt the highway. And New Hampshire Avenue is a highway. I think it's a very good question for Scott when he testifies.

Mr. Sabel said what about traffic on Pine Street backed up going back to New Hampshire, if everybody is going to try to make left turns out of there?

Mr. Herzl said I think we should have Scott Kennel testify on this. Brian, did you finish the report?

Mr. Flannery said yes.

Mr. Sabel said I want to go back to one item. Lot 2.03 is showing as privately owned. And DPW's letter also shows as privately owned, not by the Township.

Mr. Flannery said the list of owners on the map says Township of Lakewood. With respect to this lot, certainly the garbage and maintenance of the building is the responsibility of the property owner.

Mr. Sabel said no I'm talking about the ownership of 2.03. On the notes that I have, it says 2.03, Cedarbridge Development, LLC. It's not by the Township.

Mr. Flannery said we have the certified list that was provided for the map, and it says Township of Lakewood.

Mr. Herzl said the easement was submitted as part of this application?

Mr. Flannery said yes it was.

Mr. Herzl said so Ally, you have that easement, right?

Mrs. Morris said I don't generally review those documents so I don't know.

Mr. Sabel said I think it would be the right thing to see a letter from the current owner.

Mrs. Morris said I can check the tax records on Lakewood Township's website for the current owner. I imagine it may have been privately owned when it was constructed, and then was turned over to the Township once it was completed.

Mr. Herzl said Mr. Ulaky, did you see the easement?

Mr. Ulaky said no, Mr. Pfeffer might have more information on it.

Mr. Pfeffer said I will get that and will get back to you in a minute. While we are looking for that information, does Mr. Gasiorowski have any questions of Mr. Flannery before he finishes up his testimony.

Mr. Sabel said I'm not done yet. There is no sidewalk leading from the street to the building. There's barely any sidewalk inside the property to ensure pedestrian safety. I think a lot of people are going to be walking to this property, either from the stadium or people staying for Shabbos. I think it's the right thing to have some sidewalk so they can walk safely.

Mr. Flannery said we would agree to add sidewalk to the extent that it doesn't exceed the impervious coverage that's permitted by CAFRA. If it exceeds the impervious coverage, the only way would be by eliminating parking spaces. I think we could provide painted crosswalks and provide alternate means, some pervious-type paths, to accomplish the goal that you're looking for. If that's a condition of the approval, we could certainly work that out during resolution compliance with the Board Engineer.

Mr. Sabel said can we work it out now?

Mr. Vogt said I hear both sides. I agree with what Brian is saying, the CAFRA permit has an impervious cover limit. I believe a porous type of path is probably the best solution if it's going to exceed that limit. It may not be ADA accessible, but will otherwise function. I don't know if we can work it out here on camera, we're not together. But we can certainly work on it as a condition of approval. If that is something that's important for the Board to see, what they've done in the past, case by case, is prior to a resolution being adopted, they can ask for a sketch from the applicant's professionals, be comfortable that what they asked for is on the plan. That's probably the most practical way of doing what Mr. Sabel is asking.

Mr. Flannery said and the applicant is agreeable to providing as much impervious coverage as we are allowed, and the balance of it would be done in a pervious path so that we don't create a problem for CAFRA.

Mr. Sabel said I think, and we can ask the rest of the Board, taking off 2, 3 parking spots that we have more than is required and adding a safe pedestrian walkway would be absolutely important and would help you as well with the variance that you have for the parking.

Mr. Flannery said we can provide a safe pedestrian walkway on a pervious path. It's not going to be wheelchair accessible, I don't think we are talking about wheelchairs coming down New Hampshire or Pine Street. But people walking, to and from the stadium or from the other buildings, a pervious path would accomplish that goal and provide for the pedestrian safety.

Mr. Sabel said what do you mean pervious? Is that gravel?

Mr. Flannery said it would be a porous pavement or gravel or something of that nature.

Mr. Sabel said I think we need a nice concrete sidewalk. You never know who's gonna be there. People deserve safety.

Mr. Herzl said how many spaces would you lose if we do the sidewalk inside?

Mr. Flannery said my opinion is that the perfect place for the walkway would be in the bumpout.

Mr. Sabel said on the west side of the parking lot. At the entrance coming from Pine Street, leading to the building. Maybe even across the island. Which will help you because grass can be converted into sidewalk so you're not wasting too much space for CAFRA.

Mr. Flannery said if the Board wants us to eliminate parking to do that...

Mr. Herzl said how many spaces would you lose.

Mr. Flannery said we're talking about a 4' walk...

Mr. Herzl said I think extra parking is very important, but so is a walkway. We have to weigh which is safer.

Mr. Vogt said each parking space is 162 square feet. So what Brian is calculating, is for a 4' wide sidewalk, the length is about 200' or so?

Mr. Flannery said 280', so it would be seven parking spaces.

Mr. Garfield said point of information, Lot 2.02 is owned by Lakewood LLC. 2.03 is owned by Cedarbridge Development. I'm wondering if the sidewalk could be worked out by them, without interrupting the parking spots.

Mr. Flannery said the problem with interrupting the parking is not a matter of fitting it, it's a matter of impervious coverage. And I don't know how much slack we have in that, but I'd be willing to bet that it's very little because someone paying for the property is going to pay a lot. By losing seven parking spaces we could have a sidewalk that goes all the way there. If the Board feels that's important and they approve it to remove up to seven parking spaces, we can accommodate that.

Mr. Meyer said I don't see how losing 7 parking spaces is worth it. I have never seen in the middle of a hotel parking lot, sidewalk. I think the parking spaces are more important.

Mr. Sabel said it's not the middle, it's the side. And you've also not seen a hotel in the middle of Lakewood. This is unique.

Mr. Herzl said we'll see when we get to the motion. We're only talking about 7 parking spaces. He's still well in excess of what the Ordinance is requiring so I think it's up to the Board to weigh what's more important.

Mr. Herzl said Mr. Gasiowski, do you have any questions for Mr. Flannery?

Mr. Gasiowski said several. Good evening. Mr. Flannery as you know I of course was involved in the previous application and I think you testified at that time as well.

Mr. Flannery said that is correct.

Mr. Gasiowski said you're showing this easement that is proposed on Lot 2.03 and Lot 2.02, are you not?

Mr. Flannery said correct.

Mr. Gasiowski said this particular project at one point in time was a redevelopment project. There's a through street which is located to the north of the subject property, is there not?

Mr. Flannery said you can see on A-1 that there is a road associated with the properties to the north that continues around. Yes there is one there and there is basin access there, but we're not connecting to that.

Mr. Gasiowski said I understand that. That's called Boulevard of the Americas.

Mr. Flannery said yes. At one point in time, in one initial approval, wasn't there a provision for access between Pine Street and Boulevard of the Americas. Where you presently have the easement, there was either a through easement or a through roadway connecting those two roadways.

Mr. Flannery said I have no recollection of that. I don't think it matters in that this is the plan that the Board is acting on, that has no connection.

Mr. Gasiorowski said what I want to find out is was there an originally approved plan that had a connection. Was there ever in fact then a revised plan that eliminated that connection that was approved by the Board.

Mr. Pfeffer objected, Mr. Flannery answered the question and any previous approval has nothing to do with this application and Brian indicated he doesn't recall such a plan.

Mr. Gasiorowski said Mr. Flannery, is it your firm that did the engineering that created this site plan?

Mr. Flannery said there is a company that I used to be part of called Flannery, Webb, and Hansen, which is now FWH. But I'm not a principal there, so when you say my company, I don't have a company. The plans were prepared by FWH, I am familiar with the engineering design, but if you have a question relating to the application I am happy to answer it.

Mr. Gasiorowski said you are no longer a principal in Flannery, Webb, and Hansen?

Mr. Flannery said FWH Associates, I am not a principal, correct.

Mr. Gasiorowski said but you are in fact very familiar with the zoning ordinances in Lakewood, correct?

Mr. Flannery said correct.

Mr. Gasiorowski said and you've testified many times before this Board as an expert planner.

Mr. Flannery said correct.

Mr. Gasiorowski said and I'm assuming also that an expert planner, you are totally familiar with the Municipal Land Use Law.

Mr. Flannery said yes I am.

Mr. Gasiorowski said and you're also familiar with a series of cases that discuss when variances are appropriate.

Mr. Flannery said yes.

Mr. Gasiorowski said with regard to the prior approval, that included a bank, is that not correct?

Mr. Flannery said correct.

Mr. Gasiorowski said an I think that prior approval also had a parking deficiency for which relief was granted by this Board.

Mr. Flannery said I don't understand how that's pertinent to this application, which is providing more parking than is required and it doesn't have a variance.

Mr. Gasiorowski said I'm asking whether that earlier plan had less parking than is provided and you had to secure a variance with regard to that.

Mr. Flannery said I did not study the prior plan before this evening's meeting.

Mr. Gasiorowski said would you agree with me that the reason why you eliminated the bank from this lot was so that you could conform with the existing zoning ordinance and the requirements for this zone.

Mr. Pfeffer said I object to the question. The application is before you, this plan is the application that's before you, Mr. Flannery has testified how the parking calculation was created, and that we far exceed the existing parking. As far as the application goes, I did indicate in my opening statement that the parking calculation has changed since the original approval. Today, we far exceed any parking requirements.

Mr. Herzl said why is it relevant what was approved originally? This application is before us now variance free for the parking.

Mr. Gasiorowski said it's not variance free.

Mr. Herzl said for the parking I said.

Mr. Gasiorowski said Mr. Flannery, is it fair to say that the bank was removed from the plan so that you could satisfy the parking requirements for the plan in accordance with the zoning ordinance?

Mr. Flannery said it was a decision by the owner with the entire design team, to make a better project. I did not make the decision, it was made by the applicant based on input from the design team.

Mr. Gasiorowski said having said that, the relief you are seeking, one of which is the zero lot line setback, and you're seeking, where 20' is required, similarly you're providing 5 feet where 20' is required, and you want to eliminate all buffers. The things you're seeking relief for are in fact requirements of the zoning ordinance, is that not correct?

Mr. Flannery said yes. If they weren't requirements of the ordinance, we wouldn't need to seek relief. That's the way it works.

Mr. Gasiorowski said you could in fact reduce the size of the footprint of this hotel and not seek or need any of the relief that you're seeking, is that not correct?

Mr. Flannery said there are many ways that we could amend the application. As I indicated in my testimony, to make it that we don't need any relief with respect to parking, would mean the elimination of several parking spaces. We have parking that exceeds the Ordinance standards, and I think I laid out the justification for a C2 variance that the benefits outweigh the detriments.

Mr. Gasiorowski said let me ask a simpler question so you can understand it. You can in fact reduce the size of this building and not have to seek the relief that you're seeking.

Mr. Flannery said we would have to amend the plan to not seek the relief. By simply reducing the size of the building, the parking is still where it is. So the plan needs to be revised. I appreciate you simplifying that for me, but it's not a simple answer.

Mr. Gasiorowski said if you reduce the size of the building, you reduce the number of parking spaces you need, you tighten the footprint of the building and the parking, and you don't need the variances which you are seeking.

Mr. Flannery said you just made my point. You went through the whole list of what needs to be done. The point is I testified that we could be completely conforming by eliminating some excess parking spaces. Your line of questioning seems to imply to me that we're right at the limit so that in order to reduce parking we need to reduce the building size, that's not the case. The case is we have 40 extra parking spaces, so we can make revisions to the layout without reducing the size of the building.

Mr. Gasiorowski said so you can revise these plans, however you do it, not to seek any of the variances that are listed.

Mr. Flannery said that is correct.

Mr. Gasiorowski said thank you. That's all the questions I have of Mr. Flannery.

Mr. Pfeffer said Brian, in your experience and is it your testimony that to make this application fully compliant as Mr. Gasiorowski is indicating, would be a worse application in that we would be providing less parking and less flow for cars?

Mr. Flannery said that is correct. In order to make the revisions as outlined by Mr. Gasiorowski, it's my opinion we'd have a less desirable project.

Mr. Pfeffer said I have no more questions and at this time will call Mr. Kennel.

Mr. Scott Kennel, of McDonough and Ray Associates, appeared and was affirmed.

Mr. Pfeffer said I know you were involved in the original application as well as this present application. Based upon this new application, did you prepare a new report?

Mr. Kennel said yes, I testified on the prior application and as a result of the new application that Brian testified to, my office prepared an updated traffic study dated January 28, 2020, and as part of that traffic study there were new traffic counts conducted in April 2019. And obviously the major change is the elimination of the bank has reduced the amount of traffic to be generated by this site. For the morning peak hours, 40 less trips, in the afternoon, 80 less trips. It ties into some of the questions raised about access to New Hampshire Avenue. Since the last public hearing, this goes back a couple years, we've had a number of meetings with Ocean County to discuss this site and access to it, and more importantly additional improvements to New Hampshire Avenue to improve the traffic conditions at the Pine Street New Hampshire Avenue intersection. As part of that, and it's delineated on the site plan, the applicant will widen New Hampshire Avenue along the site frontage to provide a dedicated right turn lane that would feed into Pine Street. The importance of that is that when you evaluate future traffic conditions, again our traffic report identifies a 2030 build year, consistent with the Ocean County protocol, that without this development and based on the existing intersection geometry and 2030 no build volumes, the intersection would operate at a level of service E in the morning and afternoon. With the southbound right turn lane, and the traffic generated by the hotel, the intersection level of service improves to a D for both the morning and afternoon peak hours. In my opinion, with the improvements that the County has requested and with this development, we've mitigated the traffic impact by improving the levels of service at the New Hampshire Avenue intersection. But just to go back to that right turn lane, and you have to look at the site plan, that right turn lane extends along the entire site frontage. Because the County was of the opinion that the right turn lane to improve the passing as more important than providing access out to New Hampshire, which would create additional conflict points and it was preferred to have all access to and from Pine Street. Another thing to provide the Board is that this site access out to Pine Street has been improved from the prior application in that we are providing two exit lanes. You have a lane for right turn only and one for left turn only. So the left turn at times will have a delay to turn towards New Hampshire, but right turning vehicles can bypass them to provide a more efficient access design. I guess the final point as far as parking, Brian has gone through the supply

versus what's required and as identified in our report submitted, in review of parking data from the Institute of Transportation Engineers, they indicate that a hotel such as proposed would have a parking demand of approximately 138 vehicles at peak demand. The fact that they're providing additional spaces and we have the meeting space in the basement, in my opinion, is a proper way to design the plan, to provide for those times where you need additional parking on site to accommodate the activities. As far as the parking supply, I support what Brian had testified to and in my opinion the supplied parking is appropriate for this application.

Mr. Garfield said is there any way that you're near enough to Boulevard of the Americas or Avenue of the States to direct exit or entrance from around that way.

Mr. Kennel said to the west of this site, it's under construction right now, I don't recall if it's been opened, but there is a roadway called Sims Drive, that connects Pine Street to Boulevard of Americas. So there is an alternate means that if left turns are difficult at peak times there is an alternate means for people to travel towards Cedarbridge Avenue or go into the office park without having to go onto New Hampshire Avenue.

Mr. Garfield said you could always have an exit then going one way, right turn only.

Mr. Kennel said I think again those are just during peak times, I would not recommend that left turns be prohibited 7 days a week on a 24 hour basis. I think the design we have is appropriate.

Mr. Garfield said I was just thinking if you could take traffic at least to the Boulevard you could split some of it coming out that way.

Mr. Kennel said that could occur and it would be self-regulated. I think this hotel will serve some of the office buildings that have been constructed or are under construction now. There's going to be some internal linkages between those uses, and the best way to access them would be to make a right out of the site and go to Sims Drive. Or continue all the way down to Avenue of the States.

Mr. Garfield said I'd like someone to look into it, to relieve some of the traffic. Your issue is the Jewish timing is different and maybe we can relieve some of it.

Mr. Sabel said Mr. Kennel, going into the property from Pine Street, I imagine a semitrailer, he has to make a right-turn into the property and then an immediate left turn to go around. So if it's give cars waiting to do a left turn, he's going to be stuck.

Mr. Kennel said if you had five cars. Our analysis indicates that the 95th percentile for that left turn queue is one vehicle, and the plan we have can accommodate approximately two vehicles. I would not expect that to be an issue. And deliveries typically occur during off-peak hours. It's my opinion that the access is appropriate.

Mr. Sabel said it's a hotel and the checkout time is usually the same. Imagine this is a full hotel of 180 rooms and they all leave within the same 2 hour time frame. Or 50% stays and only 50% check out. That's close to 100 cars in a two hour time frame, so I'm not sure of your calculations.

Mr. Kennel said you have 138 rooms, so 50% would be 70 rooms or 70 vehicles. And I've been to many hotels and it hasn't been my experience that you have that kind of surge or release from a hotel. People leave as early as 7 or 8 in the morning, some wait for check out, and some are allowed to have a later checkout depending on their needs. Based on my 38 years of experience, over that time I would not expect to have any issues at the hotel driveway.

Mr. Sabel said maybe the hotels you were at had two entrances. I have been to hotels and I've seen waiting to go outside of the property and it took a while, and that's normal. If a truck comes between 10, 11 in the morning, normal business hours, you should have another entrance into the property and not have to back up the entire Pine Street.

Mr. Herzl said Mr. Sabel, where would you recommend. You can't have it on New Hampshire.

Mr. Sabel said why can't we have a right turn in, as close as possible to Pine Street.

Mr. Herzl said on Pine Street, closer to New Hampshire, making another entrance right in.

Mr. Sabel said that's better than nothing.

Mr. Isaacson said is it possible to have an entrance lane for the hotel running along the entire front of the property, so that anyone turning onto Pine Street is not actually in the traffic flow but in an entrance lane waiting to go into the hotel. Is that possible?

Mr. Kennel said anything is possible. Given the traffic projections entering, you'd have approximately 40 vehicles or one car every 70-80 seconds. Again, this is from a traffic generation standpoint, this is a low traffic generator as opposed to some other retail or commercial type of uses.

Mr. Isaacson said I understand the staggered entrance and exit of the cars, I do tend to agree with you. I don't think 70 vehicles are exiting within the same 5 minute time frame from a hotel. But I'm just saying in this unique scenario where there is a truck trying to pull in, and he's blocking the entire Pine, if there's a dedicated entrance lane kind of on the shoulder of Pine Street, that would allow regular traffic to continue to flow while someone waited in theory to make an entrance into the parking lot.

Mr. Kennel said you'd have to review the impacts. We do have a sidewalk along Pine Street, so you'd have to relocate that further into the site. I don't know what that does for impervious coverage. And from the topography standpoint, Brian isn't there a basin along Pine Street?

Mr. Flannery said there is a basin right along Pine Street, right. So we could do a narrow widening in the right-of-way, but then that kicks the sidewalk back and again as indicated based on the traffic study, it's not warranted.

Mr. Sabel said Mr. Kennel, your traffic study was done during Binns Manem, I'm not sure how to define that.

Mr. Herzl said school is in recess.

Mr. Sabel said the kids are still in school so you still have buses, but the yeshivas are closed so you have less vehicular traffic at 9 am or in the afternoon. But on a regular ordinary day, especially the morning and afternoon, I think your traffic is a lot more on Pine and New Hampshire. So I think your report is not reflective of Lakewood conditions. I think that truck is a real issue and I think we need another entrance for this property. I would like it on New Hampshire, but if not then on Pine Street.

Mr. Herzl said the only problem Mr. Sabel, on Pine Street it's going to be too close to New Hampshire.

Mr. Sabel said a right turn from New Hampshire, from the right turning lane, I don't know why the County would not agree to it.

Mr. Kennel said we did explore those options, right in, right out, at the northern end of the property.

Mr. Sabel said right in.

Mr. Kennel said they don't want any driveway, and conflict point. Again, you put a right turn in, you have decelerating vehicles and their concern is the traffic signal is 3 to 400 feet beyond, and a driver looking down is looking towards the traffic signal.

Mr. Herzl said what about a second entrance on Pine, is that possible?

Mr. Kennel said my concern with that is right now we have the driveway located approximately 300 feet from New Hampshire Avenue, which is good spacing. For someone to turn onto Pine, get oriented, and then find the driveway to access the site, the fact that we've provided it as far to the west as possible is optimal in my opinion. Introducing another driveway near the intersection would not be as desirable as the design we have.

Mr. Sabel said I think it's fair to ask the Township and explain the issue here with the trucking, and maybe we could even have our engineer write a report to the Township expressing the Board's concerns. Maybe they'll listen to us and have, from the right turning lane, probably 200, 300 feet from Pine Street, a right turn in at a 45-degree angle.

Mr. Vogt said I hear what everyone is saying. They're all valid points. I share some of the same concerns looking at the design plans that Mr. Kennel has expressed. Pine Street is a local road. What we typically do as Township Engineers if we aren't sure of Township road access issues or safety we typically get the input of the Township Police Traffic and Safety unit. If the Board were to act favorably on this, I would recommend that as a condition let us look at the design with Traffic Safety personnel who are familiar with these roads. I'm honestly not sure if you can do a separate movement in. Looking at the design plans, I don't see a lot of room on Pine Street without widening it, which again is going to impact impervious coverage and possibly moving sidewalk into this property. Also looking at the plans, they are showing a fiberoptic line across the frontage. That's not a good thing to accidentally hit. Looking at the County design, while we don't speak for them I can understand their hesitation because the entire frontage along New Hampshire you have a right turn only lane going to the intersection at Pine Street. Scott expressed it well, I can see that being a concern. My recommendation if the Board were to act favorably, let's bring Traffic and Safety into this.

Mr. Herzl said Terry, if the easement that we have on the left side, if we move it over and go straight out to Pine Street...The easement with the basin. You have a road with two way traffic on it. If we would pull that out straight til Pine, would we be able to get a second entrance on Pine?

Mr. Vogt said your entrances are very, very close together. Is it possible? I'm sure it's possible. There's going to be a lot of work involved to determine whether this is a good idea.

Mr. Herzl said is it more dangerous? or more beneficial?

Mr. Vogt said it very well might be. This is not something that I would encourage designing on the spot. It may be possible. it may not. I would bring the experts into this, which would include the applicant's team and Traffic and Safety.

Mr. Garfield said Terry, it was mentioned that there was a road there. Maybe it's a service road for all the facilities there, that possibly could take any commercial traffic and make it a road for commercial only.

Mr. Vogt said I heard talk about Sims, if that's what you're referring to.

Mr. Garfield said yes.

Mr. Vogt said I believe that's being constructed with one of the adjoining parcels. We don't have that as part of this application, but that sounds like a great idea. There would have to be a cross access easement between this property as well as the owner of that property. It sounds encouraging. It's not something I can speak on definitively here.

Mr. Garfield said I'm just throwing it out as an idea.

Mr. Pfeffer said I had a couple questions for Scott. Scott, can you give the date of your report again and the date of your traffic counts.

Mr. Kennel said the traffic counts were conducted on April 9, 2019, and the report is dated January 28, 2020.

Mr. Pfeffer said and I think your report indicated a traffic level of D?

Mr. Kennel said with the applicant-sponsored improvements to the intersection, the overall level of service improves from E to D.

Mr. Pfeffer said so based upon this application, today as we stand it's a level E, which is obviously worse than D?

Mr. Kennel said it's a level of service E when I look at 2030 traffic volumes. I had to project out traffic growth, as well as a number of other developments that have been approved in the area. Basically I took the 2019 traffic counts and added a 20% traffic growth to establish 2030 no-build conditions. Under those volumes, it would be a level of service E. With out improvements it goes to a level of service D.

Mr. Herzl said Mr. Gasirowski, do you have any questions?

Mr. Gasirowski said the history of this property and the development goes back a number of years, does it not?

Mr. Kennel said I recall doing a traffic report done 20 years ago, yes.

Mr. Gasirowski said have you ever testified previously concerning this application as it applies either to the development of this lot or any of the other two lots that front of Boulevard of the Americas.

Mr. Kennel said yes, I provided testimony on this application when it included the bank a number of years ago, and I've provided testimony on other site plan applications within the Cedarbridge corporate center.

Mr. Gasirowski said at one point in time, in looking at the easement on Lot 2.03, at one point in time that was in fact either a through street or a through easement going from Pine out to the Boulevard of the Americas, was it not?

Mr. Kennel said I didn't see any documents that represented that. Again, I reviewed a traffic study and not an overall site plan. Just for historical data. I did not notice any connection in the general vicinity of this site plan.

Mr. Gasirowski said ok. With regard to the required parking, what did you use as the basis for the necessity of the number of space that you claim were required? 151 spaces. Did you do that based solely on the number of rooms in the hotel?

Mr. Kennel said those calculations were conducted by FWH. And again, based on my review of data published by the Institute of Transportation Engineers, I testified that the supply proposed is acceptable and appropriate for the development.

Mr. Gasiorowski said I have one or two further questions of Mr. Flannery. When you came up with 151 spaces, what did you base that upon? The square footage of the building, or the number of rooms...

Mr. Flannery said the number of rooms. The calculation as indicated on the plan is one per room, plus 15. The 138 plus 15 is 153.

Mr. Gasiorowski said and you're providing 193?

Mr. Flannery said we are providing 193, correct.

Mr. Gasiorowski said what is the number you are saying are required by the ordinance?

Mr. Flannery said 153.

Mr. Gasiorowski said and that's based solely upon utilizing as your basis the number of rooms in the hotel.

Mr. Flannery said it's a normal standard for hotels and what's stipulated in the ordinance is 1 per room. And we did 1 per room plus 15. So we provided 1.1 spaces per room and the ordinance at section 18-1005 says 1 per room.

Mr. Gasiorowski said with regard to the other uses in this building, there is in fact a bar and a restaurant?

Mr. Flannery said as indicated on the ground floor plan, there is a bistro and a café dining area of approximately 750 square feet for the patrons.

Mr. Gasiorowski said the bistro and the bar only come to a total of approximately 700 square feet?

Mr. Flannery said 750 square feet for the patrons, yes.

Mr. Gasiorowski said for all of those two or three uses?

Mr. Flannery said yes.

Mr. Gasiorowski said I have no further questions.

Mr. Sabel said and then we have to ask for the banquet hall.

Mr. Gasiorowski said I thought he said there was not a banquet hall.

Mr. Pfeffer said there's not a banquet hall. There are meeting rooms, just like in any other hotel, for conferences and the like. This is not for a wedding hall.

Mr. Gasiorowski said could those conference rooms be expanded with moving walls or whatnot to accommodate a wedding or a banquet?

Mr. Herzl said I think Mr. Pfeffer testified there won't be any weddings there. It's not built for it.

Mr. Pfeffer said we are not seeking a wedding hall approval.

Mr. Herzl said I think they said it's 6,000 square foot.

Mr. Pfeffer said if Ally can pull up the page of the architectural that shows the basement rooms, the meeting rooms, the square footage...

Mr. Flannery said sheet 3 of the architectural shows the basement floor plan.

Mr. Sabel said we didn't get any architectural plans. How many parking spaces would you need for a 6,000 square foot convention room.

Mr. Flannery said by industry standards, where these Courtyards...

Mr. Sabel said per the Lakewood ordinance.

Mr. Flannery said per the ordinance, it doesn't require any additional for the reception hall. The only provision that the Lakewood ordinance has for an independent hall in a basement is with respect to shuls, which stipulates 1 per 100 square feet. So based on that, 67 parking spaces would be needed. As I testified, it's logical to assume that a majority of those would be people staying in the hotel.

Mr. Sabel said I can beg to differ. There's a lot of conventions that people come in from outside to join for an evening or two, shows or seminars can happen.

Mr. Flannery said and in the industry standard they have those same things and it's a similar footprint. This isn't a footprint that was made up for Lakewood, this is a Courtyard by Marriott footprint that operates these and the typical parking requirement and the standard parking that's provided in accordance with the ITE data is 1 parking space per room. We're saying that per the requirements in the ordinance, we're indicating the ordinance would require 1.1 spaces per room, and we're providing 1.4 spaces per room.

Mr. Gasiorowski said you're not providing any parking spaces for either that 7,000 square foot area for conferences or for the bar bistro. You're not counting them in your calculation.

Mr. Flannery said we are providing 193 parking spaces, so if we were only doing the hotel with no other uses in it and we had one parking space per room, that would be 138 spaces. We have 193 spaces.

Mr. Pfeffer said it's your testimony that we added our own extra 15 spot requirement, so that there would be a cushion.

Mr. Flannery said that is correct. And then we exceeded that by another 40. So we have a 55 space cushion.

Mr. Pfeffer said and is it your understanding that the bistro and the lounge area is really more for an accessory use to the hotel as opposed to an independent bistro for outsiders to come to?

Mr. Flannery said yes, as I testified that's the way this Courtyard by Marriott is intended. And that's the testimony and the use of the facility that we are providing.

Mr. Gasiorowski said Mr. Flannery, you've referred to on several occasions industry standards. What is the controlling plan or ordinance you're referring to?

Mr. Flannery said the controlling ordinance, if we were trying to shoehorn something in, I could testify that we only need to provide 138 spaces. That's not the intent. So the controlling factor in providing the parking is to provide a facility that has sufficient parking so that it will operate nicely and do well.

Mr. Isaacson said Brian, I'm a bit confused. You said the hotel needs 138 but the engineering report says 153.

Mr. Flannery said when FWH did the plans they did them in accordance with the input that we got when we did the Hilton Gardens on Route 70, which was to provide 1 space per room plus 15.

Mr. Herzl said we need for the staff also.

Mr. Isaacson said yes, 100%, and that was my next question.

Mr. Flannery said that's what the 15 is for, it's for staff.

Mr. Isaacson said a hotel with 138 rooms, the maximum staff is going to be 15 people?

Mr. Flannery said it's not the maximum they're going to have, it's the amount of parking needed to accommodate the proposed use.

Mr. Isaacson said I'm trying to understand the ordinance.

Mr. Pfeffer said the ordinance does not call for the 15. The ordinance calls for one per room, or 138. Based upon a previous application that both Brian and Terry have reviewed, they came up with a count of saying we should add on another 15 spots. That's not as per ordinance, that's as per experience.

Mr. Flannery said correct.

Mr. Isaacson said I'm pretty sure the report says that 153 are required.

Mr. Herzl says based on the plan.

Mr. Flannery said the report says that based on the plan, because the plan was done so that I wouldn't have to try to defend 138 spaces as being required because it's unreasonable. It's similar to in Lakewood when we do roads and make the cartway 32', whereas RSIS allows 28 or 30. It's a Lakewood standard to exceed the minimum amount so we presented it as 153 required, one per room, 138, plus 15 for employees, similar to past practice on hotels. Again, that's what was approved for a very similar hotel on Route 70. In addition to that, we added 40 additional parking spaces.

Mr. Isaacson said it's a very simply question. What is required?

Mr. Flannery said my testimony is 153 spaces are required.

Mr. Pfeffer said can we have Terry chime in?

Mr. Vogt said if you look at page 5, comment 4, 193 off-street spaces are proposed. The plans indicate 153 spots are required. Brian just explained the rationale as to why. The calculation that was put in the plan per Brian's testimony, was the one space per room as well as the additional 15 spaces which resulted in 153 spots shown on the plan.

Mr. Isaacson said I understood all of that. I was confused because it sounded like Brian said that the requirement is only 1 per room. And there are 138 rooms, so really only 138 are required. Brian, did I not hear you say that?

Mr. Flannery said you heard me say that, and if I had a different applicant the plans would have said 138 and I would be saying 138 and not feeling good about it. This particular applicant, same as most applicants that FWH does plans for, they went along with the prior adopted interpretation. We have a lot of things in the Lakewood ordinance that someone from out of town is going to interpret much differently. I've been dealing with the Lakewood ordinance for many many years and the last application on this property (static). The prior hotel that we did before that on Route 70, we did one per room plus 15. That number seems to work. I've been to the Hilton Gardens, and I've never had a parking problem. When I look at the industry standards, the ITE, they go with 1 to 1.1. 1.1 is what the 1 per room plus 15 comes out to. In accordance with my interpretation of the past practice and Lakewood ordinance.

Mr. Herzl said Terry, the ordinance, according to your interpretation, only requires 1 per room?

Mr. Vogt said that's my understanding. We're simply reporting what was on the plans and we wanted corroborating testimony.

Mr. Herzl said so basically they need 138, and Brian technically you have close to 60 spaces extra, is that correct?

Mr. Flannery said the difference between what we provided and 138 is 55 additional parking spaces.

Mr. Sabel said if you add the 67 from the hall, then you need 220.

Mr. Pfeffer said again, we don't propose a wedding hall. That's not proposed in this application.

Mr. Herzl said and also Brian testified that a good percent of those using the rooms downstairs are going to be guests, so technically they have enough parking.

Mr. Sabel said I want to go back to one item. Brian keeps on bringing up industry standards. I looked at it on Google Maps now, for the three closest hotels. Four closest hotels. The Hilton, the Best Western, the Ramada, and on Madison and Fourth. They all have two entrances, one in, one out, or two in, two out. From Route 70, from Route 9. I'm looking at New Hampshire Avenue. Marcy's has two entrances onto New Hampshire. The County approved that. The development across the street which has a Flannery Ave in it, has an entrance to New Hampshire. QuickChek has an entrance to New Hampshire, MUA. We have streets going on New Hampshire, why can't we have a right turn, not a left, a right turn into this development.

Mr. Herzl said those applications, they have on New Hampshire and a secondary street? Or only on New Hampshire?

Mr. Sabel said also on a second street.

Mr. Herzl said so they have both.

Mr. Sabel said look at the QuickChek and the Marcy's, they have both. It's ridiculous to have a huge hotel with a hall have only entrance, especially with the circulation plan for trucks. It's not going to work.

Mr. Herzl said Brian, if you put it on the plan, and let's see what the County would say.

Mr. Flannery said Scott has testified that there have been meetings to evaluate that. I also have to say that Scott is a recognized traffic professional who has been doing this for 38 years. He's done the traffic counts and indicated that it meets traffic engineering standards. The QuickChek is on two County roads. It's coming out to two County roads, not a County and a local Township road. Each particular case is different. Here you have the traffic coming from the Blue Claws stadium, that's mixing. I drive by there all the time and it's hectic enough without someone slowing down in front of me to pull into the hotel. AS a professional and a driver, I'm happy to let that traffic go on Pine Street. We could, if the Board acts favorably and says we should check with the County on doing something different, during resolution compliance we could do that.

Mr. Herzl said Brian, is it possible?

Mr. Flannery said my opinion is that the County Engineer is going to say no. Physically it would work. Is it a better situation? My opinion is no. I feel very confident that the County Engineer is going to say it's not better as well. Form a traffic safety standpoint, this is a better configuration. But the applicant can certainly work during resolution compliance to see if there are tweaks that can be made to the circulation.

Mr. Kennel said they made reference to QuickChek. This hotel will generate approximately 20% of what the QuickChek traffic generates. So it's a whole different type of land use and traffic generator where it was determined it was necessary to have two points of access because the traffic is significantly much more than the hotel.

Mr. Sabel said they're making the situation a lot worse because QuickChek has a right out on to New Hampshire. We're not expecting that, we want to take off from New Hampshire.

Mr. Pfeffer said Scott's testimony just now was very important. QuickChek is a retail use, and generates a lot more traffic counts. To say that this is the same thing is totally incorrect.

Mr. Sabel said we have a lot more traffic, QuickChek is in a worse situation than we are because they have retail. Yet, the Township allowed them a right in and right out onto New Hampshire.

Mr. Vogt said the access onto New Hampshire is County purview, not Township.

Mr. Herzl said right.

Mr. Isaacson said I didn't finish my point before. I'm trying to understand the parking ordinance. Brian, your testimony is that really 138 are required and you're going off of some previous application where you added 15. Are you telling me that if the hotel is full, with 138 patrons, with one individual person in each room, you need 138 cars. You're telling me the entire staff that's serving the hotel is 15 people?

Mr. Flannery said I'm telling you that the Institute of Transportation Engineers has measured hotels and the likelihood of having all 138 rooms full with 1 car for each room, and then having the staff there, it's my testimony that in accordance with industry standards the 138 plus 15 is what makes sense. That is the amount that was done for the Hilton Gardens on Route 70. I've been there many times and never seen a problem. Again, it's an industry standard. We're not saying we just want to do 153. We bumped it to 193, which is 1.4 spaces per room. Which far exceeds the industry standard for this type of hotels.

Mr. Isaacson said I understand that, I'm just trying to get a good understanding of is the bump actually 40 spots, or in a doomsday scenario we have 138 rooms with 138 cars and a lot more than 15 staff.

Mr. Flannery said if there is a car for every room, there's gonna be 138 cars there. There's room for 55 additional cars, which would certainly accommodate the staff and occasional people going to the bistro for a cocktail.

Mr. Isaacson said do you have an estimate for how much staff is generally in the hotel on a regular day?

Mr. Flannery said I do not have that information. But I do have, and Scott can share that, the ITE reports on hotels, the parking supply that's provided for hotels of this type, and the number is right around 1 space per room.

Mr. Kennel said in Brian's usage of 15 additional spaces, in considering employees, it's generally a night time employee population for hotels. People parking occurs generally 10pm to 6am, and during the day patrons are visiting the family or have business obligations and they're not all at the hotel on a 24 hour basis. So Brian's buffer of 15 additional spaces I think is appropriate in that the night time staff is considerably less than the day time staff at a hotel.

Mr. Herzl said I agree. I don't think you'll have 100% capacity of the rooms and 100% capacity of the staff all at the same time.

Mr. Isaacson said I have one more question. Scott, can you tell me the date again that the count was made?

Mr. Kennel said April 9th, 2019.

Mr. Isaacson said ok forget it, I thought you said 2020.

Mr. Herzl said no Corona.

Mr. Sabel said Mr. Pfeffer said he was going to get us a copy of the easement, do we have that?

Mr. Pfeffer said I emailed it to Ally and to Mr. Ulaky.

Mr. Sabel said and we have to discuss the curb in front of 2.03, sidewalk. So the easement, it's not Township owned, it's privately owned. Cedarbridge Development, Mr. Mueller. And I'm looking at the Affidavit of Ownership, which says the same.

Mr. Flannery said it's owned by Cedarbridge Development, LLC.

Mr. Sabel said which is privately owned, not the Township. You indicated earlier that it was Township.

Mr. Flannery said correct. I looked at what the certified list which says Township of Lakewood, but then I checked on my phone.

Mr. Herzl said I think originally it was Township, then transferred to Cedarbridge Development.

Mr. Flannery said correct.

Mr. Sabel said we have to discuss the sidewalk in front of 2.03. I think that we need one, and the map that we're provided is not an updated map. If you go on Google Maps currently, you can see across the street and to the side of it, there's a bunch of buildings going up already.

Mr. Herzl said we can discuss that in a minute, I think we should open up to the public first.

Mrs. Morris said I have one email from Shlomo Stein of Hearthstone Drive that came in during the meeting. He said,

Please ask the applicant if he agrees to come back to the board if he wants to make any changes to the floor plan, including if he wants to change anything about the meeting rooms and bistro area.

Please do not accept Brian's answer of "we will comply with the ordinance" because that will be no good.

We need it in the resolution that the applicant will come back to the board if he wants to make any changes to the floor plans!

Thanks!

Mr. Herzl said I don't think anybody gave any testimony about changing any floor plans, is that correct?

Mr. Flannery said that's correct.

Mr. Herzl said that addressed this issue. Now, let's go back to Mr. Sabel's issue regarding the curbs.

Mr. Flannery said Mr. Sabel mentioned sidewalks, and there are sidewalks there.

Mr. Herzl said and he mentioned curbs. There's sidewalks the whole length on Pine Street?

Mr. Vogt said that's correct, they're shown on the plans.

Mr. Herzl said they're just no curbs.

Mr. Flannery said correct.

Mr. Vogt said no curbs along the 2.03 frontage.

Mr. Herzl said and what's your recommendation Terry?

Mr. Vogt said my recommendation again, since this is a Township road, let Township Traffic and Safety look at it. If they feel that there is a need for curbing, we can require it as part of the Developer's Agreement. I agree with what Brian is saying in terms of not channeling drainage. If for some reason the Township wants curbing, they could install recessed curbing. But let's bring in the experts.

Mr. Sabel said what is it that Terry just mentioned, the other alternative to curbing?

Mr. Herzl said one thing is clear, there's sidewalks.

Mr. Sabel said yes I'm happy to hear. The purpose of curbs is for safety, correct?

Mr. Flannery said the curb is put in for several reasons. One is edge stability, one is for stormwater, and one is to provide some separation between the sidewalk. We could certainly put a berm or something that would accomplish

the same goals that would allow the same goals that CAFRA is looking for. I should point out that further down you have the same situation, where you have sidewalk and no curb. The Township ran sidewalk all the way down Pine Street without curbing, and it's been functioning fine. If the sidewalk was right next to the road it would be problematic. I think where it is, it's fine. But I would concur with Terry's recommendation, that we ask Traffic and Safety, and the applicant would be agreeable to satisfying Traffic and Safety as part of resolution compliance.

Mr. Herzl said if Traffic and Safety says that curbs is a good idea, is it possible to put it in the whole length?

Mr. Flannery said as Terry indicates, mountable curb could be put in. So if their concern is for the separation of the traffic, then something else needs to be done. And there's plenty of things and we would defer to their recommendation. If the only solution is curbing, we will put curbing in.

Mr. Sabel said why is there so much water in the basin? Isn't it supposed to be empty?

Mr. Flannery said it's a recharge basin, it depends on when the picture was taken. After it rains there's supposed to be water, and then the water drops down and when it stops draining, a day later it's dry.

Mr. Sabel said we have different pictures and both are full of water.

Mr. Pfeffer said we don't know the dates of these pictures or the rain that may have occurred. I want to state on the record that this basin was built in accordance with Township standards, Terry's office has reviewed everything. To indicate that there's been more building and now there's water in the basin, that's not fair.

Mr. Sabel said I did not say that, I'm asking a question that we have two different years in these pictures as you can see by the buildings coming up, and both have a lot of water in there.

Mr. Flannery said the basin is flat, so you can't really tell how much water is in there or how deep it is. It may be in each case 2 inches deep. But there are standards for the basin, and performance and maintenance bonds, and the Engineer's office will review it. And there is a maintenance plan for it, because the bottom of the basin has to be cleaned on a regular basis. And all of that is part of resolution compliance and the Township Engineer reviews that. And I have perfect confidence that the Township Engineer will make sure that the basin is functioning properly.

Mr. Herzl said in the picture that Ally had up, it looks like the basin is pretty deep. And the water was low in that basin, on the sides the water level was lower than it was originally. Ally, do we have any more correspondence?

Mrs. Morris said yes, I got an email back from the same gentleman again. He said

My question was not answered. Wake up, Yechiel! I want the Board to condition this approval on, if the applicant wants to make any changes to the floor plan he needs to come back to the board!

Mrs. Morris said that's the only other public comment I have and I recommend at this time you close it to the public and then continue your discussion.

Mr. Herzl said ok so the answer is according to Brian's testimony there are no changes to the floorplan of the building.

Mr. Flannery said that is correct.

Mr. Herzl closed it to the public.

Mr. Sabel said for the record Mr. Chairman, you've been wide awake throughout the whole thing.

Mr. Pfeffer said I think Mr. Kennel has another land use meeting he has to get to. If the Board or Mr. Gasiorowski has any other questions for him, I'd like to do that now so that he can log off.

Mr. Isaacson said I have another question.

Mr. Gasiorowski said I have a witness, he's not a traffic consultant, but I'd like to apprise Mr. Flannery and Mr. Kennel of that.

Mr. Herzl said who's your witness?

Mr. Gasiorowski said Gordon Gemma, he's a professional planner and he's appeared before this Board many times.

Mrs. Morris said Chairman, I need to advise the Board that the recording is set only to go to 9:00 so the streaming will stop at 9. In order to continue streaming, we'd need to end this meeting and start another one so there would be a delay in that process.

Mr. Sabel said we'd have to open to the public again?

Mrs. Morris said it would still be this meeting, I think there would just be a break in the streaming to the public so we'd have to take a recess.

Mr. Herzl said Mr. Sabel, yes we do. As far as I know, Ally, I didn't know that Mr. Gasiorowski has another witness. But if we do hear testimony we have to open to the Board again.

Mr. Ulaky said that's correct.

Mr. Herzl said Mr. Gasiorowski, how long do you need for your witness?

Mr. Gasiorowski said 15 minutes, he's here now if you'd like to start.

Mr. Gordon said I can be uncharacteristically short, recognizing we only have until 9:00.

Mr. Isaacson said Mr. Chairman, is Scott Kennel leaving?

Mr. Kennel said I can stay another 5, 10 minutes.

Mr. Isaacson said I just have one more question. Was the neighbor to the north approached about perhaps doing a cross connection from his parking lot to yours?

Mr. Kennel said I think that's a question for Brian or Adam.

Mr. Flannery said not that I know of.

Mr. Pfeffer said same here. Because Mr. Gasiorowski may or may not be filing an appeal, I do not want Mr. Gemma's testimony rushed or cut short. I ask that the Board provide Mr. Gemma sufficient time for him to testify to his heart's desire so that there's no issue later that he was rushed. If we need to finish at 9 and then sign back in, I have no objection but I ask that the Board not rush his testimony.

Mr. Gemma said in a non-rushed manner, I probably only need about 15 minutes, if that.

Mr. Herzl said we have to swear Mr. Gemma in.

Mr. Gordon Gemma, professional planner, was affirmed. He said I have testified before other Boards and a few times in front of this Board.

Mr. Herzl said you've testified in front of our Board? Please proceed.

Mr. Gasiorowski said Mr. Pfeffer, do you have any problems with Mr. Gemma's qualifications?

Mr. Pfeffer said no, I accept Mr. Gemma's credentials.

Mr. Gasiorowski said Mr. Gemma, you have testified before this Board numerous times, have you not? And numerous other Board's throughout the state.

Mr. Gemma said correct.

Mr. Gasiorowski said I could go through the laborious task of asking you question by question, but knowing you have appeared before this Board, why don't you give us a narrative statement and if the Board or I have any questions they can ask you that. I ask you to address the testimony of Mr. Flannery as well as also the various comments from the Board members with regard to the use in question. Having said that, we are not questioning the use of this property. We acknowledge that a hotel is a permitted use on this site.

Mr. Gemma said that is correct. As the Board knows, there are three variances and three waivers. There was a question about the history of this application, and that's important for a variance application. There is a case *Commons v Westwood Board of Adjustment*, which is a NJ Supreme Court case from 1980 that said it's important to consider the origin to decide whether the variances are warranted. I think Brian sort of alluded to that when he said all of his testimony was variance free, was not based on the C1 hardship standard, but instead on the C2 standards. So he can't say I bought the lot and now there's a hardship. In this case there isn't a hardship, it's a lot that exists, it was created by the applicant or the predecessor of the applicant. Brian also talked about the Master Plan. It's important to do that to establish the goals and objectives, and he properly brought out that its to facilitate a wide variety of uses including hotels and conference centers. So Ron is correct, this isn't about the use as a hotel or conference center. It is about the variances. What Brian also alluded to is on page 7, some of the visions and strategies, but he should have gone on to page 8. Page 8 of the Master Plan says it is a land use strategy of the Township of Lakewood to "strictly enforce all yard standards of the Unified Development Ordinance to prevent overbuilding on the individual sites." That's from your Master Plan. That's a vision that you have in terms of how you interpret variance relief. The key question here is, how do the variances, not the hotel, advance the purposes of zoning. And how do they not violate your own language in your Master Plan that says strict application to be enforced in order to prevent overbuilding. So when Brian talked about the standards of proof he talked about the C2 criteria, the benefits outweigh the detriments. The first variance is for the access drive, on Lot 2.02 that goes on to 2.03, and back to 2.02. I agree with some of the discussions here. You want to keep some of the buffering. You've got the buffer on New Hampshire which the Chairman properly pointed out. There's a highway, it's a dangerous road. You have some buffering on Pine, you kept the entrance all the way to one side, away from the intersection. The only reason you crossed onto 2.03, and you have some parking stalls close to 2.03, is because you have a bigger hotel that requires more parking. There's no reason that you can't put it on 2.02. It doesn't help 2.03. That variance itself doesn't advance the purposes of zoning for 2.03, but it does help you build a bigger hotel that couldn't otherwise fit. If that variance isn't an example of how you're trying to put too much on there, you have the other variance for within

5' of the property to the rear. By the way, to the north of the applicant's property there is in fact an office building. There is in fact an entranceway with driveways and parking spaces, and they're 20 feet away. So the question becomes what purpose of zoning are you advancing, having that entranceway or that accessway, that close to that property? Brian talked about a variety of uses, linkages to the Blue Claws stadium, but the hotel doesn't deal with the property that's next to it. Brian's a good planner, but it doesn't go to the heart of the relief they're asking. How does this variance, and providing 55 spaces in excess of what's needed, I wonder why they want so many parking spaces. In fact one of the issues here is we talked about I can't put sidewalks and curbing in because of impervious coverage for CAFRA, but I can put in 55 spaces that I'm never going to use and I don't need. How does that advance the purpose of zoning, particularly when you could build a smaller building. It doesn't stop you, and it doesn't stop the purposes of building a hotel and a resort in this area. And so the last one was a sign variance, for ten percent larger. And Brian's point was it's a standard commercial sign for Marriott. That's not really how it works. The signage package is, you can always go to the franchise and say here's the sign ordinance, I need to make it 75 foot instead of 85 foot. It doesn't advance the purpose of zoning. There's nothing that says it has better visibility or is safer, all the things you normally say about signage. All they said was you can't tell the difference. If you can't tell the difference, then make it work. In those contexts, I don't think you've advanced the purposes of zoning, not for the hotel. One of the last things is why would you want to have buffers to the detention basin on one side or the parking lot to the north. The answer is one, because your ordinance requires it. You do want to buffer between your parking lot and their parking lot. That's why you have buffers, and 18-803 has really good language that you should look at and not ignore simply because you have two parking lots next to each other. A they've maintained a design waiver, unlike a variance, does not have the same standard to prove, so the reason is justified, but I don't think saying it's next to a parking lot is reasonable justification.

Mr. Gasiorowski said Mr. Gemma, I listened to Brian's testimony with regard to this issue. If you follow his logic, he's saying I'm basically going to construct an additional 42 parking spaces, which of course creates a tremendous amount of pervious surface. What's the reason for doing that if you have a zero lot line.

Mr. Gemma said I think that's one of the issues, it goes to the heart of the variance. Brian's point was if this were another application I would just have one parking space per room, but we're a good applicant so I've added 15 more. Then I've added 44 more, on top of being a good applicant. That seems to me to say there might be something more going on with this hotel than just a hotel. When you could in fact not get any variance relief, by knocking out some of those parking spaces and not worrying about getting close to the CAFRA impervious requirement, and I don't see the benefit you get if in fact the municipal parking standard is as said. If the applicant's own testimony said in this location, you might need more parking, they're probably right. But Scott's testimony and report by John Rea (static).

Mr. Herzl said thank you. Does anyone have any questions.

Mr. Pfeffer said I have a few cross examinations but I'll wait.

Mr. Sabel said, Mr. Gordon, what is your opinion as a planner regarding an entrance on New Hampshire? Do you think the County will allow a right in off of the right turning lane?

Mr. Gemma said I have a lot of experience in a lot of things, but I'm not a traffic planner so I'd have to defer to Brian and Scott on that. I'm also a builder, and I know it's important to have two means of ingress, but I wouldn't proffer to know on this since I haven't spoken with the County.

Mr. Sabel said thank you.

Mr. Stern said could someone show us what the plan of the lower level looks like. Where the meeting room is, where the thing that's not going to be the wedding hall is.

Mr. Sabel said for the record we did not get these plans.

Mrs. Morris put the architectural plans on the screen.

Mr. Stern read off the plans. He said its about 108 by 40. So it's 4,000 square feet.

Mr. Herzl said 6,700.

Mr. Stern said capacity says 833 people! Is the testimony, Mr. Pfeffer, that on no circumstances you're going to have a wedding?

Mr. Pfeffer said we are not seeking approval for a wedding hall. This is a hotel with meeting rooms and conferences. We are not seeking a wedding hall.

Mr. Stern said but Mr. Pfeffer, if there is a possibility... What's the wedding hall on Oak Street, Lake Terrace. I don't know how big that is...

Mr. Herzl said it's over 10.

Mr. Stern said ok. So the question is this. Do we want to have a Lake Terrace or a big wedding hall at this intersection.

Mr. Herzl said Mr. Stern, they physically can't. Because they need the parking spaces for their people who rent out the rooms.

Mr. Sabel said they're going to park on the other development and walk through.

Mr. Pfeffer said just to be clear, we didn't seek permission for a wedding hall. And so there would be an issue if we all of a sudden turned it into that. We'd have to come back in front of the Board.

Mr. Sabel said why?

Mr. Stern said it's a false negative. You're saying I'm not seeking it, does that mean you are prohibited from having a wedding here with 833 people?

Mr. Pfeffer said when you say prohibited, in what terms? That's why I'm asking.

Mr. Stern said you're saying you're not seeking it. What if in the future, not the nice guy who's making the application now, but a future buyer of this hotel who's a mean, greedy guy who doesn't care about traffic in Lakewood, and he says I'm gonna have 833 people at weddings every night.

Mr. Herzl said Brian, how do you fit in 6,700 square feet, 833 people? Isn't the standard 15 square foot per person?

Mr. Flannery said yes.

Mr. Herzl said 6,750 divided by 15, you get 450. Where does 833 come from?

Mr. Flannery said that's some code for how many people standing around can fit. As far as wedding hall, it would be different. Any of the wedding halls in Lakewood are 10,000 square feet or bigger.

Mr. Herzl said and they don't fit 800 people. You fit in 4, 500 people and there's no room to dance. I don't know where you get 833.

Mr. Flannery said Courtyard have their architect who developed their standard plan, and in that the 6,700 square feet conference going people, it fits in that many people. Not a wedding hall.

Mr. Stern said and it's a ginormous kitchen, too. I'm all in favor of a hotel, this is a great thing for Lakewood. This was the vision of Cedarbridge Development many, many years ago. This is like the capstone. But if this becomes and every night except for Shabbos wedding hall, with bad drivers who've have too much booze, that would be a bad outcome.

Mr. Sabel said and why didn't the Planning Board members get the layout? They're not available online either. I can't find it.

Mr. Flannery said I saw it online earlier in the week.

Mrs. Morris said it should be online, I can look now.

Mr. Vogt said it's online in tonight's meeting folder under the application.

Mr. Stern said for future reference, it would be very helpful to have something like that in the packet. We don't go online very often.

Mr. Sabel said where is it online.

Mrs. Morris said it's the first file and it's titled Architecturals.

Mr. Gasiorowski said I've listened to everything Mr. Flannery said, but wouldn't common sense dictate that we have a representative from Courtyard Marriott here, who could explain what they intend to do?

Mr. Stern said Marriott's just the franchise arm, Mr. Gasiorowski. If the guy was running the thing, whoever buys the building. All Marriott's getting is a fee every month. The issue isn't what's allowed by the Marriott rules. What we're trying to get at is the reality of Lakewood and when I personally see a meeting hall that's that big, and Mr. Flannery being a great public servant and giving us all this extra parking, then I don't know. Maybe this is just going to become a factory wedding hall and I don't want to see that.

Mr. Herzl said my personal opinion is 6,700 square feet is not big enough to make any wedding in Lakewood. Lake Terrace is over 10,000 square foot. And Lake Terrace, if you fit more than 4, 500 people in there, it's jam packed. I don't know where they come up with this number. Regardless, Mr. Pfeffer, do you agree to have a restriction against weddings there.

Mr. Pfeffer said if we wanted to do that we would have to come back before the Board.

Mr. Herzl said so until you come back to the Board, it would be illegal for you to make any weddings there.

Mr. Pfeffer said correct. It's not permitted. We are not seeking it. We would have to come back to the Board should we like to make a modification.

Mr. Isaacson said you'd have to come back to the Board if you'd like to change any type of use, no?

Mr. Pfeffer said correct.

Mr. Herzl said so you have no problem if the resolution states that no weddings are allowed without coming back to the Board.

Mr. Pfeffer said should we want to have a wedding hall, we would have to come back before the Board. That is correct.

Mr. Stern said that it works here, it doesn't work with simcha halls in synagogues because there's nobody to enforce it.

Mr. Herzl said ok.

Mr. Stern said I have a feeling Mr. Gasiorowski will be back here if we start seeing weddings, so I feel comfortable with that representation by Mr. Pfeffer.

Mr. Pfeffer said I have questions of Mr. Gemma. Mr. Gemma, did you have an opportunity to look at the parking ordinance and what was required for this application?

Mr. Gemma said yes.

Mr. Pfeffer said and what is your understanding of how many parking spaces would be required for this.

Mr. Gemma said 1 per room, or 138.

Mr. Pfeffer said you indicated we are building a bigger hotel and that's why we need more parking, but that's not really correct then because we only require 138.

Mr. Gemma said if you have less rooms you have less parking.

Mr. Pfeffer said with regard to each of the variances, if you could let us know who is adversely impacted and what the detriment is to granting these variances, there's only a few of them and we could go one by one.

Mr. Herzl said we only have 9 minutes.

Mr. Isaacson said I think this is relevant.

Mr. Pfeffer said if we have to sign back on, I have no objection. There was testimony given regarding the variances that there should be a strict adherence to land use law. He quoted the case law and we have testimony from our professional indicating that the positives outweigh the negatives for these variances. I would like to hear from the objector and their planner as to why each of these variances should not be granted.

Mr. Herzl said I don't have a problem with that, but I think we need to carry to the next meeting and Ally may have to announce that it's going to be continued.

Mr. Gasiorowski said I agree with that.

Mr. Pfeffer said we have a meeting on Thursday, it's a light calendar.

Mrs. Morris said Thursday we have three applications, I don't know that I would consider that light. We can certainly try to, IT is looking at just extending the streaming for half an hour or however long we need to get it done tonight.

Mr. Pfeffer said there are only a few variances and I think Mr. Gemma can get through these.

Mr. Herzl said I don't think we'll be able to deliberate and get to a vote tonight if we only have 7 minutes.

Mr. Pfeffer said Ally indicated she might be able to extend it.

Mr. Herzl said he has to check with the Board members to see if they can stay.

The Board members discussed their availability.

Mr. Ulaky said at this point maybe the Board should consider carrying this application. There is still testimony, you have to reopen to the public after Mr. Gemma's testimony, it sounds like there's some issues the Board still needs to discuss at length.

Mr. Herzl said that was my recommendation. I don't know if half an hour will be enough.

Mr. Stern said you can get it done in half an hour.

Mr. Gasiorowski said I object to rushing to judgement, there were a lot questions posed by the Board with regard to ingress and egress and buffering. Mr. Flannery opines that the County will not ever approve such an ingress, but why don't we find out?

Mr. Stern said we aren't rushing.

Mr. Herzl said we aren't rushing, and for all you know the motion might be to open up another entrance. Let's see what the Board says. I have no problem continuing, but we have to take a 5-minute recess.

The Board discussed the Thursday calendar.

The Board took a 5-minute recess.

Mrs. Morris retook roll, Mr. Garfield, Mr. Stern, Mr. Herzl, Mr. Isaacson, and Mr. Meyer were present.

Mr. Herzl said Ally, you confirmed with IT that we are on for 9:30.

Mrs. Morris said yes.

Mr. Pfeffer said Mr. Gasiorowski isn't here, we have to wait for him.

The Board waited for Mr. Gasiorowski.

The Board talked about their availability for Thursday.

Mr. Sabel returned to the meeting.

Mr. Pfeffer asked about other upcoming available meetings and the Board discussed.

Mr. Herzl said the last three months we had pushed off all the controversial applications, and now we're stuck. As far as I know the Township is staying closed until January 1st.

Mr. Gasiorowski returned.

Mr. Vogt said I want to clarify something, I was speaking with the Manager's office late today. It's not a given that the Township will be closed until the end of the year. That's being revisited. I can't tell you if or when, but it's not necessarily the end of the year.

Mr. Herzl said Mr. Pfeffer, you had a few questions.

Mr. Pfeffer said it doesn't sound like we're going to finish tonight. Can we clarify what meeting we are going to be put on for? I would still ask that we be moved to Thursday.

The Board discussed.

Mr. Herzl asked Mr. Pfeffer to proceed.

Mr. Pfeffer said Mr. Gemma, can you take us through on page 4 of Terry's report with the variances and waivers, and tell us who is adversely impacted by those and what is the detriment to granting those.

Mr. Gemma said you said I had suggested a strict application of the ordinance was applicable. What I said was in Lakewood, in your Master Plan, Lakewood says that strictly enforcing the zoning standards (static). It goes to the heart of your question. Brian said that for these variances, they aren't C1 hardships, they are C2's. That's that the purposes of the land use law are advanced by a deviation and the benefits of the deviation substantially outweigh any detriments. There are two types of detriments, to the surrounding properties and then the intent and purpose of the land use ordinance. That second detriment is the heart of what your Master Plan says. (static) This is a land use strategy, number 10. So part of this is a detriment to your ordinances and that's part of a two-pronged test of the negative criteria of detriments. Going to two-pronged 03 versus two-pronged 02, (static) easement onto somebody else's property, you've created more impervious coverage than you need. Brian properly pointed out this is a CAFRA zone, and there you try to decrease, not increase, impervious coverage. There is a detriment to the ordinance assuming a detriment by putting more impervious coverage. And I just realized there was a question, about aeration. Is this a wet basin or a dry basin. All I know, from the last aerial, is there is actually a sprinkler or a fountain in that basin. They wouldn't put a fountain in a dry basin. So you tell me that the more impervious coverage, it seems more runoff into the basin, that doesn't make a lot of sense if you don't need it. For the second variance, it's adjacent, it's 5' off the property line from someone else's property. 5 feet in terms of the noise, the smell, the lights. Certainly in addition to the issue of the substantial detriment to the ordinance, when you put your parking 5 feet from someone's property line, even a parking lot, without a buffer, it has an impact. For the variance relief, the benefits of that deviation don't substantially outweigh any detriments I would say in that instance the detriments substantially outweigh any benefits. Particularly if, as you indicated, that this is only going to be used for a hotel and not for a wedding hall. In the ordinance, a hotel is defined as a banquet facility. Any banquet, not just a wedding, it could be a lot of different things. To simply say I'll take out one narrow section of the ordinance and make it a whole lot of other things seems to miss the point of a banquet facility. My company, we own and build hotels. The standard for a hotel with banquet facilities, around hotels you have one person (static).

Mr. Pfeffer said to clarify, are those standards from your personal experience or as a professional planner?

Mr. Gemma said both.

Mr. Pfeffer said there is one other variance, just talk about the sign variance.

Mr. Gemma said normally you would say a sign variance is needed because of sight feasibility. They said this is a standard commercial sign from Marriott. Well that's not quite how signs work. If you tell them what the signs are, they complain a lot but eventually they'll make it conforming. There's no benefit of deviating in this case.

Mr. Herzl said thank you.

Mr. Pfeffer said regarding the proposed parking lot access drive, based upon the plans, the variance that we are seeking is to another parking lot?

Mr. Gemma said there are two, one is in the rear and that one there clearly is parking within the 20' setback. And even the other one in front of 2.03, is that what you're referring to?

Mr. Pfeffer said 2.03, the variance goes to the basin.

Mr. Gemma said just so we're clear, the easement and the driveway goes to the basin, but there are, looking at the plan, parking within 20' of that setback as well.

Mr. Pfeffer said I just want to clarify, your testimony was the detriments would be the fumes from gas, the noise from cars, I wanted to clarify that on one variance we are going to a basin and the other we are going to a parking lot.

Mr. Gemma said that's correct.

Mr. Garfield said the feasibility of using that Sim Road, at least for commercial deliveries, that's the only question I have. It's important.

Mr. Pfeffer said if Mr. Gasiorowski has no questions for Mr. Gemma, I'd like to call Mr. Flannery to rebut some of that testimony. He said, can you address any comments or responses you have?

Mr. Flannery tried to talk but was breaking up.

Mr. Pfeffer said it's 9:23, we're not going to finish. Can we agree to carry this to Thursday? I understand we need 5 members available.

Mrs. Morris said IT asked me to clarify for the record that they have extended this meeting until 11pm, so it's not because of them that we can't continue tonight.

Mr. Herzl said we don't have a quorum for that.

The Board discussed Thursday's agenda.

Mr. Sabel asked the applicant to try to get ready for Thursday a layout for the sidewalk.

Mr. Flannery said I will try.

An announcement was made carrying the application to the meeting of Thursday, August 13, 2020.

- 5. APPROVAL OF MINUTES**
- 6. APPROVAL OF BILLS**
- 7. ADJOURNMENT**

The meeting was hereby adjourned. All were in favor.

Respectfully submitted
Ally Morris
Planning Board Recording Secretary