

SPONSORED BY _____

SECONDED BY _____

**MEETING OF THE CITY COUNCIL
OF HOBOKEN, NEW JERSEY
MISCELLANEOUS LICENSING
JANUARY 6, 2010**

PARKING FACILITIES 8 ITEMS

**IMPERIAL PARKING - IMPARK
1414 PARK AVENUE
HOBOKEN, NJ 087030**

**CENTRAL PARKING SYSTEM OF NJ INC.
180 WASHINGTON STREET
HOBOKEN, NJ 07030 (7 GARAGES)**

RAFFLES 1 ITEM

**UNITED SYNAGOGUE OF HOBOKEN
115 PARK AVENUE
HOBOKEN, NJ 07030**

INTRODUCED BY: _____
SECONDED BY: _____

CITY OF HOBOKEN
RESOLUTION NO. _____

RESOLUTION AUTHORIZING THE FY2010 MUNICIPAL BUDGET

RESOLVED, that the Council of the City of Hoboken, by majority vote of the full membership hereby determine that the FY2010 Municipal Budget shall be read by its title and we further declare that the conditions set forth in R.S. 40A:4-8(1A & 1B) of said section has been met.

APPROVED:

APPROVED AS TO FORM:

Judith Tripodi, State Monitor

Michael Kates

Michael Kates, Corporation Counsel

Meeting: January 6, 2010

SPONSORED BY: _____

SECONDED BY: _____

**MEETING OF THE CITY COUNCIL
OF HOBOKEN, NEW JERSEY
MISCELLANEOUS LICENSING
JANUARY 6, 2010**

PARKING FACILITIES

8 ITEMS

**IMPERIAL PARKING - IMPARK
1415 PARK AVENUE
HOBOKEN, NJ 07030**

**CENTRAL PARKING SYSTEM OF NJ INC.
180 WASHINGTON STREET
HOBOKEN, NJ 07030 (7 GARAGES)**

Introduced by: _____
Seconded by: _____

CITY OF HOBOKEN
RESOLUTION NO. _____

THIS RESOLUTION AUTHORIZES THE ADMINISTRATION TO DONATE CERTAIN MOUNTED POLICE RESIDUAL EQUIPMENT TO THE POLICE DEPARTMENT OF THE CITY OF ASBURY PARK.

WHEREAS, the City of Hoboken has disbanded its' Police Mounted Patrol, and

WHEREAS, the surplus equipment residual to this disbanded unit has been deemed to have no value to the City, and

WHEREAS, materials and/or equipment deemed to have no value to the public entity may be discarded or donated, and

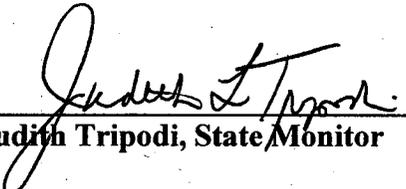
WHEREAS, the attached letter from the City of Asbury Park asks the City of Hoboken's help in furthering their existing mounted horse patrol program,

NOW THEREFORE BE IT RESOLVED as follows:

- A. The above recitals are incorporated herein as thoughtfully set forth at length.**
- B. The Administration shall make available to the City of Asbury Park two (2) saddles (including martingales) and two bridles with reins.**
- C. This resolution shall take effect immediately upon passage.**

Meeting of: 16 December 2009

APPROVED:



Judith Tripodi, State Monitor

APPROVED AS TO FORM:



Michael Kates, Corporation Counsel



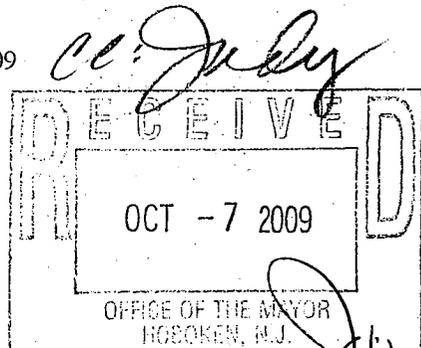
ASBURY PARK POLICE DEPARTMENT

ONE MUNICIPAL PLAZA
ASBURY PARK, NEW JERSEY 07712
TEL: (732) 774-1300 • FAX: (732) 775-3627



MARK KINMON
CHIEF OF POLICE

October 2, 2009



Attention: Acting Mayor, Dawn Zimmer
City of Hoboken
94 Washington Street
Hoboken, New Jersey 07030

RE: Request for Mounted Unit Equipment

Dear Mayor Zimmer:

The Asbury Park Police Department established it's Mounted Police Unit approximately two years ago, which has proven to be very successful. The Mounted Police Unit consists of four horses and two full-time riders. This success is recognized throughout the city and is not only utilized as an additional law enforcement tool, but as a great public relations tool, making great strides in bringing the community and the police together.

I was informed that the Hoboken Police Department's Mounted Unit has been disbanded and several items from the unit are going to be sold at auction. The Asbury Park Mounted Unit is in dire need of additional equipment and some of the equipment slated to be auctioned off by your department would be of great assistance to our program. The following are the items I would like to request your assistance with:

- Two (2) McLelland saddles, to include martingales
Two (2) Bridles, with full sets of reins

Handwritten note: New/Used

The saddles and bridles requested are exactly the same style that our unit currently utilizes, which would maintain the professional and uniform appearance of our mounted unit. This additional equipment will enhance our cities continued law enforcement and public safety/relation efforts.

It should also be noted, that the City of Asbury Park receives aid from the State. During these trying times, we would greatly appreciate any assistance your city could provide with this request.

If you need to contact me, I can be reached at 732-502-5788. Your attention in this matter is greatly appreciated.

Very truly yours,

Signature of Terrence Reidy
Terrence Reidy, City Manager
City of Asbury Park

Handwritten note: Duke: Did he see this equipment?

Handwritten notes: cc: July, Did these already sell? If not let's donate

TR/lbm

cc: Letters/2009/Request for Mounted Unit

Handwritten note: CALL FRIDAY MORNING

Handwritten note: P.O./R.I.I. E...

Mayor -

Similar saddles
sold on GoodDeals for
\$250 each. Do you
want to give Ashby
Park \$500 in unused
equipment (formerly donated
to us by Newark)?

If so, we need to
do this by resolution
of Council.

July

P.S. Would be a
nice gesture.

Introduced By: _____

Second By: _____

**CITY OF HOBOKEN
RESOLUTION NO. _____**

RESOLUTION AUTHORIZING THE REFUND OF TAX OVERPAYMENTS

WHEREAS, an overpayment of taxes has been made on property listed below: and

WHEREAS, Sharon Curran, Collector of Revenue recommends that refunds be made; now, therefore, be it-

RESOLVED, that a warrant be drawn on the City Treasurer made payable to the appearing on the attached list totaling \$55,416.30

<u>NAME</u>	<u>BL/LT/UNIT</u>	<u>PROPERTY</u>	<u>QTR/YEAR</u>	<u>AMOUNT</u>
WELLS FARGO HOME MORTGAGE MAC X2302-04D, TAX DEPT 1 HOME CAMPUS DES MOINES, IA 50328	179/40/C0007	308-310 GARDEN ST	4/09	\$ 2,558.73
FLUSHING SAVINGS BANK ONE CORPORATE DRIVE SUITE 360 LAKE ZURICH, IL 60047	261.03/1/C1017	1125 MAXWELL LANE	4/09	\$ 2,635.04
FIRST AMERICAN REAL ESTATE TAX SERVICE P.O. BOX 961230 FT WORTH, TX 76161-0230	91/1.2/C004D	8205 ADAMS ST	1/09	\$ 2,758.46
ROSEWALL, MERRY B & YU, PAMELA 84 JEFFERSON ST APT 3A HOBOKEN, NJ 07030	17/34/C03-A	80-84 JEFFERSON ST	4/09	\$ 3,050.96
CHATURVEDI, CHARU & PATIL, TUSHAR 1125 MAXWELL LANE APT 567 HOBOKEN, NJ 07030	261.03/1/C0567	1125 MAXWELL LANE	3 & 4/09	\$ 11,462.36
CHASE HOME FINANCE 1 FIRST AMERICAN WAY WESTLAKE, TX 76262	261.03/1/C0805	1125 MAXWELL LANE	4/09	\$ 8,081.95

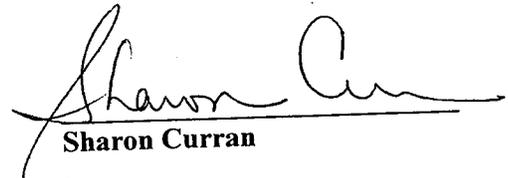
<u>NAME</u>	<u>BL/LT/UNIT</u>	<u>PROPERTY</u>	<u>QTR/YEAR</u>	<u>AMOUNT</u>
DENG, YU-YING & CHEN, YU-MING 1501 GARDEN ST APT 5D HOBOKEN, NJ 07030	268.1/1/C005D	1501 GARDEN/ 1500 BLOOMFIELD	4/09	\$13,918.98
BRAMNICK, JON M 1827 EAST SECOND ST SCOTCH PLAINS, NJ 07076	159/4/C006C	711 CLINTON ST	4/09	\$ 65.70
WELLS FARGO HOME MORTGAGE MAC X2302-04D, TAX DEPT 1 HOME CAMPUS DES MOINES, IA 50328	66/1/C0P04 & 66/1/C0306	636 FIFTH ST	4/09	\$ 4,100.54
DOVENMUEHLE MORTGAGE 1 CORPORATE DR SUITE 360 LAKE ZURICH, IL 60047-8945	48/21/C0001	326 MADISON ST	4/09	\$ 801.29
MOHARITA, LASZLO 744 PARK AVE APT 5R HOBOKEN, NJ 07030	169/18/C005R	744 PARK AVE	4/09	\$ 2,902.41
JACOBSEN, RICHARD A & 77 PARK AVE APT 715 HOBOKEN, NJ 07030	172/12/	1021 WILLOW AVE	2/09	\$ 3,079.88

Meeting: JANUARY 6, 2010

Approved as to Form:



CORPORATION COUNSEL



Sharon Curran

Introduced By: _____

Second By: _____

**CITY OF HOBOKEN
RESOLUTION NO. _____**

**RESOLUTION AUTHORIZING THE REFUND OF TAX APPEALS
STATE TAX COURT**

WHEREAS, an overpayment of taxes has been made on property listed below: and

WHEREAS, Sharon Curran, Collector of Revenue recommends that the refunds be made;
now, therefore, be it-

RESOLVED, that a warrant be drawn on the City Treasurer made payable to the
appearing on the attached list totaling **\$ 1,045.94**

<u>NAME</u>	<u>BL/LOT/UNIT</u>	<u>PROPERTY</u>	<u>YEAR</u>	<u>AMOUNT</u>
DONG, HANSU & LISA OKESSON 45 PLATINUM CIRCLE LADERA RANCH, CA 12694	20/28/C003F	82 CLINTON ST	2009	\$1,045.94

Meeting: JANUARY 6, 2010

Approved as to Form:


CORPORATION COUNSEL


SHARON CURRAN

Introduced By: _____

Second By: _____

**CITY OF HOBOKEN
RESOLUTION NO. _____**

**RESOLUTION AUTHORIZING THE REFUND OF HUDSON COUNTY
TAX COURT JUDGEMENTS 2009 TAX APPEALS**

WHEREAS, an overpayment of taxes has been made on property listed below: and

WHEREAS, Sharon Curran, Collector of Revenue recommends that the refunds be made;
now, therefore, be it-

RESOLVED, that a warrant be drawn on the City Treasurer made payable to the
appearing on the attached list totaling **\$2,828.07**

*** REFUNDS ON THE FOLLOWING TAX APPEALS ARE TO BE MADE PAYABLE TO: MC KIRDY AND RISKIN
136 SOUTH STREET
P.O. BOX 2379
MORRISTOWN, NJ 07962-2379**

<u>NAME</u>	<u>BL/LOT/UNIT</u>	<u>PROPERTY</u>	<u>AMOUNT</u>
ENGLEHART, HOWARD & JESSICA	20/28/C004C	82 CLINTON ST	\$2,738.29
ENGLEHART, HOWARD & JESSICA	20/28/C0016	82 CLINTON ST	\$ 89.78

Meeting: JANUARY 6, 2010

Approved as to Form:


CORPORATION COUNSEL


SHARON CURRAN

Introduced By: _____

Second By: _____

**CITY OF HOBOKEN
RESOLUTION NO. _____**

**RESOLUTION AUTHORIZING THE REFUND OF HUDSON COUNTY
TAX COURT JUDGEMENTS 2009 TAX APPEALS**

WHEREAS, an overpayment of taxes has been made on property listed below: and

WHEREAS, Sharon Curran, Collector of Revenue recommends that the refunds be made;
now, therefore, be it-

RESOLVED, that a warrant be drawn on the City Treasurer made payable to the
appearing on the attached list totaling **\$ 120.39**

*** REFUNDS ON THE FOLLOWING TAX APPEALS ARE TO BE MADE PAYABLE TO:** MICHAEL A VESPASIANO
331 MAIN STREET
CHATHAM, NJ 07928

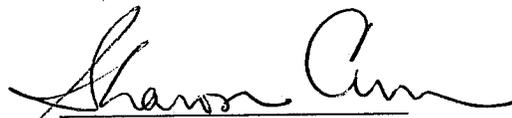
<u>NAME</u>	<u>BL/LOT/UNIT</u>	<u>PROPERTY</u>	<u>AMOUNT</u>
NICHOLAS, CHRISTOPHER & DANA	25/1/C16PE	700 FIRST ST	\$ 120.39

Meeting: JANUARY 6, 2010

Approved as to Form:



CORPORATION COUNSEL


SHARON CURRAN

Introduced By: _____

Second By: _____

**CITY OF HOBOKEN
RESOLUTION NO. _____**

**RESOLUTION AUTHORIZING THE REFUND OF HUDSON COUNTY
TAX COURT JUDGEMENTS 2009 TAX APPEALS**

WHEREAS, an overpayment of taxes has been made on property listed below: and

WHEREAS, Sharon Curran, Collector of Revenue recommends that the refunds be made;
now, therefore, be it-

RESOLVED, that a warrant be drawn on the City Treasurer made payable to the
appearing on the attached list totaling \$6,750.79

*** REFUNDS ON THE FOLLOWING TAX APPEALS ARE TO BE MADE PAYABLE TO:** WATERS, MC PHERSON,
MC NEILL
MEADOWLANDS OFFICE
300 LIGHTING WAY
P.O. BOX 1560
SECAUCUS, NJ 07096

<u>NAME</u>	<u>BL/LOT/UNIT</u>	<u>PROPERTY</u>	<u>AMOUNT</u>
BLOCK 268 LLC C/O TOLL BROTHERS	268.1/2/C004E	1500 WASHINGTON ST	\$1,818.05
BLOCK 268 LLC C/O TOLL BROTHERS	268.1/2/C011X	1500 WASHINGTON ST	\$ 300.35
BLOCK 268 LLC C/O TOLL BROTHERS	268.1/2/C012A	1500 WASHINGTON ST	\$ 419.55
BLOCK 268 LLC C/O TOLL BROTHERS	268.1/2/C012L	1500 WASHINGTON ST	\$2,038.01
BLOCK 268 LLC C/O TOLL BROTHERS	268.1/3/C004Q	1500 HUDSON ST	\$ 514.27
BLOCK 268 LLC C/O TOLL BROTHERS	268.1/3/C007Q	1500 HUDSON ST	\$ 514.27
BLOCK 268 LLC C/O TOLL BROTHERS	268.1/3/C009F	1500 HUDSON ST	\$ 195.40
BLOCK 268 LLC C/O TOLL BROTHERS	268.1/3/C012R	1500 HUDSON ST	\$ 210.59
BLOCK 268 LLC C/O TOLL BROTHERS	268./1/3/C012V	1500 HUDSON ST	\$ 740.30

Meeting: JANUARY 6, 2010

Approved as to Form:



CORPORATION COUNSEL



SHARON CURRAN

Introduced By _____

Second By: _____

CITY OF HOBOKEN
RESOLUTION No. _____

RESOLUTION CALLING FOR ACTION PLAN TO ELIMINATE ILLEGAL APARTMENTS AND UNREGISTERED DWELLING UNITS FOR THE SAFETY AND WELFARE OF CITY RESIDENTS

WHEREAS, illegal apartments and unregistered dwelling units drain financial resources, lead to overcrowding in schools, neighborhood parking problems, and unsafe living conditions, they also frequently pose health and safety hazards to tenants and the community at large; and

WHEREAS, recent incidents of fires in North Bergen and Bayonne have brought to light, this very real urban problem that threatens our quality of life; and

WHEREAS, the City of Hoboken needs a proactive strategy for addressing illegal apartments and unregistered dwelling units before such a devastating event occurs in Hoboken;

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Hoboken, County of Hudson, State of New Jersey, that a joint effort be undertaken by the Administration, Housing, Building Code and Fire-Prevention departments to create a comprehensive plan by which illegal apartments and unregistered dwellings may be identified and eliminated; and

BE IT FURTHER RESOLVED, by the City Council that Public Safety and Quality of Life Sub-Committees work together to introduce legislative support that will hold landlords accountable and provide city departments the necessary tools for enforcement.

INTRODUCED: January 6, 2010

ADOPTED by COUNCIL: _____

APPROVED:

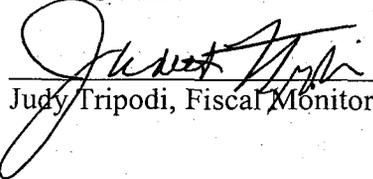
Dawn Zimmer, Mayor

APPROVED AS TO FORM:



Michael Kates, Corporation Counsel

APPROVED:



Judy Tripodi, Fiscal Monitor

CERTIFIED:

James Farina, City Clerk

Introduced by: _____
Seconded by: _____

CITY OF HOBOKEN

RESOLUTION NO. _____

THIS RESOLUTION AUTHORIZES THE ADMINISTRATION TO ADVERTISE FOR AN AUCTION OF ABANDONED/SURPLUS VEHICLES ON 21 DECEMBER 2010.

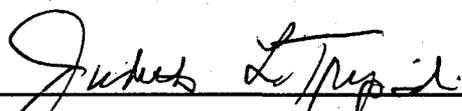
WHEREAS, the Purchasing Agent, Department of Administration requests authorization of the Council to dispose of abandoned/surplus vehicles, that are in the possession of the Hoboken Police Department, Department of Environmental Services, and/or the Hoboken Parking Utility for over thirty days, the said authorized pursuant to provision of N.J.S.A. 39:10A-1 and

NOW THEREFORE BE IT RESOLVED, the Purchasing Agent, Department of Administration or his duly authorized representative is hereby authorized to expose for sale at Public Auction, Thursday, 21 January 2010, at 2 P.M., on the GovDeals.Com website, the vehicles/equipment set forth on the attached list pursuant to law.

MEETING OF: 6 January 2010

APPROVED:

APPROVED AS TO FORM:



Judith Tripodi, NJ State Fiscal Monitor



Michael Kates, Corporation Counsel

Sponsored by: _____

Seconded by: _____

City of Hoboken

Resolution No. _____

RESOLVED, that filed minutes for the Hoboken City Council regular meetings of October 21, 2009 have been reviewed and approved as to legal form and content.

Approved as to form:

Meeting Date: January 6, 2010

Sponsored by: _____

Seconded by: _____

City of Hoboken
Ordinance No.: ____

**AN ORDINANCE AMENDING CHAPTER 44-11 ENTITLED
"ESTABLISHMENT: COMPOSITION", AND CHAPTER 196-54 ENTITLED
"ESTABLISHMENT MEMBERSHIP AND ORGANIZATION", BOTH
RELATING TO THE ZONING BOARD OF ADJUSTMENT**

WHEREAS, N.J.S.A. 40:55D-69 allows as many as four alternate members to serve on a municipal zoning board of adjustment: and

WHEREAS, the Hoboken Board of Adjustment is presently composed of two (2) alternate members, Alternate No.1, whose term expires on December 31, 2011 and Alternate No. 2, whose term expires on December 31, 2010; and

WHEREAS, the work of the Hoboken Zoning Board of Adjustment has been of such volume to justify a full compliment of four alternate members;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Hoboken, County of Hudson, State of New Jersey as follows:

SECTION ONE:

Chapter 44-11, Section D of the Code of the City of Hoboken, entitled " Alternate members" is hereby amended, in part, as follows:

D. Alternate members. [Amended 11-22-1993 by Ord. No. R-20]

- (1) Not more than ~~two (2)~~ four (4)¹ alternate members, who shall meet the qualifications of Class IV members, may be appointed by the ~~Mayer~~ City Council. Such alternate members shall be designated at the time of appointment as "Alternate No. 1," ~~and~~ "Alternate No. 2," "Alternate No. 3" and "Alternate No. 4." The terms of the alternate members shall be for two (2) years, except that such terms shall be such that the term of not more than one (1) alternate member shall expire in any one (1) year; provided, however, that in no instance shall the term of the alternate member first appointed exceed two (2) years. A vacancy occurring otherwise than by expiration of term shall be filled by the appointing authority for the unexpired term only.

¹ Additions to original ordinance are noted by underline, and deletions by ~~strikethrough~~;

- (2) Alternate No. 1 shall have a term expiring December 31, 2011. Alternate No. 2 shall have terms expiring on December 31, 2010. Alternate No. 3 shall have a term expiring December 31, 2011 and Alternate No. 4 shall have a term expiring on December 31, 2010. Thereafter, the terms of the alternate members shall be for two (2) years, and the terms of not more than two (2) alternate members shall expire in any one year.
- (3) A vacancy occurring otherwise than by expiration of term shall be filled by the appointing authority for the unexpired term only.
- (2)(4) Alternate members may participate in discussions of the proceedings but may not vote except in the absence or disqualification of any regular member of the Board. A vote shall not be delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate member is to vote, ~~Alternate No. 1 shall vote.~~ alternate members shall vote in the order of their numerical designations.

The remainder of Chapter 44-11 shall remain unchanged.

SECTION TWO:

Chapter 196-54, Section B of the Code of the City of Hoboken, entitled "Membership" is hereby amended, in part, as follows:

B. Membership.

(1) The Zoning Board of Adjustment shall consist of seven (7) members appointed by the ~~Mayer and~~ City Council, subject to the conditions set forth in Chapter 44.11 of the Hoboken City Code and N.J.S.A. 40:55D-69 et seq. concerning length of members' terms, ineligibility of those holding elective or appointive municipal office, exclusion from voting of members having any personal interest, directly or indirectly, in the issue under consideration and other items concerning members' appointment, tenure and conduct.

(2) The Zoning Board of Adjustment shall include four (4) alternate members appointed by the City Council, subject to the conditions set forth in Chapter 44-11 and N.J.S.A. 40:55D-69 et seq. concerning length of members' terms, ineligibility of those holding elective or appointive municipal office, exclusion from voting by members having any personal interest, directly or indirectly, in the issue under consideration, and other items concerning members' appointment, tenure and conduct.

SECTION THREE: REPEAL OF INCONSISTENT PROVISIONS

All ordinances or parts thereof in conflict or inconsistent with this Ordinance are hereby repealed, but only to the extent of such conflict or inconsistency, it being the legislative intent that all such ordinances or part of ordinances now existing or in effect unless the same are in conflict or inconsistent with any provision of this Ordinance shall remain in effect.

SECTION FOUR: SEVERABILITY

The provisions of this Ordinance are declared to be severable and if any section, subsection, sentence, clause or phrase thereof for any reason be held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not effect the validity of the remaining sections, subsections, sentences, clauses and phrases of this Ordinance, but shall remaining in effect; it being the legislative intent that this Ordinance shall stand not withstanding the invalidity of any part.

SECTION FIVE: EFFECTIVE DATE

This Ordinance shall take effect upon passage and publication as provided by law.

SECTION SIX: CODIFICATION

This ordinance shall be a part of the Code of the City of Hoboken as though codified and fully set forth therein. The City Clerk shall have this ordinance codified and incorporated in the official copies of the Code.

The City Clerk and the Corporation Counsel are authorized and directed to change any Chapter, Article and/or Section number of the Code of the City of Hoboken in the event that the codification of this Ordinance reveals that there is a conflict between the numbers and the existing Code, and in order to avoid confusion and possible accidental repealers of existing provisions not intended to be repealed.

Date of Introduction: January 6, 2010

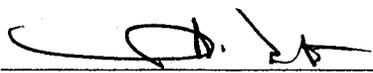
ADOPTED:

APPROVED:

James J. Farina, City Clerk

Dawn Zimmer , Mayor

APPROVED AS TO FORM:



Michael B. Kates
Corporation Counsel

Zoning Board of Adjustment

Hoboken City Council Seeks Applicants to Fill Vacancies on the Zoning Board of Adjustment at C 16th Meeting for Terms Beginning January 1st, 2010. The Hoboken City Council, the sole appointing authority for the Zoning Board of Adjustment, seeks to fill two (2) regular vacancies and two (2) alternate vacancies at the December 16th meeting, to serve as a Commissioner of the Hoboken Zoning Adjustment. Applicants who would like to be considered by the Council for one (1) of the vacancies must submit a notarized application to the City Clerk no later than December 8th, 2009. Prior consideration may be considered at the discretion of Council Members unless such applicants withdraw from consideration by notifying the City Clerk's office. Applications may be downloaded from the City Clerk's site or requested in the City Clerk's office during regular business hours from 9:00 AM Mon-Fri.

Secretary: Cathy Depalma

Phone: (201) 420-2068

Members

Name	Title	Appointment	Expiration	Term
Lisa, Dominic	Chairman	Dec. 29, 2005	Dec. 31, 2011	Four Y
Cohen, Phillip	1st Alternate	Jan. 01, 2010	Dec. 31, 2011	Two Y
Evers, Michael	2nd Alternate	Dec. 16, 2010	Dec. 31, 2010	Two ye
Fusco, Morris	-	Jan. 01, 2009	Dec. 31, 2012	Four Y
Soares, Anthony	-	Oct. 21, 2009	Dec. 31, 2010	Four Y
Aibel, James	-	Jan. 01, 2010	Dec. 31, 2013	Four Y
Pincus, Nancy	-	Jan. 01, 2010	Dec. 31, 2013	Four Y
Crimmins, Joseph	-	April. 20, 2007	Dec. 31, 2010	Four Y
Vacant	-	Jan. 01, 2009	Dec. 31, 2012	Four Y

Documents

In order to download the documents below, you'll need to download a free copy of Adobe Acrobat

2008	Agendas	Minutes
January	01/15/2008	-
February	02/26/2008	-
March	03/18/2008	-

Daniel Tumpson
230 Park Avenue, #5S
Hoboken, NJ 07030
201-656-7774

James J. Farina, RMC
City Clerk
Hoboken City Hall
94 Washington Street
Hoboken, NJ 07030

Re: 226 Park Avenue, Hoboken, NJ

Dear Mr. Farina:

Enclosed is a Notice of Appeal to the Governing Body appealing the zoning variances granted to 226 Park Realty, LLC by the Zoning Board of Adjustment of the City of Hoboken as memorialized by resolution on December 15, 2009.

Also enclosed is a CD containing files Z81809.PDF and Z102009.PDF which contain, respectively, the transcripts of the August 18, 2009 and October 20, 2009 Zoning Board meetings at which the hearings for the 226 Park Avenue application were held and which were obtained from the Zoning Board Secretary in response to an OPRA request.

This Notice of Appeal and the accompanying transcripts are filed in accordance with N.J.S.A. 40:55D-17 and with the Code of the City of Hoboken § 44-34.

Please provide the undersigned with the notice of the meeting in which the governing body will review this matter in accordance with the cited statute and code.

Sincerely,



Daniel Tumpson

2009 DEC 23 PM 2:12
CITY CLERK
HOBOKEN, NJ 07030

RECEIVED

NOTICE OF APPEAL TO THE GOVERNING BODY

TAKE NOTICE that the undersigned appeals to the Mayor and Council of the City of Hoboken from the decision of the Zoning Board of Adjustment of the City of Hoboken in the matter of application of the 226 Park Realty, LLC decided by said Board on October 20, 2009 and memorialized by a resolution of said Board on December 15, 2009, wherein said Board granted amended Minor site plan approval with C and D variances to permit the construction of a 4-story structure with 70% lot coverage, 0 foot front yard, and 4 dwelling units on a 2500 square foot lot.

This appeal is taken pursuant to the authority of N.J.S.A. 40:55D-17 and of City of Hoboken Code § 44-34 on the grounds that the Board's decision is arbitrary, capricious, and unreasonable in that it violates N.J.S.A. 40:55D-70.d. (governing the powers of the Zoning Board to grant "D" variances) which specifies that height and density variances cannot be granted by the Board "without a showing that such variance or other relief can be granted without substantial detriment to the public good and will not substantially impair the intent and the purpose of the zone plan and zoning ordinance." The granting of the variance to allow 226 Park Avenue to be built to 4 stories violates both of these conditions. Undersigned certifies that this notice of appeal is filed within the time specified by N.J.S.A. 40:55D-17.



Daniel Tumpson
230 Park Avenue, #5S
Hoboken, NJ 07030

2009 DEC 23 PM 2:12
CITY CLERK
HOBOKEN, NJ 07033

RECEIVED

RECEIVED

LADDEY, CLARK & RYAN, LLP

Michael S. Garofalo
mgarofalo@lclaw.com

ATTORNEYS AT LAW
60 BLUE HERON ROAD
SUITE 300
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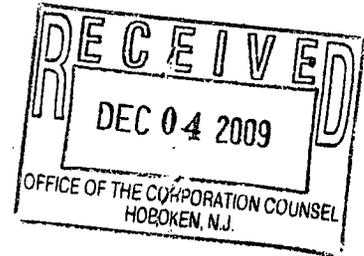
MORRIS COUNTY OFFICE:
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December 2, 2009

James J. Farina, RMC
Hoboken City Hall
94 Washington Street
Hoboken, NJ 07030

Re: *Stevens Institute of Technology*
Block 234, Lot 1; Block 257, Lots 2 and 3
Our File No. 5693-3

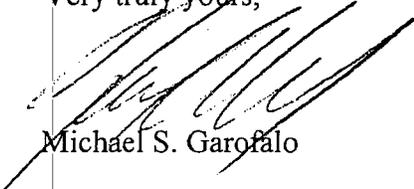
Dear Mr. Farina:



Enclosed is a Notice of Appeal to the Governing Body filed on behalf of the Fund for a Better Waterfront, Inc. appealing the application of Stevens Institute of Technology. This Notice of Appeal is filed in accordance with N.J.S.A. 40:55D-17. This is the second notice provided because Stevens Institute of Technology published its resolution of approval in both the Newark Star Ledger and more recently in the Jersey City Journal.

Please provide the undersigned with notice of the meeting in which the governing body will review this matter in accordance with said statute.

Very truly yours,


Michael S. Garofalo

MSG:wab

Sent by Certified/Return Receipt w/encl.

Cc: Douglas M. Bern, Esq., sent by fax w/encl.

WAB
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12/02/09

NOTICE OF APPEAL TO THE GOVERNING BODY

TAKE NOTICE that the undersigned appeals to the Mayor and Council from the decision of the Zoning Board of Adjustment of the City of Hoboken in the matter of the application of Stevens Institute of Technology (Stevens Garage) decided by said Board on September 22, 2009, wherein said Board granted amended preliminary site plan approval, amended conditional use approval and amended preliminary and final subdivision approval with variances to permit the construction of a four-level, 436-space parking garage and four-story academic building abutting the existing Babbio/School of Technology Management Building.

This appeal is taken pursuant to the authority of N.J.S.A. 40:55D-17 on the grounds that the Board's decision is arbitrary, capricious and unreasonable and because the undersigned was not provided with the reports of applicant's professionals as required by law. Undersigned certifies that this notice of appeal is filed within the time specified therein.



Michael S. Garofalo, Esq.
LADDEY, CLARK AND RYAN, LLP
60 Blue Heron Road, Suite 300
Sparta, NJ 07871
Attorney for Fund for a Better Waterfront, Inc.
Fund for a Better Waterfront, Inc.
Attention: Ron Hine and James Vance
P.O. Box 1965
Hoboken, NJ 07030

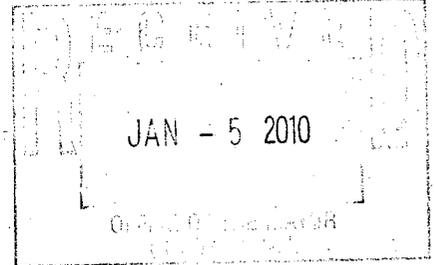
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cc: Michael Kates



Kerry Brian Flowers
Admitted in NJ and NY
W. Mark O'Brien
Admitted in NJ and PA

December 31, 2009

James Farina
Clerk
City of Hoboken
94 Washington Street
Hoboken, NJ 07030

Mayor Dawn Zimmer
City of Hoboken
94 Washington Street
Hoboken, NJ 07030

City Council
City of Hoboken
94 Washington Street
Hoboken, NJ 07030

RE: NOTICE OF APPEAL
Application of Kane Properties, LLC
511-521 Newark Avenue
Block 3.2, Lots 6-11
Hoboken, NJ 07030

Dear Mayor Zimmer, Council Members and Mr. Farina:

Please be advised that this firm represents Skyline Condominium Association, Inc. and its members (collectively, hereinafter referred to as "Skyline"), who are interested persons as defined under the New Jersey Municipal Land Use Law (hereinafter referred to as the "MLUL") in connection with the above-referenced application for development. The names of the members of Skyline may be disclosed, upon request, to permit the City Council members to determine whether a conflict of interest would preclude their participation.

**Mayor and Council
City of Hoboken
December 31, 2009**

Pursuant to Section 44-34 of the Hoboken Municipal Code and N.J.S.A. 40:55D-17, on behalf of Skyline, we hereby appeal the decision of the Zoning Board of Adjustment granting use variances and preliminary site plan approval for the proposed construction of a twelve (12) story mixed use project at the referenced location, consisting of seventy-two (72) residential units, 1,700 square feet of nursery school/day care facilities and seventy-eight (78) parking spaces configured in one structure. The memorializing resolution was duly adopted on December 15, 2009 and published on December 22, 2009 (the "Resolution"). A copy of the Resolution is enclosed. We request that the Mayor and Council hear our appeal in order to correct this decision.

The applicant sought, and was granted, preliminary site plan approval and relief, pursuant to N.J.S.A. 40:55D-70(c)(2) and (d)(1), (4) and (6), and relief from various other restrictions contained in the Subdivision of Land and Zoning Ordinance of the City of Hoboken as more particularly set forth in the Resolution.

This appeal is taken on the grounds that:

1. The applicant failed to prove that "special reasons" existed for the relief sought;
2. The applicant failed to satisfy the negative criteria as required by the MLUL;
3. The applicant failed to establish "hardship" inasmuch as the use of the site for uses permitted in the I-2 Zone is not foreclosed, nor is a residential structure of fewer units or lesser height prohibited;
4. The approvals granted amount to zoning by variance, which is the prerogative of the Governing Body and not the Zoning Board;
5. The applicant failed to establish that the site is particularly suitable for the proposed use;
6. The nursery school/day care component is particularly unsuitable for a site which is challenged by traffic congestion and which provides no functional recreational space for young children either on-site or within a reasonable distance off-site;
7. The Board failed to postpone or condition its approval upon State certification of the nursery school/day care component, assuring construction of the building without such approval and a future curative application based upon self-created hardship if certification fails; and

Mayor and Council
City of Hoboken
December 31, 2009

8. The granting of the approvals does not support the overall purposes and intent of the Master Plan and Zoning Ordinance.

Pursuant to Tp. Bd. of Adj. v. Evesham Twp., 86 N.J. 296 (1981), we request a hearing *de novo* of the record presented to the Zoning Board regarding the referenced application. Because of the multiple exhibits and transcripts, we hereby request that you schedule a special meeting to hear this appeal to permit a full briefing and argument regarding this important matter. Please advise as to the decision of the Governing Body regarding the requests set forth in this Notice of Appeal. The undersigned hereby certifies that this Notice of Appeal has been filed within the time specified within the MLUL.

Very truly yours,



W. Mark O'Brien

cc: Zoning Board of Adjustment
Skyline Condominium Association, Inc.
Kane Properties, LLC

CITY OF HOBOKEN
COUNTY OF HUDSON
ZONING BOARD OF ADJUSTMENT

RESOLUTION GRANTING PRELIMINARY SITE PLAN WITH
VARIANCE RELIEF
WITH RESPECT TO THE PROPERTY KNOWN AS
511-521 NEWARK STREET,
BLOCK 3.2, LOTS 6-11, CITY OF HOBOKEN,
COUNTY OF HUDSON, STATE OF NEW JERSEY.

WHEREAS, an application for Preliminary Site Plan Approval with variance relief has been made to the Hoboken Zoning Board of Adjustment by Kane Properties, LLC in connection with proposed improvements upon the property commonly known as 511-521 Newark Street, more particularly described as Block 3.2, Lots 6-11, on the tax map of the City of Hoboken, County of Hudson, State of New Jersey (the "Property"); and

WHEREAS, the Applicant has applied to this Board for preliminary site plan approval and for variance relief pursuant to N.J.S.A. 40:55D-70(c)(2) and 40:55D-70(d)(1), (4) and (6) from the restrictions of the following sections of the Subdivision of Land and Zoning Ordinance of the City of Hoboken:

1. Section 196-18(B), where the Applicant proposes residential and nursery school (childcare) uses which are not permitted; and
2. Section 196-18(E)(4), where a lot coverage of 60% for the principal building is permitted, and 10% for the accessory building is permitted, and the Applicant

proposes a lot coverage of 100% for the 1st through 3rd floors, 82% for the 4th through 6th floors, and 61% for the 7th through 12th floors; and

3. Section 196-18(5), where the maximum number of stories are two stories, and the Applicant proposes 12 stories; and
4. Section 196-18(5), where the maximum height is 40 feet, and the Applicant proposes a height of 125 feet; and
5. Section 196-18(6), where the maximum floor area ratio is 1.25, and the Applicant proposes a floor area ratio of 6.27 (the Applicant previously proposed a floor area ratio of 6.6); and
6. Section 196-18(7)(a), where the minimum front yard is five (5) feet, and the Applicant proposes a front yard of 0 feet; and
7. Section 196-18(7)(b), where the minimum side yard is five (5) feet, and the Applicant proposes a side yard of zero (0) feet; and
8. Section 196-18(7)(c), where the minimum rear yard is fifteen (15) feet, and the Applicant proposes a rear yard of (0) feet.

WHEREAS, the application was duly considered by the Board of Adjustment at public hearings on August 18, 2009, September

15, 2009 (at which no testimony was taken), October 1, 2009, October 13, 2009, and November 4, 2009; and

WHEREAS, the Applicant gave proper notice in accordance with law; and

WHEREAS, the public had an opportunity to be heard on the application at said hearings; and

WHEREAS, the Board of Adjustment heard the sworn testimony of the Owner of the site, Anthony Rey, the Applicant's Planner, Kenneth Ochab, the Applicant's Architect, Dean Marchetto, the Applicant's Traffic Engineer, Scott Parker, and the Executive Director of the Boys and Girls Clubs of Hudson County, Gary Greenberg, all of whom testified in support of the Application; and

WHEREAS, the Board of Adjustment also heard the sworn testimony of the Objector's Planner, Jason Kasler, and the treasurer of the Skyline Condominium Association, James Martinez, who testified in opposition to the Application; and

WHEREAS, following the hearings held on August 18, 2009, September 15, 2009, October 1, 2009, October 13, 2009, and November 4, 2009, the Board of Adjustment approved the application by vote of 6 in favor and none opposed; and

WHEREAS, at said public hearings, the Board of Adjustment received the following documents in evidence:

Exhibit A-1 Photograph of the Site

Exhibit A-2 Document dated January 8, 1992 from Law and
Public Safety Director, Eugene O'Connell, To Rey Foods
Exhibit A-3 Correspondence dated January 10, 1992 from
Robert Simandl, Esq. to Eugene O'Connell
Exhibit A-4 Correspondence dated January 30, 1992 from
Robert Simandl, Esq. to Police Lt. John Aiello
Exhibit A-5 Curriculum Vitae of Kenneth Ochab
Exhibit A-6 Report of Planner, Kenneth Ochab
Exhibit A-7 Curriculum Vitae of Dean Marchetto
Exhibit A-8 Rendering of Sidewalk View Inside the Arcade
Exhibit A-9 Rendering of Sidewalk view From The
Curb Location
Exhibit A-10 Color Rendition of Front Façade of
Building facing Newark Street
Exhibit A-11 Cross-Section cut Through the Building
Exhibit A-12 Revised set of drawings dated August 6, 2009
Exhibit A-13 Revised Cross-Section Diagram of the Building
Exhibit A-14 Revised Ground Floor
Exhibit A-15 Resume of Scott Parker
Exhibit A-16 Traffic Impact Study dated 12/22/08
Exhibit A-17 Addendum to Traffic Impact Study dated
October 8, 2009
Exhibit A-18 Revised Set of Drawings dated October 21, 2009

And the Objector, Michael Kates, Esq., representing Skyline
Condominium Association, submitted the following documents into
evidence:

Exhibit O-1 Photograph of Observer Lofts under Construction
Exhibit O-2 2nd Photograph of Observer Lofts
Exhibit O-3 Google Map of 601 Observer Highway
Exhibit O-4 Jason Kasler's Report
Exhibit O-5 Page from Moskowitz' "Development Definitions"
Exhibit O-6 Resolution of Approval of Skyline Condominium
Exhibit O-8 Zoning Board Annual Report for 2007
Exhibit O-9 Zoning Board Annual Report for 2006

WHEREAS, the Board now wishes to set forth its findings,
conclusions and conditions with respect to the application;

NOW, THEREFORE, BE IT RESOLVED by the Board of Adjustment
that, based upon the evidence in the record and for the reasons

expressed in this Resolution and on the record, the following facts are found and the following decision is rendered:

1. The proceedings in this matter were stenographically transcribed and voice recorded. The facts in this Resolution are not intended to be all-inclusive but merely a summary and highlight of the complete record made before the Board.

2. The Applicant is the developer of the property commonly known as 511-521 Newark Street, Hoboken, New Jersey, and more particularly described as Block 3.2, Lots 6 through 11, on the Tax Map of the City of Hoboken (the "Property"). Said property is located within the "I-2" District pursuant to the Zoning Ordinance of the City of Hoboken.

3. The Applicant is proposing construction of a mixed-use building with 72 dwelling units, 1,700 square feet of nursery school/childcare use and 78 parking spaces in a twelve-story configuration (the "Project"). The Project is more particularly described in the site plan drawings, last revised October 21, 2009, pages A-1 through A-10, admitted into evidence on November 4, 2009, as Exhibit A-18.

4. At the hearing held on August 18, 2009, the Applicant presented testimony by the Property Owner, Anthony Rey. He testified that he had operated a wholesale meat distribution business (Rey Foods) on the site from 1980 through 2001.

5. Mr. Rey stated that his company operated from 7:00 a.m. to 7:00 p.m., Monday through Friday, and had 7 drivers. He stated that there was low temperature equipment for freezers and medium temperature equipment for refrigeration, as well as compressors which were always located on the roof.

6. Mr. Rey testified that beginning in the 1990s, neighbors residing in the Skyline Condominium complained to the police about noise emanating from Mr. Rey's operation, particularly from refrigerator delivery trucks, and the Hoboken authorities wanted him to move out. He stated that the wholesale meat business was started in the 1980's, when Hoboken was much different and more rundown. He stated that in the 1990's, Hoboken was cleaned up, and there were complaints from Skyline about noise generated by the facility, notwithstanding that his use of the property was a permitted use in the I-2 zone.

7. Mr. Rey further testified that he received a notice from the Director of Law & Public Safety in 1992 that he had created "a major disturbance in the area of the Skyline Apartments" and that he "must stop this unwarranted risk immediately." Mr. Rey's supply trucks were being ticketed and he could not continue to operate. He relocated his business to Paterson Plank Road and Tonnelle Avenue in North Bergen, New Jersey.

8. Mr. Rey testified that he could not find a purchaser for the Property because of the police difficulties and Newark Street traffic. He had a fish wholesaler and pastry importer interested, but they were afraid because of the problems he had encountered. The Property was boarded up and unused from 2001 to the present.

9. On cross-examination, Mr. Rey testified that he did not list the property with a broker because he doesn't like brokers and he was able to agree on a sales price with the Applicant without using a broker. He also stated that he could not control the timing of product deliveries and the vehicles' engines could not be shut down because the meat would spoil due to lack of refrigeration. Mr. Rey stated that Skyline Condominium was occupied in approximately 1992.

10. At the hearing held on October 1, 2009, Kenneth Ochab, a qualified Professional Planner, supported the variances the Applicant sought with testimony and with his report, admitted in evidence as A-6. Importantly, Mr. Ochab summarized the special reasons that justify granting the use, FAR and height variances and this Board adopts these reasons:

1. The property has been zoned into inutility due to the restrictive permitted uses prescribed in the 1-2 zone. The permitted uses are not viable and do not provide a reasonable expectation of property development and therefore constitute an undue hardship.

2. This property is underutilized from a planning and land use perspective. The proposed use will remove the obsolete and deteriorating structures on the site and provide privately funded redevelopment of the property.
3. The proposed residential development is consistent with the dominant residential development pattern in the surrounding area and is particularly suited to this site.
4. The project site is in a major gateway to the City of Hoboken. The proposed development enhances the visual environment with respect to a major gateway.
5. Residential development conforms to the Master Plan of the City of Hoboken and the Master Plan for the City of Jersey City.
6. The proposed residential use meets the intent and purposes of the Municipal Land Use Law, section 40:55D-2(a), (d), (e), (g), (i) and (j).

11. Some of the details provided by Mr. Ochab are set forth below and in the following paragraphs. As to the "d(1)" variance for use as residential, Mr. Ochab testified that the property is located in an industrial zone, but industrial uses have declined in the zone and throughout Hoboken. Mr. Ochab opined that the I-2 uses have become obsolete and that the site cannot reasonably be adapted to permitted I-2 uses.

12. Mr. Ochab testified that the buildings on the site, have been found to be in need of rehabilitation pursuant to the Southwest District Redevelopment Study done in 2007 by the City of Hoboken. He added that the Study showed that the buildings are obsolete and in dilapidated condition, and that there is

improper and inappropriate planning and layout as a result of the location of the buildings. Granting the variances would eliminate these problems.

13. Mr. Ochab also testified that the residential development is consistent with the dominant residential pattern in the area. He added that around the site (including Jersey City) are several high-rise residential buildings. He testified that the residential pattern is the emerging land use in the area and the proposed building would be consistent with the other building heights in the area.

14. Mr. Ochab testified that the site will improve the visual environment of the streetscape, with the area being a gateway to the City of Hoboken. He stated that removing all of the problems engendered by the use of the Property for industrial purposes improves the aesthetic perspective of entering the City of Hoboken and provides a visually pleasing gateway into the city.

15. Mr. Ochab added that the proposed development is in conformance with the Hoboken Master Plan designation; that the Hoboken Master Plan indicates that the area is designated as in and "IT" zone, which is an industrial transition district, and that the Master Plan recommends that residential uses be permitted along with uses that serve the community.

16. Mr. Ochab stated that the development will include a nursery school that is intended to be operated by the Boys and Girls Club of Hudson County; that this community facility will improve the level of community services in and around the site.

17. Mr. Ochab testified that the Project is consistent with the Jersey Avenue Redevelopment Plan (in Jersey City), which permits residential high rises in the area. He added that the two nearby properties in Jersey City, Zepher Lofts and 700 Grand, have been developed in conformity with the Jersey Avenue Redevelopment Plan.

18. Mr. Ochab testified that the Project provides appropriate population densities that serve the needs of the citizens of Hoboken. The Project is consistent with high-rise residential towers in the area -- Skyline, Observer Plaza, Hoboken Grand, 700 Grove and Zepher Lofts -- and I-2 use of the site would be incompatible with these uses. Mr. Ochab added that the Municipal Land Use Law specifies that the Project should be consistent with the development across the municipal boundary (which in this case is Jersey City). Mr. Ochab stated that converting the Property to residential would be consistent with the area's dominant development pattern. The Project would also meet State planning objectives to conserve open space, and reduce energy and overall sprawl on a State and regional level.

19. Mr. Ochab testified that the Project would implement the State's 'vision' for 2030 which is to repopulate the cities, and to redevelop for residential purposes the inner urban core where infrastructure can be efficiently provided. He stated that the Project promotes efficient energy use, conservation of open space, and achieves a better quality of life for residents.

20. On cross-examination, Mr. Ochab testified that retail use was inappropriate at the site because the site, at 12,900 square feet, is too small. He opined that utilizing the property as commercial, would create more traffic problems than if the Property was used as residential. Mr. Ochab also testified that there is retail use located two blocks away from the Project. He testified that the proposed nursery school would be an inherently beneficial use. He believed the nursery school would occupy 1,700 square feet of space.

21. Mr. Ochab reiterated that the proposed residential use would impact the area less than a commercial or an industrial use. Mr. Ochab testified that there is sufficient parking space for residents and guests of each of the 72 units.

22. The Applicant's qualified Architect, Dean Marchetto, testified (October 1, 2009) concerning the residential mixed use plan for the site: a 12 story building with 72 residential units, 78 parking spaces, and 1,700 square feet of nursery

school space on the ground floor. Parking is integrated into the building's internal structure.

23. Mr. Marchetto testified that the building "steps back" several times, from front to back and side to side, to simulate a wedding cake step back in three directions. The purpose is to minimize the perceived bulk of the building. He designed an arcade to create a pedestrian-friendly atmosphere. The building would set a precedent for continued pedestrian-friendly activity along Newark Street.

24. Mr. Marchetto described the drop-off procedure for the child care facility. He stated that children could be dropped off using the garage (where there are four spaces that could be utilized), or the three spaces out on the curb to handle drop-offs for the children. This drop-off plan was criticized by the Commissioners and was substantially revised before the next hearing.

25. Mr. Marchetto testified that the building has sustainable design features associated with it, with the first being solar panels shown on the roof plan, and that the building will have a green roof. He explained that the green roof keeps the building cool because it insulates, and also generates oxygen into the air. He stated that the exterior of the building will be brick and glass and metal.

26. Applicant's architect, Dean Marchetto, was recalled (October 13, 2009) and testified that the Applicant's site plan was revised since the last hearing. To meet comments, there is now an exit and entrance on opposite sides of the building, a one-way in and a one-way out driveway provided by re-adjusting the lobby and the position of the nursery school; the residential units on floor 3 were eliminated and the basement was removed, as a result of which the Applicant could now fit one more parking space for a total of 78 spaces; and there are 10 parking spaces on the ground floor for the nursery school, plus an 11th for a handicapped van associated with the school. In summary, the third floor plan was revised so it is now all parking, and the average unit size was reduced from 1,005 square feet to 941 square feet per unit.

27. Mr. Marchetto testified that the floor area ratio will be reduced from 6.60 to 6.27 because of the reduction of residential area on the third floor. He stated that the plan is to have the outdoor activity space occupied at a maximum by 12 persons.

28. Mr. Marchetto testified that when the day care is not open, the ten parking spaces could be utilized for guests. He also noted that the arcade will require an easement from the City Council because it involves an encroachment of eight feet onto the public sidewalk.

29. Applicant's Planner, Kenneth Ochab was recalled for questioning by the Board's Planner, Elizabeth Vandor (October 13, 2009). He reiterated his testimony that retail use would not be appropriate for the Property because of the lot site, the need for off-street parking, and its potential for traffic and noise.

30. Gary Mark Greenberg, Executive Director of the Boys and Girls Club of Hudson County, testified (October 13, 2009) that there is a proposal that the Boys and Girls Club run a nursery school at the site and utilize 1,700 square feet. He added that the hours of operation would be 7:00 a.m. through 6:30 p.m.

31. Mr. Greenberg testified that the facility would be licensed by the New Jersey Department of Children and Families; that at night the facility could be used for computer training for seniors; and that the 25 openings for the nursery school would easily be filled by his agency.

32. Mr. Greenberg described the program and the layout, including the outdoor space. He added that the nursery school would be a tremendous service at the location and for the surrounding neighborhood. He stated that supervision would follow the state ratio, and there would be one adult for every six children.

33. On cross-examination, Mr. Greenberg stated that he did not believe the program could be housed in the existing Hoboken facility, the Malloy Center. He stated that 1,700 square feet was sufficient to house more than 30 children, and the Applicant planned to have 25 children at the day care center.

34. Mr. Marchetto then explained the architectural plan, showing the nursery school layout.

35. The Applicant's qualified Traffic Engineer, Scott Parker, testified (October 13, 2009) that the change in traffic flow resulting from the proposed project would be "de minimis" and "would barely be a noticeable effect."

36. Mr. Parker supported his opinion with testimony and with reports of December 22, 2008 and October 8, 2009, admitted into evidence on October 13, 2009 (Exhibits A-16 and A-17).

37. The Applicant's Architect, Dean Marchetto, was recalled as a witness and testified (November 4, 2009) that the revised plans (Exhibit A-18) show a loading area in front of the building, which is intended to be used only for large truck loading by appointment. He stated that the area is not intended to be used for a drop off for the nursery school or even for small truck deliveries. He stated that there would be a mountable curb and removable bollards on the curb line, which would be removed when a delivery is scheduled.

38. Mr. Marchetto stated that the drop off for the nursery school would be inside of the building. He added that the nursery school's outside activity area was pulled back three feet, and now will be maintained within the property line. He stated that the activity area can accommodate a group of ten nursery school children at once, so there will be three shifts using the outside area. Mr. Marchetto stated that the arcade encroaches eight feet onto the city sidewalk and if it were pulled back to the property line, it would still be a seven-foot arcade.

39. On cross-examination, Mr. Marchetto stated that the loading area would require City Council approval because it encroaches, but that "loading docks occur all over the city on the public right-of-way"; it is "appropriate for both pedestrians and for the automobiles"; and approvals for encroachments happen in Hoboken "on a regular basis."

40. The Objector's planner, Jason Kasler, testified (November 4, 2009) that there is no proof that the Property cannot be used for a permitted use such as a professional office use and that the site is not particularly well suited for the proposed use. He testified that the residential use conformed to the Hoboken Master Plan, but later changed his testimony in answer to his counsel's leading question. His answer was "correct."

41. Mr. Kasler also testified that the building is ten stories higher than what is permitted in the zone. On cross-examination, however, Mr. Kasler admitted that there were five residential towers of 12 or more stories in the area surrounding the Project site and that his report incorrectly stated there were only two such residential towers and omitted others by using a map, a chart and a photograph that did not show the omitted buildings. (Transcript, 11/4/09, 87:23 to 97:14).

42. Also on cross-examination Mr. Kasler admitted that he performed no market study to show that there are viable permitted uses for the site; that "industrial uses are not harmonious with the current land use" (Transcript, 11/4/09, 103:11-14); and that the site has been boarded up for 8 years with no new industrial activity. Mr. Kasler explained that the boarded up building was a permitted use because "there is nothing in the [Hoboken] ordinance that prohibits a building from being vacant." (Transcript, 11/4/09, 85:19 to 87:3).

43. The Board discussed that in the Southwest Redevelopment Study, which was not adopted, a sketch of a twelve story building very similar to the Project is proposed. Mr. Kasler agreed that residential use along Newark Avenue is not a 'foreign' concept.

44. James Martinez, the treasurer of the Skyline Condominium Association testified (November 4, 2009) concerning

the zoning approval for the Skyline building. The Applicant's Architect noted that the original approval was for 90 units, not 104 (which are the existing number of units in the building).

45. At each hearing, the public was given the opportunity to question each witness and did so. At the November 4, 2009 meeting, the hearing was opened to the public for comments about the Project. Some favored the Project and some opposed it. The Board considered all comments in determining this matter.

46. Pursuant to N.J.S.A. 40-55D-70(d), The Board of Adjustment has the power, for "special reasons," to grant a variance to allow departure from zoning regulations to permit: (d)(1) use of a principal structure in a district restricted against such use or principal structure; (d)(4) an increase in floor area ratio; and (d)(6) a height of a principal structure which exceeds by 10 feet or 10 percent the maximum height permitted in the district for a principal structure.

47. Although the childcare center/nursery school proposed for 1700 square feet of the Project's ground floor is not a permitted use in the I-2 zone, a variance for that use is mandatory. N.J.S.A. 40:55D-66.6.

48. By way of positive criteria for the residential use variance here, the statutory requirement of "special reasons," according to the New Jersey Supreme Court decision in *Stop & Shop v. Bd. of Adjustment*, 162 N.J. 418, 431 (2000), "focuses

exclusively on the special characteristics of the property and imposes on the applicant the burden of establishing either 'that the general welfare is served because the use is peculiarly fitted to the particular location for which the variance is sought,' *Kohl v. Mayor of Fair Lawn*, 50 N.J. 268, 279, 234 A.2d 385 (1967), or that undue hardship exists because the property for which the use variance is sought cannot reasonably be adapted to a conforming use. *Medici, supra*, 107 N.J. at 17 n.9, 526 A.2d 109." See also *Saddle Brook Realty v. Bd. of Adjusts.*, 388 N.J. Super. 67, 76 (App.Div. 2006). Both factors have been proven here.

49. By way of negative criteria, N.J.S.A. 40:55D-70(d) requires a showing that the requested variance can be granted "without substantial detriment to the public good and will not substantially impair the intent and purpose of the zoning ordinance." This showing has been made here.

50. Thus, special reasons exist if the Project carries out the purposes of zoning or if refusing the application would create an undue hardship for the applicant. The special reasons to be considered are those which promote the general purposes of zoning as set forth in N.J.S.A. 40:55D-2. *Medici v. BPR Co.*, 107 N.J. 1, 10 & 18 (1987); *Burbridge v. Mine Hill Township*, 117 N.J. 376, 386-7 (1990) ("desirable visual environment").

51. The general purposes of zoning that are relevant here are N.J.S.A. 40:55D-2:

a. To encourage municipal action to guide the appropriate use or development of all lands in this State, in a manner which will promote the public health, safety, morals, and general welfare;

d. To ensure that the development of individual municipalities does not conflict with the development and general welfare of neighboring municipalities, the county and the State as a whole;

e. To promote the establishment of appropriate population densities and concentrations that will contribute to the well-being of persons, neighborhoods, communities and regions and preservation of the environment;

g. To provide sufficient space in appropriate locations for a variety of agricultural, residential, recreational, commercial and industrial uses and open space, both public and private, according to their respective environmental requirements in order to meet the needs of all New Jersey citizens;

i. To promote a desirable visual environment through creative development techniques and good civic design and arrangement;

j. To promote the conservation of historic sites and districts, open space, energy resources and valuable natural resources in the State and to prevent urban sprawl and degradation of the environment through improper use of land.

52. Based upon the record evidence, including the reports and testimony of the Applicant's Planner, Architect, Traffic Engineer and other witnesses, and based upon the reasons given on the record by Board members (Transcript, 11/4/09, 185:8 to 194:18), the Board finds:

a. The variances sought pursuant to N.J.S.A. 40:55D-70(d) should be granted for the fully supported reasons summarized in the six items listed at

paragraph 10, above, which six items are incorporated by reference herein.

- b. The Property cannot reasonably be adapted to a conforming use and these variances are therefore necessary to avoid undue hardship.
- c. The proposed residential use of the site is particularly suited for the site and, therefore, promotes the general welfare. N.J.S.A. 40:55D-2(a).
- d. The Project ensures that the development of Hoboken does not conflict with the development and general welfare of Jersey City. N.J.S.A. 40:55D-2(d).
- e. The Project promotes the establishment of appropriate population densities and concentrations that will contribute to the well-being of persons, neighborhoods and communities by providing a population density that is consistent in size and scale with the surrounding neighborhood. N.J.S.A. 40:55D-2(e).
- f. The Project would promote sufficient space in appropriate location for residential uses, as the proposed residential development is more appropriate for the site and more in harmony with the largely residential character of the neighborhood than implementing the "I-2" permitted uses. N.J.S.A. 40:55D-2(g).
- g. The Project would promote a desirable visual environment through creative development techniques and good civic design and arrangement. The Project will innovate an arcaded section to the streetscape. N.J.S.A. 40:55D-2(i).
- h. The Project will support State goals of open space and efficient and environmentally sound use of energy by concentrating development in urban areas that are already provided with transportation and other infrastructure needs.

53. With respect to the floor area ratio "d(4)" variance, the Applicant needs to show and has shown "that the site will accommodate the problems associated with a proposed use with larger floor area than permitted by the ordinance." *Randolph Town Center v. Tp. of Randolph*, 324 N.J. Super. 412, 417 (App.Div. 1999). Here, the floor area ratio requirement was meant to regulate industrial development, not a residential proposal, and the Applicant's proposed 6.27 floor area ratio will be accommodated by this site.

54. The site's capacity is particularly reasonable because sufficient on-site parking is provided and the Project is consistent with residential development in the immediate area. No variance is needed for parking and the site is within walking distance of the Hoboken Rail Station, where access to New Jersey Transit, PATH, ferries and the Bergen/Hudson LRT are available. Also, when the proposed 18th Street LRT station is constructed in Jersey City, light rail service will be available to residents of this Project within two blocks of the Project site.

55. With respect to the height "d(6)" variance, the Applicant needs to show that the Project would be "consistent with the surrounding neighborhood" and "would not be out of place in the neighborhood" and would be "harmonious" and "consistent" in style, outweighing any aesthetic detriment from the proposed height of the structure. *Grasso v. Bor. of Spring*

Lake Hghts., 375 N.J. Super. 41, 53, 54 (App.Div. 2004).

Applicant has made this showing.

56. Five residential towers in near proximity to the Project site are twelve to fifteen stories in height. The Project's height is consistent with the current development trends for residential construction along Newark Street and the nearby N.J. Transit rail lines. Specifically, the height of the Project and its number of stories will be in keeping with neighboring structures, including those in which the objectors reside.

57. As to the d(1) variance for residential uses, the Project would be consistent with the dominant residential pattern in Hoboken and the adjacent development in Jersey City. The Property has been underutilized because of the restrictive permitted uses in the "I-2" zone. The purpose of the I-2 zone, to establish appropriate standards and uses for rail and other transportation-related commercial and light industrial activities, as well as principal uses, such as food distribution and manufacturing, are obsolete and no longer viable.

58. Accordingly, the Board finds that there are "special reasons" for granting the "d(1)", "d(4)" and "d(6)" variances, as the Project promotes several purposes of zoning and is otherwise amply supported by the record evidence.

59. With regard to the negative criteria for "d" variances -- that they require a showing that they can be granted (1) without substantial detriment to the public good i.e., to surrounding properties, and (2) without substantially impairing the intent and purpose of the zone plan and ordinance -- the detriment or impairment must truly be "substantial", as the granting of any variance will have an impact to some degree. *Medici v. BPR Co.*, 107 N.J. 1, 23-24 at n.12 (1987).

60. Based upon the report and testimony of the Applicant's planner and traffic engineer, the Board finds that the variances may be granted without substantial detriment to the public good because:

- a. The Project would have no negative effect on adjacent industrial uses and parking lots and would not substantially affect surrounding residential uses.
- b. The location of the proposed building will allow adequate light and air to residential developments to the south and west of the site.
- c. As there is sufficient parking on the site, there will be no demand for additional off-street parking.
- d. The proposal will include functional and aesthetic improvements to the façade of the building which will enhance the neighborhood.

61. Based upon the reports and testimony of the Applicant's planner and architect, the Board finds that the

variances can be granted without substantially impairing the intent and purpose of the zone plan and ordinance, because:

- a. The Master Plan designates the Project area as an "Industrial Transition" district, and has recommended a reconsideration of the current "I-2" zone designation to permit redevelopment. The Project is consistent with those goals because it substitutes residential development for the "I-2" obsolete industrial designation.
- b. The purpose of the "I-2" zone is obsolete as it was designed "to establish appropriate standards and uses for rail and other transportation-related commercial and light industrial activities; to provide criteria for off-street parking and loading; and to otherwise facilitate the movement of vehicular traffic and materials transshipment", and the principal uses permitted by the Ordinance, such as food distribution and manufacturing are also obsolete and no longer viable in the zone.
- c. All of the buildings on-site have been determined to be "in need of redevelopment" pursuant to the Southwest District Redevelopment Study, and the Project will remove those deteriorating structures and redevelop them with a new land use consistent with the dominant residential development in that portion of Hoboken.

62. The reasoning of the Applicant's experts, in their testimony and reports, reconciled the appropriateness of the "d(1)", "d(4)" and "d(6)" variances with the fact that the zoning ordinance as written gives rise to the necessity of said variances, including the improbability that the ordinance would intentionally zone the Property into inutility. The Board adopts this reasoning and further finds that the variances from the zoning ordinance are not individually or cumulatively so.

substantial as to substantially impair the intent and purpose of the zone plan or the zoning ordinance. The Board additionally finds that the benefits of the Project substantially outweigh any possible detriment which might result from the granting of the variances.

63. In sum, the Applicant has demonstrated, and the Zoning Board of Adjustment finds, that the negative criteria are satisfied in that granting the "d(1)", "d(4)" and "d(6)" variances will not cause substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and zoning ordinance.

64. Pursuant to N.J.S.A. 40:55D-70(c)(2), variances may be granted where a deviation from the zoning ordinance would advance the purposes of the Municipal Land Use Law, the benefits of the deviation would substantially outweigh any detriment, and the variance can be granted without substantial detriment to the public good or impairment of the zone plan and the zoning ordinance.

65. For the reasons previously set forth and in the report and testimony of the Applicant's planner, the Applicant has demonstrated, and the Board finds that the granting of "c-2" variance relief with respect to (i) maximum lot coverage, (ii) minimum front yard, (iii) minimum side yard, and (iv) minimum rear yard, substantially outweigh any detriment associated

therewith and that it can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zone plan and zoning ordinance. The Boys and Girls Club nursery school will provide child care to the community and a source of income to fund programs operated by the Club. The Project would remove the obsolete structure and develop the site with a residential land use consistent with the current residential development in the surrounding area.

66. The Project advances the purposes of the Master Plan, by promoting compatibility of scale, density and design between new and existing development. The Board of Adjustment finds that the within application meets the "c(2)" requirements and that the granting of said variances is appropriate because the purposes of the Municipal Land Use Law are advanced and by so doing, the benefits substantially outweigh any detriment from the deviations.

67. With respect to the request for Preliminary Site Plan and Variance Approval, the Board finds that provided the conditions set forth in the Resolution and the plans are complied with, the proposed use will have no substantial adverse impact on parking, traffic, drainage, fencing, exterior lighting and paving, and there will be no substantial adverse impact on surrounding properties. Rather, the Project, when implemented,

in accordance with terms and conditions of this Resolution, will promote the purposes of the MLUL and will not be adverse to sound planning.

68. Granting the Preliminary Site Plan Approval with variance relief with the conditions set forth in this Resolution is consistent with sound planning. The Applicant seeks to promote and enhance the use of the Property in a productive manner.

69. The granting of the Preliminary Site Plan Approval with variance relief is within the Zoning Board of Adjustment's jurisdiction pursuant to N.J.S.A. 40:55D-76b.

NOW, THEREFORE, be it resolved by the Zoning Board of Adjustment of the City of Hoboken that the within application for Preliminary Site Plan Approval with variance relief shall be granted subject to the following conditions:

1. Within thirty (30) days of the approval of this resolution by the Board or of the final adjudication of any appeal from this Resolution, whichever is later, the Applicant shall, if necessary, post any additional escrow funding that may be required to reimburse the City's professionals for the review of this Application. Failure to provide such escrow fees may result in this Resolution being declared null and void.
2. Within thirty (30) days of the approval of this resolution by the Board or of the final adjudication of any appeal from this Resolution, whichever is later, or of the final adjudication of any appeal from this Resolution, whichever is later, the Applicant's professionals, unless otherwise addressed herein or at the hearings held on August 18, 2009, October 1, 2009, October 13, 2009, and November 4, 2009, shall amend the architectural plans and engineering plans as necessary to comply with the recommendations of:
(i) the Board Planner, Elizabeth Vandor, as set forth in

the reports dated August 12, 2009, October 29, 2009, and November 25, 2009, any other post-approval reports; and (ii) the Board Engineer, Eugene Buczynski, P.E., C.M.E. of CMX, as set forth in the reports dated August 12, 2009, and any post-approval reports. These revisions shall be in the form of drawing detail and/or written construction note detail format as necessary. In addition, the Applicant's professionals shall amend any engineering reports, engineering calculations and/or planning reports that were presented as a part of the testimony before the Board as necessary and/or required by the Board Engineer and Board Planner. All such amendments shall be submitted to the Board Engineer and Board Planner for review within thirty (30) days of the adoption of this Resolution. Failure to provide same within this time period may result in this Resolution being declared null and void. No signed drawings (the "Resolution Drawing Set") will be released until the Applicant has provided the revisions cited above.

3. The Applicant shall also satisfy any outstanding issues in the Certificate of Incompleteness before the "Resolution Drawing Set" is released.
4. The "Resolution Drawing Set" must be approved and signed by the Board Chairman, Board Secretary and Board Engineer, prior to submission to the City Engineer or to the Zoning Officer of the City of Hoboken and prior to the issuance of any demolition permits.
5. As per Section 196-63B of the City of Hoboken Zoning Ordinance and Section 40:55D-53 of the Municipal Land Use Law, prior to the issuance of any demolition permits, the "Resolution Drawing Set" shall be submitted to the City Engineer for a determination of the inspection escrow requirements and performance guarantee requirements that accompany such application and the herein Resolution. Failure to provide such documentation may result in this Resolution being declared null and void.
6. The Applicant shall comply with all of the stipulations made during the hearing on this application.
7. Prior to construction of any kind, the Applicant shall present the final plans and submissions to the Board for Final Site Plan Approval and, following that approval, to the Zoning Officer of the City of Hoboken for a First

Certificate of Zoning Compliance prior to the issuance of the building construction permit.

8. The application for Final Site Plan Approval shall conform with all of the details shown on the aforementioned Preliminary Site Plan Approval "Resolution Drawing Set" and submissions, as presented to the Board or as amended as required to comply with the conditions of this resolution and in accordance with the zoning ordinances, building codes and all other standards and ordinances unless expressly stated to the contrary within the approvals granted.
9. In the event that it is not able to secure an encroachment easement for the Newark Street "arcade" from the City of Hoboken, the Applicant shall pull the arcade back to the property line.
10. In the event that Applicant cannot secure a nursery school/childcare tenant or cannot obtain a proper license to operate a nursery school/childcare facility, the Applicant shall return to the Board for determination by the Board of what alternative community or cultural amenity shall occupy the 1700 square feet presently designated for nursery school/childcare purposes (Exhibit A-18 at page A-3).
11. The Applicant shall provide a vegetated roof and other "green" building items as set forth in the plans (Exhibit A-18) and the testimony of Applicant's Architect, Dean Marchetto..
12. In accordance with *Aldrich v. Schwartz*, 258 N.J. Super 300 (App. Div. 1992), the Conditions of Approval set forth herein shall be recorded in a separate deed, prepared by the Applicant's counsel, in a form approved by the Zoning Board Attorney, and shall be filed with the Hudson County Clerk's Office by the Applicant's counsel.
13. The application must comply with the necessary requirements of the zoning ordinances of the City of Hoboken, except insofar as the variances granted herein, and the Municipal Land Use Act of the State of New Jersey, N.J.S.A. 40:55D-2 et seq.
14. If for any reason (such as change of ownership or change of architect), the Project cannot be built in conformance

with the within preliminary site plan approval, the new owner shall return to the Board for an amended preliminary site plan approval.

15. No building or structure shall be constructed until after the Board has granted Final Site Plan Approval and after such time as the Zoning Officer of the City of Hoboken shall issue a First Certificate of Zoning Compliance to insure compliance with the Board's decision.

This Application was approved by the Zoning Board of Adjustment at its regular meeting on November 4, 2009, upon a motion by Mr. Ponjoan and seconded by Mr. Crimmins and upon the roll call as follows:

Yes: 6

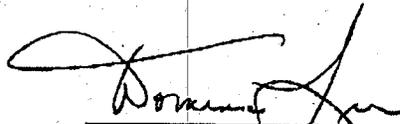
Absent: _____

No: 0

Abstain: _____

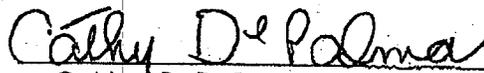
BE IT FURTHER RESOLVED, that a copy of this resolution be forwarded to the Applicant, City Clerk, Construction Code Official and Zoning Officer of the City of Hoboken.

This resolution was adopted on the 13th day of December, 2009, upon the motion of _____ and seconded by a vote of yeas and nays.



Dominic Lisa, Chairman

I do certify that this is a true and correct copy of the resolution as adopted by the Zoning Board of Adjustment of the City of Hoboken, County of Hudson and State of New Jersey in the within Application.


Cathy DePalma, Secretary