## In The Matter Of:

Linden Development, LLC

September 8, 2020

M. Virginia Guinta
Certified Court Reporters
P.O. Box 184
Rocky Hill, New Jersey 08553
(609) 477-9342

Original File FRED.txt

Min-U-Script® with Word Index

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2 listen to our last case, S	A: We're going to
· ·	Site Plan-1129-20
in the matter of the application) virtual 3 Linden Development, I	LC 1016 W. Edgar Road,
A on the second of the second	_
WEST EDGAR ROAD for RESTAURANT/)  5 FREDDY'S  ADD DINALDO	•
5 MR. RINALDO	O: John, we talked
6 September 8, 2020 6 about moving forward	conight. Think about
7 10 P.M. 7 it.	
	SKI: We would like
BOARD MEMBERS PRESENT:	SKI. We would like
JOSEPH Laplaca, Chairman 9 to move forward.	
10 ARMAND FIORLETTI, VICE-CHAIRMAN 10 I'll start my pre	sentation and
11 MICHAEL ANDERSON 11 then we'll get to the issue	ue we just
12 NICHOLAS J. PANTINA 12 discussed and see wher	•
NOIU EDEM	e it goes from there.
	S 7771 at al. 1
14 ANTHONY D. RINALDO, JR., BOARD ATTORNEY PAUL RICCI, BOARD PLANNER 14 MR. RINALDO	O: That's the best
15 LEE KLEIN, TRAFFIC ENGINEER 15 Way to go.	
D KOMOMSKI DECODNING SECDEMADY	SKI: Mr. Chairman,
17 APPEARANCE: 17 Members of the Board,	,
	-
18 FAEGRE DRINKER BIDDLE & REATH, LLP BY: JOHN P. MICHALSKI, ESQUIRE 18 John Michalski from th	_
19 600 Campus Drive 19 Drinker, Bladde & Real	h on behalf of the
Park, New Jersey 07932 Attorneys for Applicant.  20 applicant, Linden Deve	lopment, LLC. We are
21 here for amended prelin	
M. VIRGINIA GUINTA	•
23 ROCKY HILL, NEW JERSEY 08553 23 Teet Field y S 1702eff Ct	
24 mvg2946619@aol.com 24 Steakburgers Restauran	
25 The property is	located at
Page 2	Page 4
	r age 4
1 Block 469 Lot 38.05, 1	016 West Edgar Road.
INDEX TO WITNESSES  2 The zone is a P	· ·
	L D Planned
witness  4  Commercial Developm	ent District zone. We
WITNESS  BRAD KERN  BRAD KERN  BRY: Mr. Michalski  19  Commercial Developm  4 are pleased to be back by	ent District zone. We before the Board for
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Page 7 Page 5 1 through them real quick. I'll put on 1 there is no setback proposed. 2 testimony later. We'll explain the need for We need a variance for trash these later on. 4 enclosure setback Ordinance Section Most of these variances have 5 31-11.6.e.2 which requires that outdoor been granted previously by this Board for 6 trash areas and recycling bins, sheds and other lots that were within Legacy Square 7 storage areas to be located a minimum 30 Shopping Center. We'll address this in more 8 feet from any street or property line and 10 detail later. 9 feet from any internal property line, I'm going to have three 10 whereas the proposed trash enclosure does witnesses I'm going to present, Brad Kern, architecture; Brad Thompson, Bohler 11 not comply. Sign location - Ordinance Engineering; Kate Keller, Planner. 12 Section 31-11.8.f.3(a) which limits the use We are in receipt of reports 14 of individually-mounted letters for wall from the Board's professionals, a letter mounted signs to the fronts of stores, from Klein report dated August 3, 2020; Mr. whereas the application is seeking to have Ricci's letter report dated September 3, those signs on the side of the proposed 2020; Mr. Pantina's report dated September 4, 2020, and Fire Bureau Report dated August 18 building. Variance for sign size/area, 26, 2020, Fire Department. 19 20 Ordinance Section 31-11.8.f.3(d)(1) which We can comply with all with the 20 21 limits the permitted wall sign area to two exception of one issue, Mr. Rinaldo's 22 square feet of sign area for each linear preference, I want to address that now. 22 23 foot of wall to which the sign is to be Mr. Pantina identified in his 23 24 report an issue with the lot line. This 24 mounted, which would permit a sign area of 25 74 square feet on the south side of the 25 came up during TRC. There's an issue, Mr.

Page 6 Page 8

1 proposed buildig, whereas a sign area of 74.4 square feet is proposed. We also need a variance for

4 signage for upper case letter size.

5 Ordinance 31-11.8.f.3(d)(4), which limits

6 the letter height of a sign message area to 36 inches for upper case letters, and we are

8 requesting relief for 37.5 inch upper case

9 letters.

We are seeking a variance for 10 11 drive-thru landscaped island - Ordinance 12 Section 31-19.8.1, which requires 3 foot to 5 foot landscaped islands between drive-thru

14 lanes and parking areas. We are not

complying with that. 15

(6) Drive Aisle Width -16

Ordinance Section 31-27.7 and 27.8 requires

an interior one-way aisle width for parking

19 areas of 15 feet and 12 feet, respectfully,

whereas an aisle width of 10 feet is

21 proposed.

Parking Area Setback -22

23 Ordinance Section 31.27.7, which requires a

24 minimum off-street parking setback to side

25 and rear property lines of 3 feet, whereas

1 Pantina raised an issue with regard to the

2 northern lot line plan right lot line of

Freddy's. 3

If you look at it, if my

engineer comes up, he will show better. For

the purposes of this discussion, the issue

is Freddy's lot, the parking area you need

to go from Freddy's lot onto the adjacent

lot, and then onto the internal driveway to

get out to the public right-of-way.

When we were before this Board 11 late last year, earlier this year for major

subdivision approval, we got variance relief

all the lots along Route 1 and 9 were

landlocked, and we represented to the Board

that we would have appropriate easements in

place that would allow sufficient access

from these landlocked lots to the public

right-of-way. 19

Based on that subdivision 20

approval, we then entered into a lease with

Freddy's for the lot line to be where it is.

We now have an issue we can't

24 move the lot line. From our perspective, we

25 have gotten approval for the lot to be

Page 11 Page 9 1 landlocked and for the appropriate easement 1 particular case, rather than you calling 2 to be put in place to get us from that lot 2 your witnesses first, I'm going to call my 3 out to the public right-of-way. It's my understanding that Mr. Armand Fiorletti is 5 Pantina's report, I believe, takes the Vice-Chairman of this Board. He's got a 6 position of Mr. Pantina is that because we planner's license, a PE extraordinare, an 7 didn't show an easement from Freddy's onto L.S., and he's beyond the curve. He's going 8 the adjacent landlock to get to the internal 8 to tell you everything you just said is 9 roadway, that that's somehow an issue. accurate, including the second point. He's My response would be, first of going to tell you why you need that 10 11 all, I have a couple points I want to make, easement. 11 MR. FIORLETTI: The easement 12 we have represented that we will have the 12 13 appropriate easements in place to get from should, number one, the Board subdivided a 14 those landlocked lots out to the public piece of property. They expect the site 15 right-of-way. As you know, that plat hasn't plan to stay within the property as is and 16 been perfected and is still being reviewed has to be subdivided. In other words, by the Board and its professionals in Freddy's lot, we expect development of compliance review. Freddy's lot in its entirety would be To the extent that something contained within the lot that we subdivided 19 20 needs to be shown on that plan to satisfy for Freddy. 20 21 the Board, to everybody's satisfaction, as a The lotting map should show the 21 22 condition of this approval, we will be happy easement as part of the subdivision. And in 23 to show that something on the plat report. New Jersey, you can't convey anything 24 I will represent this. I will make this without Planning Board approval and some 25 statement. 25 kind of a legal document to show the

> Page 10 Page 12

2 Jersey, there are two ways an easement can 3 be obtained, one, put the easement on the 4 plat and then record the plat. The other way it is created is 6 by an instrument recorded in title. If you 7 go back to look at the plat submitted to 8 your professional by the Board, the internal 9 roadway easement, that those lots need to 10 get out to the public right-of-way were not 11 shown on the plat. They was it was going to So we are more than happy to

As a matter of law of New

12 be handled, it was going to be done by 13 instrument. 14 15 represent as a condition of this approval 16 that we'll put a note on the plat. I don't think we need to show metes and bounds of the individual easements on the plat. It's 19 established by separate instrument. That 20 instrument can be reviewed by the Board's professionals for subdivision approval, and 22 if you grant this approval, it's a condition 23 and we believe that would satisfy the

MR. PANTINA: John, in this

1 easement in a public way. That would be putting the easement on the lotting map to show Freddy. In other words, what you're doing with Freddy's property is putting five pounds in a one pound bag. In other words, the development within Freddy's property is 8 incomplete. MR. MICHALSKI: Can I ask you this then? When we got subdivision approval, why wasn't one of the requirements of that approval that we provide the plat to 13 show the internal driveway easement? MR. FIORLETTI: We didn't know what you were going to do. 15 MR. MICHALSKI: You did. I'm 16 sorry, I disagree. We represented that to 17 the Board. 18 MR. FIORLETTI: You would have 19 20 had that on that map. 21 MR. MICHALSKI. We did. We represented that taht was going to be 22 established by an instrument. We have an approval resolution that supports that. 24 MR. FIORLETTI: On the lotting

25

24 Board's concern.

25

Page 15 Page 13 1 map is a public document, you can convey the Tony, the question at the end 2 easement to Freddy's. 2 is if he puts an easement on the current MR. MICHALSKI: In New Jersey 3 plan, and he modifies this map, can we do 4 you can establish easement rights without a this administratively? 5 recorded plat. This is the problem I'm MR. MICHALSKI: It's obviusly 6 having. You can establish an easement by a Tony's call, I would say I believe it could 7 legal istrument. be done that way. We have already There's two ways to create an represented to you as the prior subdivision 9 easement, one on a recorded plat, the other approval that easement was going to be in 10 by a separate legal instrument. place. Our contemplation was there would be This is what we represented to a instrument, and the back end of that 11 12 the Board back in January. The Board instrument would be a plan that would show agreed, they signed the resolution, granted where the easement was from a legal approval. description. If you're saying, John, we don't want the instrument, we want it shown 15 If you want it shown, let's do 16 the appropriate resolution of this issue be on the plat, I think it's more an that we simply add a notation to the plat to administrative issue, instead of giving you show the easement? the easement to review, we'll show it MR. PANTINA: How hard is it to directly on the plat. 19 MR. FIORLETTI: We didn't know 20 put the easement on this plat? Cut it 20 short. I'm not a lawyer. that at the time. 21 MR. MICHALSKI: On the current MR. RINALDO: John, I don't 22 22 23 map that we are looking at? recall that being addressed at that prior 23 MR. FIORLETTI: It affects the meeting. I looked at my notes, I take 24 25 lot. 25 notes.

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3 obviously, we're not going to look now, we

we can look at the transcript later,

MR. MICHALSKI: I can tell you,

2 modify that lot. I'm not asking you to give 3 up land. I'm not asking you to give up 4 financial burden on other people's land 5 either. I'm just asking you to show an 6 easement. I'm not the lawyer. I'm not the 7 L.S. To show that on these plans to 8 9 get this moving. MR. MICHALSKI: Could we make 10 11 it a condition, if you were to approve the 12 Freddy's, can we make it a condition that as part of the compliance review, you're going 14 for the subdivision plat, that we just show the easement on that plat before you give a final sign-off and that approval of subdivision is then recorded? 17 MR. PANTINA: You can't say, 18 19 John, that the plan I have in front of me on

20 the table is the plan that I was supposed to

sheets, zoning map and subdivision of lines,no driveways, just a subdivision of land.

21 sign off as far as the resolution of

22 compliance March of 2020. It's three

MR. PANTINA: Then go back and

got variance relief for the fact those lots were landlocked. The only way the Board would have granted those variances is with the condition there were going to be easements in place. Otherwise the land is landlocked. MR. RINALDO: All that being 10 said, I had this discussion with Mr. Fiorletti and Mr. Pantina, I'm not sure if Paul was there, and I agree with you that we could make it, I believe that you can do it by way of a condition to have that done based upon the fact that it's unclear whether or not he would need a full-blown subdivison plan showing an easement. 18 I don't vote but my recommendation would be that you move forward to the Board, it's up to them to decide it. Follow my thinking. Maybe administrative hearing, whatever it is, and you have to provide us with an easement on

25 the plat, and you're going to have to record

25 Period, end of story.

				September 6, 202	_
		Page 17		Page 19	)
_	an easement. Right?		1	MR. MICHALSKI: Correct.	
	MR. PANTINA: John, I know this				
2			2	MR. RINALDO: What do you need	
	is what we're going to do, since these			from Bohler, Mr. Thompson, anything on the	
	plans, you can see I didn't sign them off			record?	
	yet, you're going to send me a new		5	MR. MICHALSKI: Actually, I	
	resolution of compliance plan with the			need to start with Brad, the architect.	
	easement on it and the note, whatever note			He's got to put something on the record with	
	you want to make it, meanwhile, when you			the design compliance. Then if Brad gives a	
9	send these in for resolution compliance,		9	two minute overview, I could go right to the	
10	it's going to have easements on it as well.		10	planner.	
11	Everybody is happy.		11	Brad Kern.	
12	We're going to talk about the		12		
13	letters. Do you agree to that?		13	BRAD KERN, having been duly sworn by	
14	MR. MICHALSKI: Yes.			the officer, testified as follows:	
15	MR. PANTINA: We're going to		15	,	
	talk about the reports. Everybody is going			DIRECT EXAMNATION BY MR. MICHALSKI:	
	to go home smiling.		17		
18	MR. MICHALSKI: With regard to		18	Q. Brad, give the Board your	
	the reports, there's nothing to talk about,		19	qualififications.	
	1 11 11 1 2 2 2 1			A. Brad Kern with MMA Architects,	
20	MR. PANTINA: Took the words		20	3297 Route 66, Neptune City, New Jersey. I	
21			21		
	out of my mouth.		22	testified in front of this Board before.	
23	We have gotten reports, we sent		23	I'm a licensed architect in the	
	out, got a bunch of revisions in the last		24	State of New Jersey and have worked in	
25	couple days, exhibits that you sent through.		25	commercial construction for over 10 years.	
		Page 18		Page 20	)
1	They're on the website	Page 18	1		)
	They're on the website.	Page 18	1	Qualifications.	)
2	As far as reports go, you have	Page 18	2	Qualifications. Q. Can you give Brad Thompson	)
2	As far as reports go, you have the engineering report, September 4, Ricci's	Page 18	2	Qualifications.  Q. Can you give Brad Thompson control so he can throw up Exhibit A-1 for	)
2 3 4	As far as reports go, you have the engineering report, September 4, Ricci's report dated September 3, Klein's report	Page 18	2 3 4	Qualifications.  Q. Can you give Brad Thompson control so he can throw up Exhibit A-1 for us?	)
2 3 4 5	As far as reports go, you have the engineering report, September 4, Ricci's report dated September 3, Klein's report dated August 3rd, and probably a fire	Page 18	2 3 4 5	Qualifications.  Q. Can you give Brad Thompson control so he can throw up Exhibit A-1 for us?  We'll mark this A-1, Rendering	1
2 3 4 5	As far as reports go, you have the engineering report, September 4, Ricci's report dated September 3, Klein's report dated August 3rd, and probably a fire report, I'm not sure.	Page 18	2 3 4 5 6	Qualifications. Q. Can you give Brad Thompson control so he can throw up Exhibit A-1 for us? We'll mark this A-1, Rendering Perspective colored.	)
2 3 4 5 6 7	As far as reports go, you have the engineering report, September 4, Ricci's report dated September 3, Klein's report dated August 3rd, and probably a fire report, I'm not sure.  MR. MICHALSKI: Fire report	Page 18	2 3 4 5	Qualifications. Q. Can you give Brad Thompson control so he can throw up Exhibit A-1 for us? We'll mark this A-1, Rendering Perspective colored. Brad Kevin, give us quick	
2 3 4 5 6 7	As far as reports go, you have the engineering report, September 4, Ricci's report dated September 3, Klein's report dated August 3rd, and probably a fire report, I'm not sure.  MR. MICHALSKI: Fire report dated August 26, 2020.	Page 18	2 3 4 5 6	Qualifications. Q. Can you give Brad Thompson control so he can throw up Exhibit A-1 for us? We'll mark this A-1, Rendering Perspective colored. Brad Kevin, give us quick testimony how this meshes with the	
2 3 4 5 6 7 8 9	As far as reports go, you have the engineering report, September 4, Ricci's report dated September 3, Klein's report dated August 3rd, and probably a fire report, I'm not sure.  MR. MICHALSKI: Fire report dated August 26, 2020.  MR. PANTINA: We have the fire	Page 18	2 3 4 5 6 7	Qualifications.  Q. Can you give Brad Thompson control so he can throw up Exhibit A-1 for us?  We'll mark this A-1, Rendering Perspective colored.  Brad Kevin, give us quick testimony how this meshes with the established design themes?	
2 3 4 5 6 7 8 9	As far as reports go, you have the engineering report, September 4, Ricci's report dated September 3, Klein's report dated August 3rd, and probably a fire report, I'm not sure.  MR. MICHALSKI: Fire report dated August 26, 2020.  MR. PANTINA: We have the fire report. Did we have the Stormwater	Page 18	2 3 4 5 6 7 8	Qualifications.  Q. Can you give Brad Thompson control so he can throw up Exhibit A-1 for us?  We'll mark this A-1, Rendering Perspective colored.  Brad Kevin, give us quick testimony how this meshes with the established design themes?  A. Sure. Just to start off, I	
2 3 4 5 6 7 8 9	As far as reports go, you have the engineering report, September 4, Ricci's report dated September 3, Klein's report dated August 3rd, and probably a fire report, I'm not sure.  MR. MICHALSKI: Fire report dated August 26, 2020.  MR. PANTINA: We have the fire report. Did we have the Stormwater Management Report, Paul?	Page 18	2 3 4 5 6 7 8 9	Qualifications. Q. Can you give Brad Thompson control so he can throw up Exhibit A-1 for us? We'll mark this A-1, Rendering Perspective colored. Brad Kevin, give us quick testimony how this meshes with the established design themes? A. Sure. Just to start off, I represent the applicant Linden Development	1
2 3 4 5 6 7 8 9	As far as reports go, you have the engineering report, September 4, Ricci's report dated September 3, Klein's report dated August 3rd, and probably a fire report, I'm not sure.  MR. MICHALSKI: Fire report dated August 26, 2020.  MR. PANTINA: We have the fire report. Did we have the Stormwater	Page 18	2 3 4 5 6 7 8 9	Qualifications.  Q. Can you give Brad Thompson control so he can throw up Exhibit A-1 for us?  We'll mark this A-1, Rendering Perspective colored.  Brad Kevin, give us quick testimony how this meshes with the established design themes?  A. Sure. Just to start off, I	,
2 3 4 5 6 7 8 9 10 11	As far as reports go, you have the engineering report, September 4, Ricci's report dated September 3, Klein's report dated August 3rd, and probably a fire report, I'm not sure.  MR. MICHALSKI: Fire report dated August 26, 2020.  MR. PANTINA: We have the fire report. Did we have the Stormwater Management Report, Paul?	Page 18	2 3 4 5 6 7 8 9 10	Qualifications. Q. Can you give Brad Thompson control so he can throw up Exhibit A-1 for us? We'll mark this A-1, Rendering Perspective colored. Brad Kevin, give us quick testimony how this meshes with the established design themes? A. Sure. Just to start off, I represent the applicant Linden Development	•
2 3 4 5 6 7 8 9 10 11	As far as reports go, you have the engineering report, September 4, Ricci's report dated September 3, Klein's report dated August 3rd, and probably a fire report, I'm not sure.  MR. MICHALSKI: Fire report dated August 26, 2020.  MR. PANTINA: We have the fire report. Did we have the Stormwater Management Report, Paul?  MR. RINALDO: Yes, we do.	Page 18	2 3 4 5 6 7 8 9 10 11	Qualifications. Q. Can you give Brad Thompson control so he can throw up Exhibit A-1 for us? We'll mark this A-1, Rendering Perspective colored. Brad Kevin, give us quick testimony how this meshes with the established design themes? A. Sure. Just to start off, I represent the applicant Linden Development as the architect for the overall development	1
2 3 4 5 6 7 8 9 10 11 12 13 14	As far as reports go, you have the engineering report, September 4, Ricci's report dated September 3, Klein's report dated August 3rd, and probably a fire report, I'm not sure.  MR. MICHALSKI: Fire report dated August 26, 2020.  MR. PANTINA: We have the fire report. Did we have the Stormwater Management Report, Paul?  MR. RINALDO: Yes, we do. Ours.  MR. RICCI: Stormwater was	Page 18	2 3 4 5 6 7 8 9 10 11 12 13	Qualifications.  Q. Can you give Brad Thompson control so he can throw up Exhibit A-1 for us?  We'll mark this A-1, Rendering Perspective colored.  Brad Kevin, give us quick testimony how this meshes with the established design themes?  A. Sure. Just to start off, I represent the applicant Linden Development as the architect for the overall development of Legacy Square project. I reviewed the exterior elevation design and the exterior	1
2 3 4 5 6 7 8 9 10 11 12 13 14	As far as reports go, you have the engineering report, September 4, Ricci's report dated September 3, Klein's report dated August 3rd, and probably a fire report, I'm not sure.  MR. MICHALSKI: Fire report dated August 26, 2020.  MR. PANTINA: We have the fire report. Did we have the Stormwater Management Report, Paul?  MR. RINALDO: Yes, we do. Ours.  MR. RICCI: Stormwater was originally approved in the application.	Page 18	2 3 4 5 6 7 8 9 10 11 12 13 14	Qualifications.  Q. Can you give Brad Thompson control so he can throw up Exhibit A-1 for us?  We'll mark this A-1, Rendering Perspective colored.  Brad Kevin, give us quick testimony how this meshes with the established design themes?  A. Sure. Just to start off, I represent the applicant Linden Development as the architect for the overall development of Legacy Square project. I reviewed the exterior elevation design and the exterior proposed materials are brick, eifs,	,
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	As far as reports go, you have the engineering report, September 4, Ricci's report dated September 3, Klein's report dated August 3rd, and probably a fire report, I'm not sure.  MR. MICHALSKI: Fire report dated August 26, 2020.  MR. PANTINA: We have the fire report. Did we have the Stormwater Management Report, Paul?  MR. RINALDO: Yes, we do. Ours.  MR. RICCI: Stormwater was originally approved in the application.  MR. PANTINA: Might have been	Page 18	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	Qualifications. Q. Can you give Brad Thompson control so he can throw up Exhibit A-1 for us? We'll mark this A-1, Rendering Perspective colored. Brad Kevin, give us quick testimony how this meshes with the established design themes? A. Sure. Just to start off, I represent the applicant Linden Development as the architect for the overall development of Legacy Square project. I reviewed the exterior elevation design and the exterior proposed materials are brick, eifs, storefront glazing, all primary materials	
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	As far as reports go, you have the engineering report, September 4, Ricci's report dated September 3, Klein's report dated August 3rd, and probably a fire report, I'm not sure.  MR. MICHALSKI: Fire report dated August 26, 2020.  MR. PANTINA: We have the fire report. Did we have the Stormwater Management Report, Paul?  MR. RINALDO: Yes, we do.  Ours.  MR. RICCI: Stormwater was originally approved in the application.  MR. PANTINA: Might have been approved with the whole site.	Page 18	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	Qualifications. Q. Can you give Brad Thompson control so he can throw up Exhibit A-1 for us? We'll mark this A-1, Rendering Perspective colored. Brad Kevin, give us quick testimony how this meshes with the established design themes? A. Sure. Just to start off, I represent the applicant Linden Development as the architect for the overall development of Legacy Square project. I reviewed the exterior elevation design and the exterior proposed materials are brick, eifs, storefront glazing, all primary materials that are used throughout the building in	
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	As far as reports go, you have the engineering report, September 4, Ricci's report dated September 3, Klein's report dated August 3rd, and probably a fire report, I'm not sure.  MR. MICHALSKI: Fire report dated August 26, 2020.  MR. PANTINA: We have the fire report. Did we have the Stormwater Management Report, Paul?  MR. RINALDO: Yes, we do. Ours.  MR. RICCI: Stormwater was originally approved in the application.  MR. PANTINA: Might have been approved with the whole site.  MR. MICHALSKI: Yes.	Page 18	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	Qualifications. Q. Can you give Brad Thompson control so he can throw up Exhibit A-1 for us? We'll mark this A-1, Rendering Perspective colored. Brad Kevin, give us quick testimony how this meshes with the established design themes? A. Sure. Just to start off, I represent the applicant Linden Development as the architect for the overall development of Legacy Square project. I reviewed the exterior elevation design and the exterior proposed materials are brick, eifs, storefront glazing, all primary materials that are used throughout the building in Legacy Square, so they are overall	
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	As far as reports go, you have the engineering report, September 4, Ricci's report dated September 3, Klein's report dated August 3rd, and probably a fire report, I'm not sure.  MR. MICHALSKI: Fire report dated August 26, 2020.  MR. PANTINA: We have the fire report. Did we have the Stormwater Management Report, Paul?  MR. RINALDO: Yes, we do. Ours.  MR. RICCI: Stormwater was originally approved in the application.  MR. PANTINA: Might have been approved with the whole site.  MR. MICHALSKI: Yes.  MR. PANTINA: You have no	Page 18	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	Qualifications.  Q. Can you give Brad Thompson control so he can throw up Exhibit A-1 for us?  We'll mark this A-1, Rendering Perspective colored.  Brad Kevin, give us quick testimony how this meshes with the established design themes?  A. Sure. Just to start off, I represent the applicant Linden Development as the architect for the overall development of Legacy Square project. I reviewed the exterior elevation design and the exterior proposed materials are brick, eifs, storefront glazing, all primary materials that are used throughout the building in Legacy Square, so they are overall consistent in that manner.	
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	As far as reports go, you have the engineering report, September 4, Ricci's report dated September 3, Klein's report dated August 3rd, and probably a fire report, I'm not sure.  MR. MICHALSKI: Fire report dated August 26, 2020.  MR. PANTINA: We have the fire report. Did we have the Stormwater Management Report, Paul?  MR. RINALDO: Yes, we do.  Ours.  MR. RICCI: Stormwater was originally approved in the application.  MR. PANTINA: Might have been approved with the whole site.  MR. MICHALSKI: Yes.  MR. PANTINA: You have no problems, conflict with our reports?	Page 18	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	Qualifications.  Q. Can you give Brad Thompson control so he can throw up Exhibit A-1 for us?  We'll mark this A-1, Rendering Perspective colored.  Brad Kevin, give us quick testimony how this meshes with the established design themes?  A. Sure. Just to start off, I represent the applicant Linden Development as the architect for the overall development of Legacy Square project. I reviewed the exterior elevation design and the exterior proposed materials are brick, eifs, storefront glazing, all primary materials that are used throughout the building in Legacy Square, so they are overall consistent in that manner.  In general, reviewing the	
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	As far as reports go, you have the engineering report, September 4, Ricci's report dated September 3, Klein's report dated August 3rd, and probably a fire report, I'm not sure.  MR. MICHALSKI: Fire report dated August 26, 2020.  MR. PANTINA: We have the fire report. Did we have the Stormwater Management Report, Paul?  MR. RINALDO: Yes, we do.  Ours.  MR. RICCI: Stormwater was originally approved in the application.  MR. PANTINA: Might have been approved with the whole site.  MR. MICHALSKI: Yes.  MR. PANTINA: You have no problems, conflict with our reports?  MR. MICHALSKI: Correct,	Page 18	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	Qualifications.  Q. Can you give Brad Thompson control so he can throw up Exhibit A-1 for us?  We'll mark this A-1, Rendering Perspective colored.  Brad Kevin, give us quick testimony how this meshes with the established design themes?  A. Sure. Just to start off, I represent the applicant Linden Development as the architect for the overall development of Legacy Square project. I reviewed the exterior elevation design and the exterior proposed materials are brick, eifs, storefront glazing, all primary materials that are used throughout the building in Legacy Square, so they are overall consistent in that manner.  In general, reviewing the exterior elevation design, the materials,	
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	As far as reports go, you have the engineering report, September 4, Ricci's report dated September 3, Klein's report dated August 3rd, and probably a fire report, I'm not sure.  MR. MICHALSKI: Fire report dated August 26, 2020.  MR. PANTINA: We have the fire report. Did we have the Stormwater Management Report, Paul?  MR. RINALDO: Yes, we do.  Ours.  MR. RICCI: Stormwater was originally approved in the application.  MR. PANTINA: Might have been approved with the whole site.  MR. MICHALSKI: Yes.  MR. PANTINA: You have no problems, conflict with our reports?  MR. MICHALSKI: Correct, obviusly, subject to what we just discussed.	Page 18	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	Qualifications.  Q. Can you give Brad Thompson control so he can throw up Exhibit A-1 for us?  We'll mark this A-1, Rendering Perspective colored.  Brad Kevin, give us quick testimony how this meshes with the established design themes?  A. Sure. Just to start off, I represent the applicant Linden Development as the architect for the overall development of Legacy Square project. I reviewed the exterior elevation design and the exterior proposed materials are brick, eifs, storefront glazing, all primary materials that are used throughout the building in Legacy Square, so they are overall consistent in that manner.  In general, reviewing the exterior elevation design, the materials, the masking overall design, in my opinion,	
2 3 4 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	As far as reports go, you have the engineering report, September 4, Ricci's report dated September 3, Klein's report dated August 3rd, and probably a fire report, I'm not sure.  MR. MICHALSKI: Fire report dated August 26, 2020.  MR. PANTINA: We have the fire report. Did we have the Stormwater Management Report, Paul?  MR. RINALDO: Yes, we do.  Ours.  MR. RICCI: Stormwater was originally approved in the application.  MR. PANTINA: Might have been approved with the whole site.  MR. MICHALSKI: Yes.  MR. PANTINA: You have no problems, conflict with our reports?  MR. MICHALSKI: Correct, obviusly, subject to what we just discussed.  MR. PANTINA: So do I have	Page 18	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	Qualifications.  Q. Can you give Brad Thompson control so he can throw up Exhibit A-1 for us?  We'll mark this A-1, Rendering Perspective colored.  Brad Kevin, give us quick testimony how this meshes with the established design themes?  A. Sure. Just to start off, I represent the applicant Linden Development as the architect for the overall development of Legacy Square project. I reviewed the exterior elevation design and the exterior proposed materials are brick, eifs, storefront glazing, all primary materials that are used throughout the building in Legacy Square, so they are overall consistent in that manner.  In general, reviewing the exterior elevation design, the materials, the masking overall design, in my opinion, is compatible with the design aesthetic of	
2 3 3 4 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	As far as reports go, you have the engineering report, September 4, Ricci's report dated September 3, Klein's report dated August 3rd, and probably a fire report, I'm not sure.  MR. MICHALSKI: Fire report dated August 26, 2020.  MR. PANTINA: We have the fire report. Did we have the Stormwater Management Report, Paul?  MR. RINALDO: Yes, we do.  Ours.  MR. RICCI: Stormwater was originally approved in the application.  MR. PANTINA: Might have been approved with the whole site.  MR. MICHALSKI: Yes.  MR. PANTINA: You have no problems, conflict with our reports?  MR. MICHALSKI: Correct, obviusly, subject to what we just discussed.  MR. PANTINA: So do I have  MR. RICCI: We have seven	Page 18	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	Qualifications.  Q. Can you give Brad Thompson control so he can throw up Exhibit A-1 for us?  We'll mark this A-1, Rendering Perspective colored.  Brad Kevin, give us quick testimony how this meshes with the established design themes?  A. Sure. Just to start off, I represent the applicant Linden Development as the architect for the overall development of Legacy Square project. I reviewed the exterior elevation design and the exterior proposed materials are brick, eifs, storefront glazing, all primary materials that are used throughout the building in Legacy Square, so they are overall consistent in that manner.  In general, reviewing the exterior elevation design, the materials, the masking overall design, in my opinion, is compatible with the design aesthetic of the overall theme of the development.	
2 3 4 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	As far as reports go, you have the engineering report, September 4, Ricci's report dated September 3, Klein's report dated August 3rd, and probably a fire report, I'm not sure.  MR. MICHALSKI: Fire report dated August 26, 2020.  MR. PANTINA: We have the fire report. Did we have the Stormwater Management Report, Paul?  MR. RINALDO: Yes, we do.  Ours.  MR. RICCI: Stormwater was originally approved in the application.  MR. PANTINA: Might have been approved with the whole site.  MR. MICHALSKI: Yes.  MR. PANTINA: You have no problems, conflict with our reports?  MR. MICHALSKI: Correct, obviusly, subject to what we just discussed.  MR. PANTINA: So do I have	Page 18	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	Qualifications.  Q. Can you give Brad Thompson control so he can throw up Exhibit A-1 for us?  We'll mark this A-1, Rendering Perspective colored.  Brad Kevin, give us quick testimony how this meshes with the established design themes?  A. Sure. Just to start off, I represent the applicant Linden Development as the architect for the overall development of Legacy Square project. I reviewed the exterior elevation design and the exterior proposed materials are brick, eifs, storefront glazing, all primary materials that are used throughout the building in Legacy Square, so they are overall consistent in that manner.  In general, reviewing the exterior elevation design, the materials, the masking overall design, in my opinion, is compatible with the design aesthetic of	

Page 23 Page 21 same materials that are seen throughout the coping, handrails and bollard color. development. This particular project allows 2 A. The bollard color is remaining 2 for accent material and accent elements red. The position is that that color will 3 3 which is very, very important to the be more visible and more noticeable to cars branding and the image of Freddy's. and traffic. You're more likely to avoid 5 5 the trash enclosure. The idea really is to I'll note the changes we have 6 6 7 made. You'll see in this rendering that's 7 keep these bollards the red color. 8 shown on exhibit A-1, we are in response to 8 In terms of the handrails, Paul Ricci's comments. I'll highlight a again I'm a little unsure which specific 9 couple changes recently made, as well as one handrails you're refering to. As you'll see 10 10 clarification just for the Board, number in the rendering, the patio is delineated by 11 11 one, compared to what was previously a railing, is a black color. 12 12 submitted, and what you're looking at in MR. RICCI: Black, correct? 13 13 this rendering changes the red color metal I'm trying to be a hundred percent clear. 14 14 coping on the building to a color that The roofline in the red I thought was a 15 15 matches the eifs cornice. little bit over the top. The trash 16 16 You'll notice the amount of red enclosure and the roofline are the major 17 17 on the top of the roofline, cornice accent changes? Correct? 18 18 has been reduced and eliminated. A. Yes. 19 19 The second change that was made MR. PANTINA: Do I have any 20 20 is the coping color of the trash enclosures. other questions from the Board members on 21 21 Again, that was changed from the red color anything that has been presented so far? 22 22 to a brown color, that more closely matches Do we have any questions from 23 23 the brick that is the material of the trash the public? Hearing none, we close it to 24 24 25 enclosure itself. 25 the public. Page 22 Page 24 The other clarification, there BRADTHOMPSON, having been duly is no red color in the window framing. sworn by the officer, testified as follows: 2 2 There was a slight misunderstanding, there 3 4 may have been a red color there, but there DIRECT EXAMINATION BY MR. MICHALSKI: is no red. 5 5 The material of the window Q. Qualifications, real quick. 6 6 7 frame is dark brown, so that's what you'll 7 A. Sure. I'm a professional see in this rendering here. That's my 8 engineer licensed since 2011. 8 evaluation of the design. MR. RINALDO: We accept. He's 9 9 Lastly, just pointing to the been here before. 10 10 signage, which will be discussed later in Q. Brad, can you just show A-2, 11 11 this application, we are requesting please to mention the two minute overview? 12 12 A. This is A-2 which is a 13 variances for the signage that's being 13 proposed, both for size and location due to renderized version of the site plan, 14 the branding and visibility of the building. colorized version of the site plan dated 15 15 Q. Despite the fact that the July 20th, 2020. North is to the right of 16 16

same, correct?

A. Yes.

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Winter Architects prepared the architectural

MR. MICHALSKI: I open up Brad

plans, you're fully familiar with the brand

and details in the plan and testified to

to the Board. Anyone has questions?

bollards, got rid of the trash enclosure

MR. RICCI: The handrails,

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on it.

the page for reference.

We kind of went through and

The proposed Freddy's building

showed a couple things. I'll touch lightly

contains 84 indoor seats, 16 outdoor with

originally submitted documents only showed

is a 2591 square feet restaurant and

the drive-thru. The drive-thru in our

Page 27 Page 25 the car in one lane. At the request of 1 Deliveries was another thing I Board's professionals, we showed what both 2 wanted to touch on, basically, the site was 2 lanes would look like as well as stacking modeled using a SU-30 truck through the 3 3 fourteen cars in this configuration, nine 4 site, a single unit truck with thirty foot are between the menu boards and the wheel base and that truck was the 5 5 drive-thru window. controlling one, because it actually has a 6 6 7 Freddy's moves one car per 7 larger turning radius than an articulating minute, they see about 12.5 cars per hour so 8 truck like a WB-40 rather, so we modeled the 8 this amount of queuing is adequate. WB-42 foot turning radius, they both worked 9 9 The impervious coverage is through the site, they're pretty typical 10 10 being reduced on the site to 78 percent, sizes. It's what some of the other uses in 11 11 it's actually 78.08 where 90 percent is Linden are using, and it makes sense, taken 12 12 allowed. into account the design. 13 13 We comply with all the other One of the things, Nick, you 14 14 bulk requirements. We are requesting a had mentioned in your letter about the 15 15 couple variances related to the design, dumpster and the trash enclosure. We're 16 16 parking spaces 38 included where 18 are going to put springs on the doors so they 17 17 18 required by ordinance, based on the one 18 remain closed, not a door opening up space per 150 square feet for eating and blocking the drive-thru. 19 19 drinking establishments. The architect testified how the 20 20 We are requesting a variance dumpster will match the facade. We are 21 21 for the parking setback to where three feet proposing six pole mounted light fixtures, 22 22 is required and zero feet is provided along four of which are on the double fixtures, 23 23 with the northern property line. two other ones to basically hlep light the 24 24 25 You can see that between this 25 site, wall-mounted fixtues, nine of which Page 26 Page 28 use and the adjacent use. The idea behind are Freddy's gooseneck fixtures and one the parking spaces, it's not going to be for wall-pack on the western side to light the 2 the Freddy's. We note that in the diamond 3 drive-thru area. 3 4 shape. We are building those to help 4 Landscaping, we got two trees, 155 total new plantings, 122 shrubs which is provide the access we talked about. 5 5 Operations, cars come into the kind of abundant considering the layout. 6 6 7 site, queue up after making a couple rights 7 Then stormwater connecting to the system up here, come down through the site and enter in the common roadway, standard pipings and 8 8 9 the parking field, or if the drive-thru gets 9 full and they want to come in this way, they Q. Where would the easement be 10 10 can. Cars can still head or leave through established? 11 11 12 that area. This is a really thought-out 12 A. Between the northern property 13 with Freddy's use kind of how they see it 13 line and it goes about, twenty foot space, being used, good design there. twenty-seven foot aisle, so that easement 14 I think just a couple randum will be here, rectangular shape. 15 15 things, hours of operation on this site, MR. MICHALSKI: Thank you. 16 16 10:30 A.M. to 10 P.M. With that, I open Brad Thompson 17 17 The variances he's talking up to the Board if they have any questions. 18 18 about, technically, the bypass lane is MR. RINALDO: Mr. Klein, any 19 19 20 supposed to have a five foot landscape lane questions? 20 and we don't provide that to allow cars to 21 MR. KLEIN: I think not, I 21 bail out. We are requesting a variance for think he got everything in his testimony. 22 22 the ten feet instead of fifteen required, 23 MR. RINALDO: Any other that is in between two menu boards, when you members, Board or professional staff?

have a split drive.

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MR. PANTINA: Other than the

Page 31 Page 29 fact we went over they will comply with line for both the trash enclosure, which is everything in the letters plus the easement 2 5.2 feet from the top of the screen property 2 we talked about on this plan and our plan, line where ten feet is required. 3 3 I'm good. 4 The parking area did not have a setback where three feet is required. Anybody from the public? 5 5 Hearing none, do you have 6 Finally, the last two variance 6 7 anything else, John. 7 related to not providing a landscaped island 8 MR. MICHALSKI: Just our 8 between the drive-thru and other parking planner who will be very brief, putting on circulation areas where one is required. 9 the proof for the variances. We're requesting a variance to 10 10 allow drive aisle circulation throught the 11 11 drive-thru to measure ten feet where fifteen KATE KELLER, having been duly 12 12 sworn by the officer, testified as follows: feet is required. 13 13 It sounds like a lot, but it's 14 14 15 DIRECT EXAMINATION BY MR. MICHALSKI: generally de minimis in nature. Most are 15 related to the internal subdivision lines 16 16 O. Kate, give the Board your and just the desire to have a safe layout 17 17 qualifications. 18 18 that functions properly. A. I'm a principal at the firm of Q. Briefly, go through the 19 19 Phillips, Preiss, Grygiel, Leheny, Hughes purposes advanced by the sign variances. 20 20 based in Hoboken. I'm a professional 21 A. With regard to the sign 21 planner in the State of New Jersey and have variances, these are advanced: Purposes A 22 22 been for about six years and my license is and G in terms of faciliating appropriate 23 23 in good standing. site design, it also allows for appropriate 24 24 25 I have been accepted as an 25 location for commercial property in a Page 30 Page 32 expert witness in about 20, 25 boards around highway development district; also Purpose H which encourages the free flow of traffic. the state. 2 2 MR. RINALDO: We accept your To say that I believe the site 3 3 4 qualifications. 4 design with the signage and the way the Just walk the Board through the architecture has been tweaked the better 5 O. 5 variances. meld with the rest of the development, and 6 6 7 A. Sure. Most of these have been 7 also Purpose I. mentioned in the previous testimony. We are Q. What purposes are advanced for 8 8 requesting seven variances, three sign the trash unloading setback variances? 9 9 variances, to permit individual mounted A. Sure. I believe all these 10 10 lettering on the side which would be the variances can be granted under the C-2 11 11 south side of the buildng. We're, 12 12 criteria, these purposes will outweigh any 13 technically, only permitted on the front of 13 detriments. stores; to permit upper case letters in the With regard to the setbacks 14 14 with the trash enclosure and the parking, 15 signage, thirty-seven, we are thirty-six 15 16 maximum permitted by ordinance, wall sign this is the result generally of the internal 16 facing 1 and 9 is proposed to measure 74.4 subdivision line discussed tonight. I think 17 17 feet, 74 would be the maximum permitted on this advances, this is a Planned Unit 18 18 the calculations. Development. 19 19 20 These variances are pretty much 20 This is a site that will de minimis in nature and related to just the 21 function cohesively and also Purpose G, to 21 size of the store branding the company is provide sufficient space for a variety of 22 22 23 looking for. 23 uses, including commercial uses because of These two were touched on, we the way that this allows the site to be 24 24

need setback variances from the property

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optimately designed and function as a whole.

	Dama 22		September 6, 20.	
	Page 33		Page 3	35
1	Q. With regard to the drive aisle	1	they have adequate parking.	
2	width, there are variances and purposes	2	MR. PANTINA: Is "happy" a	
3	advanced for those two as well?	3	legal definition?	
4	A. Sure. These are both design	4	Are you satisfied with your	
5	drive-thru safely which means plenty of	5	comments?	
6	stacking. These will advance Purpose A	6	MR. KLEIN: Yes.	
7	traffic and safety, as well as public safety	7	MR. PANTINA: No further	
8	and welfare, and will also promote the free	8	questions. Anybody else have any questions	
9	flow of traffic.	9	for the professionals? Any questions from	
10	Everything is carefully	10	the public?	
11	considered from our engineering testimony to	11	We close the hearing.	
12	allow cars to access to the site.	12	Do I have a motion to move on	
13	Q. Purpose H?	13	this application in one way or another?	
14	A. Yes.	14	MR. JAVICK: I have a motion to	
			move this application.	
15	Q. Can you sum up the negative criteria?	15 16	MR. RINALDO: With the	
16				
17	A. Sure. Essentially, that there will not be substantial detriment to the	17	conditions that we set forth including	
18		18	easements.  MR. LaPLACA: Second.	
19	public good, there's no adjacent residential	19		
20	uses, the reduced setbacks will not be	20	MR. PANTINA: We have a motion	
21	impacting neighboring properties because of	21	to approve the application with the	
22	the internal subdivision line. Landscaping	22	variances as stated and with the conditions	
23	is proposed, a significant amount throughout	23	with regard to the easement on this plan and	
24	the site that will mitigate a smaller	24	also on the previous subdivision plats that	
25	setback of the trash enclosure and just	25	will also be provided and we have a second	
	Page 34		Page 3	36
1	-	1	_	36
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Page 37  CERTIFICATE  I, M. VIRGINIA GUINTA, a Certified  Court Reporter of the State of New Jersey, dehereby certify that the foregoing is a true and accurate transcript of proceedings had in this matter.  M. VIRGINIA GINTA, C.C.R. License No. 30X100038100  License No. 30X100038100				
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