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COUNCIL OF THE CITY OF PHILADELPHIA
COMMITTEE ON RULES

- - -

Room 400, City Hall
Philadelphia, Pennsylvania
Wednesday, December 8, 2010, 10:19 p.m.

- - -

BILL 100079 - Amending Title 14 of the Philadelphia Code, entitled "Zoning and Planning," by adding a Subsection 14-1640, entitled "Ridge Avenue Special District Controls," under certain terms and conditions.

BILL 100753 - Amending Philadelphia Zoning Maps by changing zoning designations of certain areas of land located within area bounded by E. Moreland Avenue, Winston Street, E. Mermaid Lane, and Germantown Avenue.

BILL 100784 - Amending Philadelphia Zoning Maps by changing the zoning designations of certain areas of land located within an area bounded by Eighth Street, Somerset Street, Seventh Street, and Lehigh Avenue.

COMMITTEE MEMBERS PRESENT:

Anna C. Verna, Chair W. Wilson Goode, Jr.
Blondell Reynolds Brown William K. Greenlee
Darrell L. Clarke Jack Kelly
Frank DiCicco Donna Reed Miller

Also Present: Councilman Frank Rizzo

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1 12.8.10 - RULES - Bill No. 100079

2 COUNCIL PRESIDENT VERNA: Good
3 morning, everyone. This is a public
4 hearing of the Committee on Rules. I
5 would ask the clerk to please read the
6 title of Bill No. 100079.

7 THE CLERK: Bill No. 100079, an
8 ordinance amending Title 14 of the
9 Philadelphia Code, entitled "Zoning and
10 Planning," by adding a Subsection
11 14-1640, entitled "Ridge Avenue Special
12 District Controls," under certain terms
13 and conditions.

14 (Witness comes forward.)

15 COUNCIL PRESIDENT VERNA: Good
16 morning. Please identify yourself for
17 the record and proceed with your
18 testimony.

19 (Witness comes forward.)

20 MR. KRAMER: Good morning,
21 Council President Verna and members of
22 the Rules Committee.

23 I am William Kramer, Division
24 Director of the Development Division of
25 the Philadelphia City Planning

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2 Commission, and I am here today to
3 testify on Bill No. 100079, which was
4 introduced into City Council on February
5 12, 2010.

6 Bill No. 100079 amends the
7 Philadelphia Zoning Code by creating a
8 new zoning overlay entitled, "The Ridge
9 Avenue Special District Controls," which
10 will place new land use height, façade,
11 and signage controls for only those
12 properties zoned C2-Commercial that have
13 on Ridge Avenue between Hermitage Street
14 and Monastery Avenue.

15 Bill No. 100079 creates use
16 restrictions in this district. They
17 include certain auto-related uses as well
18 as temporary employment agencies,
19 warehouses, and wholesale showrooms which
20 will be prohibited in the Ridge Avenue
21 Special District Controls area.

22 Additionally, in an effort to
23 permit only active uses on the ground
24 floor only, certain uses are prohibited
25 on the ground floor only, including

1 12.8.10 - RULES - Bill No. 100079

2 professional offices, funeral parlors,
3 laboratories, personal service or
4 treatment of patients, radio or
5 television studios, and certain utilities

6 The new district establishes
7 requirements for properties affected by
8 these new controls, including an
9 8,000-square-foot limitation on the
10 amount of net leaseable ground area used
11 for commercial purposes in newly erected
12 buildings. Newly erected buildings shall
13 not be less than 25 feet or more than 45
14 feet above grade.

15 New regulations permitting roof
16 structures and headhouses are created,
17 permitting such structures under certain
18 terms and conditions.

19 New landscape screening,
20 lighting, and façade provisions will be
21 added for new structures built within the
22 district.

23 New sign controls are included
24 in the bill requiring that signage must
25 be accessory to the current building use,

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2 and Art Commission approval will be
3 required for projecting signs.

4 Prohibited signs include intermittently
5 illuminated box and awning signs,
6 freestanding pole and monument signs,
7 rooftop signs, signs with intermittent
8 flashing illumination, and signs with
9 digital electronic messages

10 In order to maintain an active
11 district, vehicular access from Ridge
12 Avenue shall be prohibited, and all
13 street parking shall be permitted only
14 within the rear 50 percent of the lot
15 depth. And a parking lot having more
16 than five parking spaces must provide
17 landscaping which shall not be less than
18 15 percent of the area of the parking
19 lot.

20 The Philadelphia City Planning
21 Commission, at its meeting on March 16,
22 2010, recommended Bill No. 100079 be
23 approved.

24 That's the conclusion of my
25 testimony. If you have any questions,

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2 I'll be happy to answer them for you.

3 COUNCIL PRESIDENT VERNA: Thank
4 you.

5 The Chair recognizes Councilman
6 Jones.

7 COUNCILMAN JONES: Thank you,
8 Madam Chair.

9 The Fourth District is blessed
10 with a number of strong, viable
11 commercial corridors; one of them is
12 Ridge Avenue. In spite of a recession,
13 they've managed to grow and maintain job
14 creation.

15 They've managed to maintain a
16 persona of being one of the best small
17 towns in the City of Philadelphia. It's
18 a place where people know you. The Ridge
19 Avenue Diner and other places are
20 landmarks up there, where, almost in a
21 small-town manner, you can walk down the
22 street and still get your shoes fixed and
23 things like that.

24 This does not happen all by
25 itself; it happens with the good

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2 leadership of Bernard Guet, who has
3 been the -- who we've been blessed to
4 have as our president up there, has done
5 a yeoperson's job of holding things
6 together in spite of the economic
7 climate.

8 In order to do what he has to
9 do and maintain the quality of the
10 business association and the partnership
11 with us, but also his membership is
12 important, and he has moved the
13 boundaries a little bit to include some
14 people who actually want to be included,
15 and I'm happy that this kind of
16 forward-thinking and this kind of
17 organization exists within our district,
18 and it should be replicated around the
19 City.

20 COUNCIL PRESIDENT VERNA: Thank
21 you very much.

22 Are there any questions of
23 Mr. Kramer from members of the committee?

24 (No questions.)

25 COUNCIL PRESIDENT VERNA:

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2 Mr. Kramer, thank you very much.

3 Our next witness is the
4 Executive Director of the Roxborough
5 Development Corporation.

6 (Witness comes forward.)

7 MR. GUET: Good morning, Madam
8 President.

9 COUNCIL PRESIDENT VERNA: Good
10 morning.

11 MR. GUET: My name is Bernard
12 Guet. I'm the Executive Director for the
13 Roxborough Development Corporation.

14 Our service area is Ridge
15 Avenue from Main Street to Domino Lane.
16 Our mission is to work together with
17 local businesses and residents to support
18 economic development and promote a clean,
19 attractive, safe, and prosperous
20 community.

21 Philadelphia is a city of
22 neighborhoods, and neighborhoods are very
23 much part of the heritage of this city.
24 Already several CDCs, which are community
25 development corporations, have created

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2 Special Services Districts for their
3 commercial corridor.

4 The zoning overlays ensure that
5 the unique fabric and every
6 characteristic of each of these
7 neighborhoods is protected. Special
8 Services Districts alter the type of
9 business usage, signage, building height,
10 as Mr. Kramer mentioned just before me.

11 The creation of a special
12 district enables neighborhood commercial
13 corridors to create an engaging shopping
14 environment based on the desires of local
15 residential and business leaders.

16 The Roxborough Development
17 Corporation has commissioned Brown &
18 Keener, our associate, to develop a
19 Special Services District plan between
20 Monastery and Hermitage Street. We are
21 not talking the entire corridor; we are
22 talking a section of the corridor, which
23 is a central corridor here.

24 In 2004, the RDC developed a
25 master plan for the Roxborough Commercial

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2 Corridor and started to implement it in
3 2005. To this day, we continue to grow
4 the same consistent vision. This
5 proposal will reaffirm our master plan
6 and is consistent with our vision for
7 this section of the commercial corridors
8 to become an active, vibrant,
9 entertaining section of Roxborough.

10 For the past year-and-a-half,
11 we have worked with the Planning
12 Commission -- Mr. Kramer that just spoke
13 before me again -- and they guided us
14 with a few recommendations that were
15 implemented. It was presented to the
16 entire Planning Commission, including
17 Mr. Allen Greenberger, who favorably
18 approved it.

19 We have produced a well-
20 illustrated, easy-to-read Ridge Avenue
21 rule book to give to future developer,
22 and we have one copy for the Council if
23 needed.

24 Keeping in line with this
25 vision, we are asking City Council to

1 12.8.10 - RULES - Bill No. 100079

2 give its stamp of approval.

3 Thank you.

4 COUNCIL PRESIDENT VERNA: Thank
5 you very much.

6 Are there any questions or
7 comments of this witness?

8 (No questions.)

9 COUNCIL PRESIDENT VERNA: Thank
10 you again.

11 MR. GUET: Thank you.

12 COUNCIL PRESIDENT VERNA: Our
13 next witness is Jo Ann Desper, Roxborough
14 Development Corporation.

15 (Witness comes forward.)

16 COUNCIL PRESIDENT VERNA: Good
17 morning, welcome.

18 MS. DESPER: Good morning,
19 Madam Chair and Councilmembers. My name
20 is Jo Ann Desper. I live at 609 Hermit
21 Street, in the Roxborough area,
22 particularly in the Wissahickon area of
23 Roxborough. I'm a founding member of
24 Neighbors Enhancing Wissahickon, I'm a
25 board member of the Roxborough

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2 Development Corporation, and chair of the
3 Promotions Committee.

4 I'm here representing a lot of
5 people like myself who have put a lot of
6 time and attention into helping brand
7 Roxborough as a place for fun, family,
8 and shopping. We feel it's essential
9 that we brand Roxborough as this
10 destination for shopping and dining,
11 particularly the area that Mr. Guet spoke
12 about between Monastery Avenue and
13 Hermitage Street.

14 The master plan about which he
15 spoke has identified this section of the
16 corridor as the Neighborhood Downtown
17 Central Business District, and it serves
18 pedestrian shoppers. Many of the
19 building uses in this section of Ridge
20 Avenue are commercial, with residential
21 units located above the businesses, and
22 are situated against the sidewalk. They
23 are really geared towards having a
24 pleasant walking experience along the
25 ridge.

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2 Businesses are accessible for
3 pedestrian shoppers. We have two
4 municipal parking lots located on
5 adjacent side streets that provide 200
6 parking spaces offering free two-hour
7 parking for shoppers who come to the
8 area.

9 If the ordinance to permit the
10 Special Services District for the Ridge
11 Avenue Commercial Corridor between
12 Monastery Avenue and Hermitage Street is
13 affirmed by City Council, it will only
14 enhance the Roxborough Commercial
15 District and afford opportunities for new
16 businesses and new growth.

17 This is an opportunity for the
18 Mayor and City Council, along with the
19 Commerce Department, to continue their
20 mission to support the revitalization of
21 the Roxborough Commercial Corridor,
22 create additional jobs, and sustain the
23 local economy. We ask that you please
24 consider extending this.

25 Thank you very much for your

1 12.8.10 - RULES - Bill No. 100079

2 time.

3 COUNCIL PRESIDENT VERNA: Thank
4 you. Thank you.

5 Any questions of this witness?

6 (No questions.)

7 COUNCIL PRESIDENT VERNA:

8 Again, I thank you.

9 Do we have anyone else to
10 testify on this bill? Please come
11 forward and identify yourself for the
12 record.

13 (Witness comes forward.)

14 MR. KEENER: I'm Mark Keener of
15 Brown & Keener Urban Design. I've been
16 working with Roxborough since 2004 and am
17 one of the primary authors of this, along
18 with the Planning Commission.

19 I think one of the things, as
20 you know, all of Philadelphia de facto
21 main streets have become so over time,
22 and the orderly conversion of a road to a
23 main street, you know, takes a bit of
24 trouble, but it's done by incremental
25 investment over time. And even today,

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2 every one of those property owners are
3 investing in their properties.

4 And what this does, together
5 with the guide books that we created, it
6 provides a way that every increment of
7 investment makes Ridge Avenue a little
8 better rather than a little worse.

9 Everybody has sort of laid out what is in
10 here; Mr. Kramer was very articulate
11 about the content.

12 I could answer any questions
13 about the intention.

14 COUNCIL PRESIDENT VERNA: Does
15 anyone have any questions?

16 (No questions.)

17 COUNCIL PRESIDENT VERNA: No?

18 Thank you.

19 Do we have anyone else to
20 testify on this bill?

21 (No response.)

22 COUNCIL PRESIDENT VERNA:

23 Seeing no one, we will now consider Bill
24 No. 100784 at this point in time.

25 THE CLERK: Bill No. 100784, an

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2 ordinance to amend the Philadelphia
3 Zoning Maps by changing the zoning
4 designations of certain areas of land
5 located within an area bounded by Eighth
6 Street, Somerset Street, Seventh Street,
7 and Lehigh Avenue.

8 COUNCIL PRESIDENT VERNA:

9 Mr. Kramer?

10 MR. KRAMER: Good morning,
11 Council President Verna and members of
12 the Rules Committee. I am William
13 Kramer, Division Director of the
14 Development Division of the Philadelphia
15 City Planning Commission, and I am here
16 today to testify on Bill No. 100784,
17 which was introduced into City Council
18 November 18, 2010.

19 Bill No. 100784 will amend the
20 Philadelphia Zoning Maps by rezoning the
21 block bounded by Eighth Street, Somerset
22 Street, Seventh Street, and Lehigh Avenue
23 from an existing zoning designation of
24 R5-Residential to the proposed
25 designations of ASC-Area Shopping Center

1 12.8.10 - RULES - BILL 100784

2 and C3-Commercial.

3 This block is the site of the
4 old Edison High School, which is
5 presently vacant and is in disrepair.
6 The developers intend to subdivide the
7 block into two portions and reuse a
8 portion of the existing building for a
9 senior housing development on the one
10 parcel, approximately 61,000 square feet,
11 and demolish the structures on the other
12 parcel in order to construct a new
13 shopping center with an expected grocery
14 store of approximately 20,000 square
15 feet, some other retail uses, and pad
16 uses, possibly including a drive-through
17 restaurant.

18 The Philadelphia City Planning
19 Commission will consider Bill No. 100784
20 at its meeting of December 14, 2010, and
21 it will be presented with a staff
22 recommendation for approval.

23 That's the conclusion of my
24 testimony, and I'd be happy to answer any
25 questions you may have.

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2 COUNCIL PRESIDENT VERNA: Thank
3 you.

4 Are there any questions for
5 Mr. Kramer from members of the committee?

6 (No questions.)

7 COUNCIL PRESIDENT VERNA: Thank
8 you, Mr. Kramer.

9 Our next witness is Leslie
10 Smallwood-Lewis.

11 (Witness comes forward.)

12 MS. SMALLWOOD-LEWIS: Good
13 morning.

14 COUNCIL PRESIDENT VERNA: Good
15 morning.

16 MS. SMALLWOOD-LEWIS: My name
17 is Leslie Smallwood-Lewis, and I am one
18 of the partners of 701 West Lehigh
19 Partners, which entered into an agreement
20 of sale with the Philadelphia School
21 District on March 10, 2010, to purchase
22 the old Thomas Edison High School site,
23 located at 701 West Lehigh Avenue.

24 Joined with me today are other
25 partners of 701 West Lehigh Partners and

1 12.8.10 - RULES - BILL 100784

2 the seller of the property, the School
3 District of Philadelphia.

4 We are before you today,
5 seeking your recommendation and approval
6 for the site to be rezoned from its
7 current R-5 designation to a split
8 designation of C-3 for the rear portion
9 and area shopping center for the front
10 portion of the site, as proposed by the
11 Philadelphia City Planning Commission.

12 The Thomas Edison High School
13 has sat vacant for ten-plus years, and
14 due to its lack of use and extensive
15 vandalism, the building is blighted,
16 unsafe, and in need of demolition.

17 It is the partnership's
18 intention to demolish the school building
19 fronting Lehigh Avenue and construct a
20 new community retail shopping center. As
21 designed, the site will accommodate a
22 grocery store, two pads, and an
23 additional 12,000 square feet of retail.

24 It is also the partnership's
25 intention to retain and rehabilitate the

1 12.8.10 - RULES - BILL 100784

2 61,000-square-foot annex building
3 fronting Somerset Street into a 60+ unit
4 affordable senior housing facility, a
5 need that has been confirmed by both the
6 community and the Councilwoman's office.
7 We have conducted community meetings and
8 have been in constant communication with
9 the Councilwoman's office regarding the
10 project. The community is in support of
11 the building being demolished and the
12 site being redeveloped into community
13 retail and senior residential living.

14 Our plan for the site calls for
15 the retail center to front Lehigh Avenue,
16 which is a four-lane commercial corridor,
17 and the senior living to front Somerset,
18 which abuts the residential neighborhood.

19 Both the partnership and the
20 Councilwoman's office believe that our
21 proposed design complements and fits
22 within the fabric of the community. It
23 is anticipated that the project will
24 create 60-plus full-time-equivalent jobs
25 for community residents and 80-plus

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2 construction jobs.

3 If we are successful in
4 rezoning the site, it is the intention of
5 the partnership to purchase the site and
6 commence demolition early spring of 2011.

7 We thank you in advance for
8 your support and your yes vote for the
9 rezoning of the old Thomas Edison High
10 School site.

11 COUNCIL PRESIDENT VERNA: Thank
12 you very much.

13 Any questions from members of
14 the committee?

15 (No questions.)

16 COUNCIL PRESIDENT VERNA:
17 Seeing none, I thank you.

18 MS. SMALLWOOD-LEWIS: Thank
19 you.

20 COUNCIL PRESIDENT VERNA: Do we
21 have anyone else to testify on this bill?

22 (No response.)

23 COUNCIL PRESIDENT VERNA:
24 Seeing no one, I would ask the clerk to
25 please read the title of Bill No. 100753.

1 12.8.10 - RULES - BILL 100753

2 THE CLERK: Bill No. 100753, an
3 ordinance to amend the Philadelphia
4 Zoning Maps by changing the zoning
5 designations of certain areas of land
6 located within an area bounded by East
7 Moreland Avenue, Winston Street, East
8 Mermaid Lane, and Germantown Avenue.

9 (Witness comes forward.)

10 COUNCIL PRESIDENT VERNA:

11 Mr. Kramer?

12 MR. KRAMER: Good morning,
13 Council President Verna and members of
14 the Rules Committee.

15 I am William Kramer, Division
16 Director of the Development Planning
17 Division of the Philadelphia City
18 Planning Commission, and I am here to
19 testify on Bill No. 100753, which was
20 introduced by Councilmember Miller on
21 November 4, 2010.

22 Bill No. 100753 amends the
23 Philadelphia Zoning Maps by changing the
24 zoning designations of certain areas of
25 land located within an area bounded by

1 12.8.10 - RULES - BILL 100753

2 East Moreland Avenue, Winston Street,
3 East Mermaid Lane, and Germantown Avenue
4 from the existing zoning designation of
5 G2-General Industrial to a proposed
6 designation of C2-Commercial.

7 The remapping will allow the
8 Fresenius Medical Center and the Delaware
9 Valley Nephrology & Hypertension
10 Associates to operate a dialysis center
11 with accessory doctors' offices.

12 The proposed developer plans to
13 rehabilitate existing vacant structures
14 and provide parking in the rear. The
15 operation will include 34 dialysis
16 machines and provide vital medical care
17 to the community by providing both
18 dialysis treatment and training for
19 individuals to manage their care at home.

20 This project is the subject of
21 a decision by the Zoning Board of
22 Adjustment, which is currently on appeal
23 in the courts. The decision of the board
24 was to grant the requested relief for the
25 property, with a proviso limiting the

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2 hours of operation. The applicant
3 requested the board to reconsider the
4 decision, which, at an administrative
5 session, the board did. The board
6 removed the proviso in executive session,
7 and a decision was appealed to the
8 courts.

9 The predominant zoning
10 designation for this block is commercial,
11 either a C-2 or a C-1 commercial
12 designation; therefore, the rezoning of
13 the parcel to C2-Commercial designation
14 is consistent with the existing pattern
15 of land use on the block. This bill does
16 recognize the existence and continued
17 operation of an industrial entity
18 adjacent to the subject property.

19 The Philadelphia City Planning
20 Commission considered Bill No. 100753 at
21 their meeting of November 16, 2010.
22 After consideration, the Commission
23 recommended that Bill No. 100753 be
24 approved.

25 It should be noted that at the

1 12.8.10 - RULES - BILL 100753

2 meeting, there were several
3 representatives of the community raising
4 their concerns with regards to this bill.
5 The Philadelphia City Planning Commission
6 also recommended that Councilwoman Miller
7 continue to assist the continuing
8 dialogue between all the interested
9 parties.

10 That's the conclusion of my
11 testimony. I appreciate the opportunity
12 to be before you and answer any questions
13 you may have.

14 COUNCIL PRESIDENT VERNA: Thank
15 you, Mr. Kramer.

16 Mr. Kramer, I know that I,
17 along with my colleagues, have received
18 quite a bit of correspondence on this,
19 and some people are saying that this is,
20 quote, spot zoning.

21 Would you address that issue,
22 please, for the record.

23 MR. KRAMER: Yes, ma'am.

24 For the record, this is a
25 particular block that had a combination

1 12.8.10 - RULES - BILL 100753

2 of G2-Industrial for a large portion of
3 it along Moreland Avenue to Winston
4 Street, and further along Winston Street.
5 So there was this triangular piece of
6 ground that was zoned G-2.

7 The primary consideration of
8 this block is, it mostly is C-2 and C-1.
9 This would rezone a portion of this back
10 to C-2 or to C-2.

11 With the vacation of industrial
12 uses in this existing building, if I were
13 to go in and look at the properties
14 without a use in here giving the existing
15 commercial designation on the other
16 ground on the block, we would normally
17 consider rezoning this to a commercial
18 classification.

19 The number of (indiscernible)
20 classification depends on the structure
21 and how tall it is and how much area
22 there is involved with it. In this case,
23 it would most likely be a C-2
24 classification.

25 It would not necessarily be

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2 considered spot zoning in that in this
3 particular instance, it is one property.
4 But given the fact that it makes up a
5 large portion of the block that is then
6 consistent in changing to what the rest
7 of the designation of the block would be,
8 I would say that it is not spot zoning.

9 And we are recognizing that
10 there's an ironworks, I believe,
11 industrial use just adjacent to this that
12 we are remaining as G-2.

13 COUNCIL PRESIDENT VERNA: Thank
14 you. I just thought that that should be
15 placed on the record. Thank you so much.

16 The Chair recognizes Councilman
17 DiCicco.

18 COUNCILMAN DiCICCO: Thank you,
19 Madam Chair.

20 Good morning, Mr. Kramer. Two
21 questions. I just actually got one
22 answered for it from Councilwoman Miller.

23 I notice on the existing map
24 and the proposed map, on the proposed
25 map, you still leave an area of 45 feet

1 12.8.10 - RULES - BILL 100753

2 wide; I don't know how deep it is, 98
3 feet deep, as G2-Commercial. Wouldn't it
4 be more appropriate to do all of that G-2
5 to a C-2, understanding that there's an
6 existing business there but they would be
7 grandfathered in?

8 MR. KRAMER: That is correct.

9 We could have done that, but we don't
10 normally rezone the property unless we
11 are requested to do so, unless it's a
12 part of an overall community-based
13 remapping bill.

14 COUNCILMAN DiCICCO: And my

15 other question is: As a matter of right,
16 give us some examples of the kinds of
17 uses that could be permitted if the G-2
18 classification was not removed.

19 MR. KRAMER: The G-2

20 classification is a classification that
21 allows fairly heavy industrial uses on
22 the property. It allows manufacture of
23 all sorts of different things from their
24 base materials.

25 As a differentiation in a

1 12.8.10 - RULES - BILL 100753

2 limited industrial classification, you're
3 taking Part A and Part B and putting them
4 together, or doing warehousing and that
5 kind of thing.

6 More heinous is, G-2 would
7 permit you to do outside storage of
8 materials. So you could take your
9 parking lot and turn it into a moving
10 place where you store all the pallets of
11 stuff coming in and out of the building
12 as a matter of right.

13 You can do this stuff -- short
14 of like a blast furnace, you can do a lot
15 of fairly heavy industrial uses onsite.

16 COUNCILMAN DiCICCO: As a
17 matter of right?

18 MR. KRAMER: Yes.

19 COUNCILMAN DiCICCO: Thank you.
20 No other questions.

21 COUNCIL PRESIDENT VERNA: Thank
22 you. The Chair recognizes Councilman
23 Greenlee.

24 COUNCILMAN GREENLEE: Thank
25 you, Madam President.

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2 Councilman DiCicco took my one
3 question; I was going to ask that.

4 But the other one, just so
5 I'm -- we are as clear as possible on the
6 spot zoning issue that the Council
7 President raised, is it basically fair to
8 say your answer is that you don't feel
9 it's spot zoning 'cause of, first, the
10 size of the lot; and also, it is making
11 it consistent with the majority of the
12 rest of the area. Is that the two
13 reasons?

14 MR. KRAMER: Yes, sir.

15 COUNCILMAN GREENLEE: 'Cause I
16 know spot zoning, the word gets thrown
17 out a lot. And I know it's -- oftentimes
18 size-wise, it's an argument. So it's the
19 size and the consistency, I guess.

20 MR. KRAMER: Yes, sir.

21 COUNCILMAN GREENLEE: Okay, all
22 right. Thank you.

23 Thank you, Madam Chair.

24 COUNCIL PRESIDENT VERNA: Thank
25 you.

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2 Any other questions from
3 members of the committee?

4 (No further questions.)

5 COUNCIL PRESIDENT VERNA: Thank
6 you.

7 Mr. Kramer, you will remain?

8 MR. KRAMER: Yes, ma'am.

9 COUNCIL PRESIDENT VERNA: Thank
10 you.

11 Our next witness?

12 THE CLERK: Paul Deegan and
13 Kevin Dow from the Commerce Department.

14 (Witnesses come forward.)

15 COUNCIL PRESIDENT VERNA: Good
16 morning. Please identify yourself for
17 the record.

18 MR. DOW: Good morning. My
19 name is Kevin Dow. I'm the Chief
20 Operating Officer of the Commerce
21 Department.

22 MR. DEEGAN: My name is Paul
23 Deegan, Senior Vice President of the
24 Philadelphia Industrial Development
25 Corporation.

1 12.8.10 - RULES - BILL 100753

2 COUNCIL PRESIDENT VERNA: Good
3 morning.

4 MR. DEEGAN: Good morning.

5 MR. DOW: Good morning. I'm
6 here to testify today regarding Bill No.
7 100753.

8 Through our Office of
9 Businesses Services Division, Commerce
10 has been working with Reno Enterprises
11 since last spring. Reno contacted us
12 when they began experiencing challenges
13 related to their relocation and expansion
14 of their dialysis center, located in
15 Mt. Airy, to Chestnut Hill, located at 10
16 East Moreland Avenue.

17 The property they would like to
18 purchase and renovate has been granted a
19 zoning variance to use the G2-classified
20 property as a medical treatment facility,
21 with a proviso which limits hours on
22 Tuesdays, Thursdays, and Saturdays from
23 6 a.m. to 6 p.m., rather than the
24 standard hours of 6 a.m. to 9 p.m.

25 In addition to a number of

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2 other support letters, Commerce provided
3 its own signed by the Deputy Mayor for
4 Economic Development.

5 The dialysis center is a
6 \$2 million that will create 75
7 construction jobs and create and/or
8 retain 40 permanent jobs. The Department
9 of Commerce supports this resolution --
10 excuse me, this bill for three specific
11 reasons:

12 1. It creates jobs at a time
13 when Philadelphia is experiencing one of
14 the largest unemployment rates in our
15 history.

16 2. The center itself will meet
17 the high need for our population of
18 treatment centers of this nature in a
19 location that's convenient and accessible
20 by public transportation.

21 3. Finally, it augments the
22 diversity of the business mix on
23 Germantown Avenue through the removal of
24 a vacant property and an addition of
25 pedestrian traffic that can utilize other

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2 businesses on the corridor.

3 Thank you for your
4 consideration of these comments. I would
5 be happy to answer any questions any
6 members of the committee may have.

7 COUNCIL PRESIDENT VERNA: Thank
8 you, Mr. Dow.

9 Any questions of Mr. Dow from
10 members of the committee?

11 (No questions.)

12 COUNCIL PRESIDENT VERNA:
13 Again, thank you.

14 MR. DOW: Thank you.

15 MR. DEEGAN: I would like to go
16 on record to say that we support the
17 Commerce and Planning recommendations.
18 We're also providing financing through
19 the City's new, innovative Greenworks or
20 Energy Works program to the project.

21 It's the kind of project we
22 particularly like. It's a small
23 business, it's neighborhood-oriented, and
24 it hits one of the important sectors in
25 Philadelphia's economy, the health care,

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2 health services sector. So we support
3 the location and the redevelopment of
4 this property with the Delaware Valley
5 Nephrology & Hypertension Associates.

6 I'd be happy to answer any
7 questions you may have.

8 COUNCIL PRESIDENT VERNA: Thank
9 you.

10 Any questions from the members
11 of the committee?

12 (No questions.)

13 COUNCIL PRESIDENT VERNA: Thank
14 you both very much.

15 MR. DEEGAN: Thank you, thank
16 you.

17 COUNCIL PRESIDENT VERNA: Our
18 next witnesses?

19 THE CLERK: Carl Primavera and
20 LaRhonda Jones.

21 (Witnesses come forward.)

22 COUNCIL PRESIDENT VERNA:
23 Mr. Deegan, would you mind returning to
24 the witness table. Councilwoman Brown
25 has a question.

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2 (Mr. Deegan returns to witness
3 table.)

4 COUNCILWOMAN BROWN: Good
5 morning, and thank you for your
6 testimony.

7 MR. DEEGAN: Good morning, good
8 morning, Councilwoman.

9 COUNCILWOMAN BROWN: This is
10 very much an after-thought.

11 Share with us what is your
12 standard operating procedure or practice
13 as it relates to alerting, interfacing
14 with, and informing the community about
15 the position that PIDC takes on matters
16 like this.

17 What is the interface, if at
18 all, with the community?

19 MR. DEEGAN: In this case, in
20 the financing deal, I don't think we
21 have. I think the community was alerted
22 to it initially because of the Zoning
23 Board of Adjustment hearing, which had
24 posters posted on the property; and also,
25 with the zoning bill, which was

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2 advertised in the paper.

3 We do publish a -- the PAID
4 board, which approves the loans, has a
5 published list of meetings for the whole
6 year.

7 COUNCILWOMAN BROWN: Okay.

8 MR. DEEGAN: But we didn't have
9 any direct community contact on this
10 particular financing application.

11 COUNCILWOMAN BROWN: Okay,
12 then. So is that the standard operating
13 procedure?

14 MR. DEEGAN: Yes, yes,
15 Councilwoman, it is, for financings deal.
16 Yes, it is.

17 COUNCILWOMAN BROWN: Okay,
18 then, very well. Thank you for your
19 testimony.

20 Thank you, Madam President.

21 COUNCIL PRESIDENT VERNA: Thank
22 you.

23 Mr. Primavera, good morning.

24 MR. PRIMAVERA: Good morning,
25 Madam Chair and members of the Rules

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2 Committee. I am here as the attorney of
3 record for the applicant. With me is
4 Dr. Edward Jones; also, LaRhonda James.

5 LaRhonda has been with
6 Fresenius, which is the operator of the
7 renal center, for 16 years, at the
8 current location, in Mt. Airy. Dr. Jones
9 runs the medical component.

10 What we really have in this
11 renal therapy center is a combination of
12 the actual renal treatment, which is
13 owned and operated by Fresenius, which
14 has 1500 of these throughout the United
15 States; they're a multi-billion-dollar
16 company based in Europe, with American
17 subsidiaries.

18 And then we have Dr. Jones, who
19 locally is a very esteemed practitioner
20 in renal therapy and many hospitals and
21 has a long list of achievements. So his
22 patients are able to come to the
23 facility, receive care and treatment, and
24 then also actually receive the renal
25 therapy, which you'll hear more about.

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2 We also have Brett Feldman from
3 my office and Mike Malone, the project
4 manager. They'll be holding up
5 larger-scale exhibits of information
6 that's in your package showing what this
7 reconditioned industrial building will
8 look like when it, in fact, becomes its
9 renal center.

10 We also have Mr. Sidvah here,
11 who's the regional manager for Fresenius.

12 COUNCILMAN GOODE: Madam Chair?

13 COUNCIL PRESIDENT VERNA:

14 Excuse me, Mr. Primavera.

15 Councilman Goode?

16 COUNCILMAN GOODE:

17 Mr. Primavera --

18 MR. PRIMAVERA: Yes.

19 COUNCILMAN GOODE: Does this
20 project require an economic opportunity
21 plan?

22 MR. PRIMAVERA: Yes. And we
23 have one signed, which we're happy to
24 hand up; it may be in the package. We do
25 have it.

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2 We also exceed the living-wage
3 issue; I know that came up recently. And
4 we're happy to say we're good on both
5 fronts.

6 COUNCILMAN GOODE: Okay, thank
7 you.

8 MR. PRIMAVERA: You're welcome.

9 Basically, there's a little
10 history here, which, I think, has been
11 more complicating than it needs to be.

12 This building has been
13 industrial; right now, it's used to store
14 Porta-Potties and to clean them inside
15 the building. It's been an industrial
16 warehouse really adjacent to the Chestnut
17 Hill commercial corridor, where we have
18 Staples, McDonald's, video stores, a and
19 lot of other bakeries and things. So the
20 zoning has been really out of context.

21 So the easiest and fastest way
22 to change the zoning is to go to the
23 Zoning Board. So we went to the Zoning
24 Board, with the support of the Chestnut
25 Hill Community Association that met over

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2 four months with the developers to make
3 sure that they were satisfied as to
4 design, landscaping, hours, everything.
5 We did receive their support.

6 We went to the ZBA; we received
7 their support, but then an appeal was
8 filed. That appeal could languish for
9 three years.

10 In the meantime, the existing
11 facility that Fresenius and Dr. Jones run
12 in Mt. Airy is really -- I don't want to
13 say "obsolete," but it's old-school, and
14 there's a real pressing need for a
15 state-of-the-art facility, and that's why
16 they were so excited to move to the
17 Chestnut Hill location.

18 Fresenius, in addition to
19 providing renal care, actually
20 manufactures and designs the equipment,
21 so this is going to be a showplace for
22 them in this region, and they hope over
23 the next few years to build at least five
24 more in the City.

25 So we can't wait for that

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2 appeal to be resolved. And in many
3 instances, we've done this, where we
4 think it's faster to go to the Zoning
5 Board and it turns out that it's not, so
6 then we remap it.

7 We've looked hard at the
8 spot-zoning issue. Spot-zoning,
9 according to Anderson on Zoning, who's
10 the number-one writer in Pennsylvania, is
11 where you take one small piece and change
12 the zoning so it's entirely out of
13 context with all of the surrounding
14 properties.

15 So an example would be, if you
16 have a Levittown neighborhood, a thousand
17 homes, and in the middle of it, you have
18 a Wawa, which happens to be zoned
19 commercial; you look at that and say, How
20 did that get to be commercial? It kind
21 of strikes you as out of character and
22 out of context.

23 So we believe that remapping is
24 entirely appropriate.

25 The protestants who you will

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2 hear from really are concerned about the
3 hours on a third shift, which will not
4 happen immediately and will be limited,
5 but that takes us on Tuesdays, Thursdays,
6 and Saturdays to 9 o'clock at night.
7 They would like us to close at 6 o'clock.

8 But, as you'll hear in the
9 testimony, the renal therapy is done in
10 four-hour increments. So the reality is
11 that if we need to go to a third shift,
12 they have to stay till 9 o'clock. So
13 it's just the nature of the treatment.
14 We have no overnight stays.

15 So it's a very benign use.
16 And, unfortunately, it's one where the
17 need is growing, because as we all live
18 longer hopefully, the need for renal
19 services and renal therapy is becoming
20 more pronounced.

21 So that's our testimony.

22 We have LaRhonda here, who runs
23 the center in Mt. Airy, and we have
24 Dr. Jones, who's the medical director, if
25 you'd like to hear from them. We know

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2 there are other witnesses. We have
3 patients who are getting therapy, who are
4 available to testify. We have Craig
5 Shelter, who is both a resident of
6 Chestnut Hill and a planner.

7 So I don't want to belabor the
8 record, but we certainly have a lot more
9 to say if you think it's helpful.

10 COUNCIL PRESIDENT VERNA: The
11 Chair recognizes Councilman DiCicco.

12 COUNCILMAN DiCICCO: Thank you,
13 Madam Chair.

14 Good morning, Mr. Primavera.

15 MR. PRIMAVERA: Good morning.

16 COUNCILMAN DiCICCO: The
17 Porta-Potty, is that an existing
18 business, or is that just a storage area?

19 MR. PRIMAVERA: It's a storage.
20 The owner is here for the property, and
21 he's been trying to sell this property
22 for a while. He thought his was a great
23 use -- not the Porta-Potty, the renal
24 center.

25 COUNCILMAN DiCICCO: I had a

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2 question there, but I won't get into
3 that.

4 MR. PRIMAVERA: It's been over
5 a year, so that use is an interim use to
6 provide some income to pay the taxes and
7 the insurance.

8 The other uses that he would be
9 looking to sell would be to some type of
10 distributor like a -- somebody who comes
11 in, uses the warehouse, and then it's
12 truck traffic. Matter of fact, his
13 broker is Frank Cullen, who's a
14 well-known industrial broker.

15 And we think that it would be
16 unfortunate if this property were to
17 become just distribution. You would have
18 the rumbling of trucks, open 24/7,
19 outdoor storage of material, and it
20 really wouldn't help the other
21 businesses.

22 COUNCILMAN DiCICCO: I get
23 that. I just was curious about the
24 Porta-Potty. If it's in existing use, I
25 assume that there are trucks that come

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2 and go --

3 MR. PRIMAVERA: And pick them
4 up.

5 COUNCILMAN DiCICCO: --
6 probably any hour of the day.

7 MR. PRIMAVERA: Right.

8 COUNCILMAN DiCICCO: I don't
9 know how many there. From the
10 photographs, it looks like there's a
11 considerable amount, and that's a
12 permitted use.

13 MR. PRIMAVERA: Right.

14 COUNCILMAN DiCICCO: So I'm
15 just trying to get to the issue.

16 I did receive, as the Council
17 President said, several e-mails in
18 objection to this bill, but sometimes --

19 MR. PRIMAVERA: A
20 slaughterhouse would be permitted as a --

21 COUNCILMAN DiCICCO: Sometimes
22 you have to be careful what you wish for.

23 MR. PRIMAVERA: That's exactly
24 what I mean.

25 COUNCILMAN DiCICCO: All right,

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2 thanks.

3 MR. PRIMAVERA: And the owner
4 has no desire to be difficult to the
5 neighbors, but if this deal doesn't
6 happen, it's been a year, and he's going
7 to sell to whomever because, you know, he
8 needs to --

9 COUNCILMAN DiCICCO: Well,
10 that's assuming he gets somebody who's
11 interested. I mean, I don't want to use
12 that as a threat to the community.

13 MR. PRIMAVERA: No.

14 COUNCILMAN DiCICCO: But the
15 reality is that there is potential for
16 those kinds of uses.

17 MR. PRIMAVERA: Right.

18 MR. KRAMER: And there already
19 is a use that -- I don't know if I would
20 like to live across the street from a
21 Porta-Potty warehouse.

22 But anyway, thank you.

23 MR. PRIMAVERA: Right. Thank
24 you.

25 COUNCIL PRESIDENT VERNA:

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2 Dr. Jones, can you tell us the number of
3 maximum clients per shift?

4 DR. JONES: Yes.

5 First, thank you for the
6 opportunity to represent the 170 patients
7 that live in the northwest community that
8 currently undergo therapy for their
9 end-stage kidney disease. So it's a
10 privilege to be here.

11 COUNCIL PRESIDENT VERNA: Thank
12 you.

13 DR. JONES: Dialysis
14 patients -- and dialysis is their ability
15 to stay alive -- dialyze for four hours
16 at a time, three times a week: Monday,
17 Wednesday, and Friday; or Tuesday,
18 Thursday and Saturday.

19 At any one time, currently,
20 there are approximately 32 dialysis
21 patients at the Mt. Airy site that get
22 dialyzed in that four-hour period of
23 time, three times a week.

24 On Monday, Wednesday, and
25 Friday, a second shift of four hours

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2 comes into the building, and they're
3 staggered; they're not all at one time.
4 The 34 patients would come in, the first
5 set at 6 o'clock in the morning,
6 staggered another 34 patients at
7 11 o'clock in the morning; and then,
8 after four hours of treatment, again
9 staggered the third shift of 34 patients
10 come into the dialysis facility for those
11 four hours.

12 On Tuesday and Thursday,
13 currently, there's two shifts that go on:
14 Again, 34 patients for four hours; and
15 then a second shift of four hours of 34
16 patients.

17 COUNCIL PRESIDENT VERNA: And
18 on Tuesday and Thursday, what are the
19 hours?

20 DR. JONES: On Tuesday,
21 Thursday, and Saturday -- that's three
22 days a week they get dialyzed, twelve
23 hours of week now is the standard of
24 care -- the hours currently are from
25 6 o'clock in the morning to 6 o'clock in

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2 the evening.

3 The issue -- and one of the
4 issues here, to keep it at an appropriate
5 level here, because we're trying to
6 provide care for patients who need it.

7 And dialysis is a local
8 problem; it's how they get their care.
9 They shouldn't be asked to go miles for
10 their care.

11 They have four hours of
12 treatment, and then they go home; they
13 want to go home to their families. Or
14 more importantly, particularly the
15 evening-shift patient work, pay their
16 taxes. Or they also babysit and help
17 their children work, and that's why many
18 of them need an evening shift.

19 But the unfortunate thing right
20 now is that the population of dialysis
21 patients is growing at a rate of about
22 3-and-a-half percent per year; and in
23 Philadelphia, PA, it's one of the highest
24 in the country.

25 And what we don't want is a

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2 citizen of northwest Philadelphia to get
3 kidney failure and need dialysis. And if
4 our unit is full on Monday and Tuesday,
5 and now we get additional patients in
6 Chestnut Hill who need dialysis, am I
7 going to ask them from my office to go
8 someplace else?

9 And what we're asking is to
10 open up -- if it happens -- it's not
11 there now. But if it would happen, any
12 increased growth of patients could be
13 accommodated in their neighborhood.

14 Dialysis is not a busy, noisy
15 thing. Our patients come in, sit down,
16 read, watch TV, and talk to each other.

17 This dialysis unit was first at
18 86 Bethlehem Pike, in Chestnut Hill, a
19 commercial and residential neighborhood.
20 It currently is in a residential
21 neighborhood. We have a very good
22 relationship with our neighbors. My
23 patient lives across the street from the
24 current dialysis unit; he's not
25 complaining about noise and why are we

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2 here or why don't we get out.

3 So this is a business that
4 takes care of patients, patients who need
5 it, state-of-the-art therapy,
6 unbelievable quality of care being given
7 here.

8 And what we're saying is, if
9 the possibility exists that the
10 population grows and our unit is full,
11 then we need to open up on that Tuesday,
12 Thursday, Saturday to accommodate those
13 patients who live in that community.

14 MR. PRIMAVERA: And that would
15 take us to 9 o'clock at night.

16 DR. JONES: And that would take
17 us to 9 o'clock at night. We have
18 consistently said -- and we'll sign a
19 binding, legal document -- that we will
20 not dialyze after 9 o'clock at night.

21 MR. PRIMAVERA: And we have an
22 agreement with the community association,
23 and their representatives are here to
24 that effect.

25 So there have been rumors that

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2 it's 24/7; that's not the case. The
3 treatment stops at 9 o'clock at night.

4 COUNCIL PRESIDENT VERNA: Thank
5 you.

6 Again, I'm going to go back to
7 some of the correspondence so that many
8 of the questions can be answered.

9 How about parking?

10 MR. PRIMAVERA: Yes. As you'll
11 see from the plan, I believe we have 43
12 parking spaces, which is twice what we
13 have at the current location.

14 Everything happens within our
15 property. So whether people come by a
16 van or by their own car, they come in to
17 the property. We've made arrangements
18 with the community association to have a
19 single point off -- or actually a
20 single-road access so that it won't
21 disturb anybody.

22 People can come in, they can
23 park. If they're waiting for the little
24 transportation units, they'll be able to
25 do that all within the parking area.

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2 So we believe that this will be
3 excellent in terms of available parking.
4 We don't see any need to park on the
5 street or to block anybody's traffic or
6 to be in any way inconvenient for the
7 neighborhood.

8 COUNCIL PRESIDENT VERNA: Thank
9 you.

10 The Chair recognizes Councilman
11 Greenlee.

12 COUNCILMAN GREENLEE: Thank
13 you, Madam President.

14 If I could just touch on the
15 hours thing again, 'cause, again, I want
16 to be clear, 'cause it seemed that that
17 was the main thing we were hearing.

18 And as you said, you -- I know
19 on a number of letters, it used the term
20 24/7. You're saying you're willing to
21 make a written agreement that 9 o'clock
22 would be the end of your hours?

23 MR. PRIMAVERA: Yes, that's
24 correct, Councilman. That was part of
25 our agreement with the community

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2 association. It was debated by the
3 association, because the people who are
4 here today in opposition wanted it to be
5 closed on Tuesday, Thursday, and
6 Saturday, at 6 o'clock at night.

7 And Dr. Jones explained that we
8 need to have that extra capacity. So the
9 community association supported us in
10 that. But we do have an agreement with
11 them, and we are signing an agreement
12 with anybody.

13 I told some of the protestants,
14 through their attorney, that we'd be
15 happy to give them their own agreement if
16 they are not willing to accept the
17 community association agreement.

18 But we have no interest, no
19 desire to go beyond 9 o'clock at night,
20 and we are legally bound by that.

21 And also, quite frankly, it's
22 the business model that both Dr. Jones
23 and Fresenius have. We hear other
24 companies do run night shifts; that's not
25 the model that we have, and that's not

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2 where we want to be.

3 COUNCILMAN GREENLEE: So even
4 though the zoning might allow that, you
5 you'd be willing to limit it.

6 MR. PRIMAVERA: Yes.

7 COUNCILMAN GREENLEE: And I
8 know one of the concerns that I heard was
9 that people -- ambulances would be coming
10 in at 1 o'clock in the morning or
11 something like that.

12 MR. PRIMAVERA: No.

13 COUNCILMAN GREENLEE: They
14 would not be there to have that, right?

15 MR. PRIMAVERA: No. And
16 also -- well, Doctor, you can --
17 ambulances don't really come to a renal
18 center.

19 COUNCILMAN GREENLEE: Right,
20 okay. That's what I was going to ask.

21 DR. JONES: Let me clarify
22 that.

23 It's not annual an emergency
24 procedure.

25 COUNCILMAN GREENLEE: Right.

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2 DR. JONES: I mean, emergency
3 procedures go to the hospital. If we
4 have anybody who we even think is sick
5 and they call LaRhonda, we send them to
6 the hospital because it's not built, nor
7 is the manpower there to take care of
8 emergencies.

9 There are a small number of
10 ambulances that do come. One-third of
11 our patients drive, one-third get
12 delivered by CCT or Paratransit, a few
13 will have an ambulance.

14 And one of the concerns,
15 appropriately was that when an ambulance
16 backs up, it makes a lot of noise, or the
17 dieseling. The way the parking lot is
18 built, that allows for the CCT and the
19 ambulance to circle around as opposed to
20 what it -- you know, now in Mt. Airy,
21 it's not good because it's a small lot,
22 and they can't get in and out.

23 So this is not an emergency
24 facility where a lot of ambulances are
25 coming to; it's a few. And usually it's

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2 a patient that recently was in the
3 hospital, and until they get a little
4 better, they may need a recliner.

5 COUNCILMAN GREENLEE: Plus it
6 would be in the hours that we just --

7 DR. JONES: It's only till
8 9 o'clock.

9 And, again, we will, both from
10 a physician point of view, as a medical
11 director, and Fresenius will legally sign
12 that.

13 And, remember, as a practicing
14 physician, I don't want a phone call
15 after 9 o'clock at night, you know? I
16 don't want a phone call on Saturday night
17 after 9 o'clock. I don't want a shift
18 after those hours, you know.

19 So we don't want it, as
20 physicians who take care of the patients;
21 the patients and staff want it. And
22 Fresenius's model, at least in our
23 facilities, is not to dialyze at that
24 time of night.

25 COUNCILMAN GREENLEE: One last

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2 question, if I could.

3 Mr. Primavera, on the whole
4 Zoning Board scenario, if you will, I
5 know, again, the other thing that has
6 been raised a lot was the process of how
7 it happened. There was an original
8 decision, then it was reconsidered.

9 Could you talk about that and
10 talk about whether that is an unusual
11 situation or how it came about, that kind
12 of thing, please.

13 MR. PRIMAVERA: Yes.

14 The hearing at the Zoning
15 Board -- you know, the Zoning Board hears
16 30 cases a day. So I think what happened
17 was, some of the confusion over the
18 hours -- 'cause they are confusing --
19 resulted in the Zoning Board approving
20 the center but limiting the hours on
21 Tuesday, Thursday, and Saturday to 6
22 o'clock at night.

23 I sent a letter of
24 reconsideration explaining how we needed
25 that additional time. Attached to the

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2 letter were letters from PIDC, Commerce,
3 and the Planning Commission in support of
4 that.

5 I sent copies to everybody who
6 entered an appearance. We had 30 people.
7 Many of the people who entered an
8 appearance at the Zoning Board all
9 received copies of that request.

10 The Zoning Board granted the
11 request, but for a reason best known to
12 the Zoning Board, they didn't contain the
13 hours that I requested; they just removed
14 the entire proviso.

15 My only suspicion is, they
16 said, Look, since you have an agreement
17 with the Chestnut Hill Community
18 Association, which is a private
19 agreement, we're not going to get into
20 the hours. I think that that created
21 some concern.

22 When Dan McElhatton, who's the
23 attorney for at least two of the
24 neighbors who are concerned, contacted
25 me, I told him that I would be willing to

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2 stipulate to put the hours back in the
3 zoning decision so the Zoning Board would
4 ratify the hours that we seek now.

5 We tried everything possible to
6 reach some accommodation with the people
7 who were concerned. And if, in fact,
8 that process made them skeptical, I'm
9 sorry for it, but it was above-board in
10 the sense that reconsideration is done
11 generally; and second of all, everybody
12 who was at the Zoning Board was copied on
13 my request.

14 So it wasn't as though they
15 woke up one day and were surprised by how
16 this happened.

17 COUNCILMAN GREENLEE: I think
18 that's the thing, the reconsider -- you
19 said reconsideration is done generally.
20 You do obviously a lot of zoning stuff.

21 MR. PRIMAVERA: Yes.

22 COUNCILMAN GREENLEE: What -- I
23 mean, how often do you do that as an
24 attorney? I mean, what --

25 MR. PRIMAVERA: I would say 15

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2 to 20 percent of the cases.

3 Typically what happens is this:

4 Typically, the Zoning Board will approve
5 the case, and somebody forgot to add to
6 the sign. So what we do, is we'll send a
7 letter back to the Zoning Board saying,
8 Can you please approve the use but also
9 now this sign? 'cause otherwise, we'd
10 have to go back for a whole new zoning
11 case for just the sign.

12 COUNCILMAN GREENLEE: Mm-hmm.

13 MR. PRIMAVERA: Or sometimes
14 the Zoning Board forgets to include some
15 other stipulations, or that there has
16 been a change in what's happening. Maybe
17 the restaurant is going from 6,000 square
18 feet to 4,000, or vice-versa.

19 So it's typically used not to
20 basically change the decision yes or no,
21 although that's happened too, but it's
22 basically done to modify the decision,
23 either to clarify a mistake that's been
24 made or to give them a chance to
25 reconsider some aspect of what they

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2 approved.

3 COUNCILMAN GREENLEE: And it's
4 done without any other hearing.

5 MR. PRIMAVERA: No, no.
6 Typically it's not.

7 COUNCILMAN GREENLEE: Mm-hmm.

8 MR. PRIMAVERA: If they want
9 to, if it's a big enough change, they
10 could invite everyone back. But
11 typically, they figure after you hear one
12 of these cases, you know what's going on,
13 and they're able to decide whether they
14 want to modify it or not, without a
15 second round of hearings.

16 As a matter of fact, if you
17 have a second round of hearing, then
18 people are going to bring more issues up.
19 You kind of --

20 COUNCILMAN GREENLEE: Right.

21 MR. PRIMAVERA: It never gets
22 resolved. So typically, the board does
23 not have a hearing on reconsideration.

24 COUNCILMAN GREENLEE: Okay,
25 thank you.

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2 COUNCIL PRESIDENT VERNA: Thank
3 you.

4 The Chair recognizes Councilman
5 DiCicco.

6 COUNCILMAN DiCICCO: I think
7 Councilwoman Brown had her light on
8 first.

9 COUNCIL PRESIDENT VERNA: Oh,
10 Councilwoman Brown.

11 COUNCILWOMAN BROWN: Thank you,
12 Madam President. Thank you, Councilman.

13 Councilman Bill Greenlee
14 touched on the notion of support. You
15 stated in your testimony that there was
16 support, so my follow-up question was:
17 Was there support in writing? And the
18 answer is yes.

19 MR. PRIMAVERA: Yes, it was.

20 COUNCILWOMAN BROWN: Okay. I
21 just learned, looking at testimony up
22 here, that there are a number of --
23 support came from -- just for the record,
24 did it come from the Chestnut Hill
25 Community Association, the Chestnut Hill

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2 Residents Association, or the Chestnut
3 Hill Historical Society? Which?

4 MR. PRIMAVERA: The community
5 association.

6 COUNCILWOMAN BROWN: The
7 Chestnut Hill Community Association.

8 MR. PRIMAVERA: Yes, that's
9 correct. And the historic, I'm told.

10 COUNCILWOMAN BROWN: And the
11 historic?

12 MR. PRIMAVERA: And the
13 historic.

14 COUNCILWOMAN BROWN: Okay.

15 MR. PRIMAVERA: I wasn't aware
16 of that, but I'm told that they also
17 approved it.

18 COUNCILWOMAN BROWN: Are they
19 on record as supporting it?

20 MR. PRIMAVERA: Yes.

21 COUNCILWOMAN BROWN: Would it
22 be fair to say, then, that this
23 modification has led now to a
24 misunderstanding and/or a divide with
25 regards to the -- I won't use the word

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2 "inability" but the challenge to come to
3 come common ground?

4 MR. PRIMAVERA: Well, I think
5 that there's been some recent history.

6 The community association has
7 been around forever, and it has a very
8 elaborate process. You'll hear from
9 them. As a matter of fact, some might
10 say it's too elaborate. You have to go
11 through a landscape committee, a traffic
12 committee, an esthetic committee, a use
13 cheat.

14 And being in Chestnut Hill, we
15 have architects and engineers and lawyers
16 galore, so they monopolize these
17 committees. So it's a very belabored
18 process, but maybe that's why people feel
19 confident that it does a good job.

20 COUNCILWOMAN BROWN: Sure.

21 MR. PRIMAVERA: Because of some
22 dissension with a few residents who
23 didn't win seats on the community
24 association, there's a movement to create
25 a splinter group, and they want to be

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2 against anything the association is for.

3 COUNCILWOMAN BROWN: I see.

4 MR. PRIMAVERA: So we're having
5 that.

6 The community association feels
7 that its years and years of proven
8 service and its standing in the
9 community -- and it represents residents,
10 businesses, institutions --

11 COUNCILWOMAN BROWN: I see,
12 okay.

13 MR. PRIMAVERA: -- that they
14 have to hold the line and say, We're not
15 going to let a runt group or a splinter
16 group divide our community so that we
17 lose what we have.

18 COUNCILWOMAN BROWN: Mm-hmm.

19 MR. PRIMAVERA: So that's
20 what's really going on here because it's
21 not about three hours; it's about control
22 and it's about politics, you know,
23 neighborhood politics.

24 And it's about people who, you
25 know, have -- the last case they opposed

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2 they -- you probably saw it in the paper.

3 A lady had a little grocery store that
4 was wonderful, and she had takeout
5 coffee, and they closed her down because
6 they didn't want the takeout coffee.

7 COUNCILWOMAN BROWN: And the
8 "they" would be the Chestnut Hill
9 Residents Association?

10 MR. PRIMAVERA: Yes.

11 COUNCILWOMAN BROWN: Okay.

12 MR. PRIMAVERA: So that's what
13 we're dealing with here.

14 So there's always the big
15 picture, which we're talking about; and
16 then there's the little picture, which
17 is, you know, people's agendas.

18 COUNCILWOMAN BROWN: Mm-hmm.
19 Did this revelation of facts, as you just
20 described it, reveal itself during the
21 zoning hearing process?

22 MR. PRIMAVERA: I think it
23 started back with the community
24 association process, where there were
25 four or six meetings of the community

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2 association, and there was a certain
3 group of people who couldn't find a way
4 to get onboard with the larger
5 association.

6 They then went to the Zoning
7 Board and said, Well, we don't want the
8 community association to speak for us.
9 They then filed an appeal to the Zoning
10 Board.

11 COUNCILWOMAN BROWN: I see.

12 MR. PRIMAVERA: And now, they
13 came to the Planning Commission, two or
14 three of them, and now they're here
15 today.

16 So it's an ongoing struggle for
17 what they believe is the proper voice.
18 We clearly believe that the association,
19 the Chestnut Hill Community Association,
20 has been the voice for years.

21 And, you know, if you want to
22 be on the voice, you got to run and you
23 got to win. If you lose and you can't
24 get a seat on that board, I don't think
25 you take your bat and ball and go home; I

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2 think you just run again next year, and
3 you spend more time convincing people
4 that your view is the right view. You
5 don't create your own association.

6 COUNCILWOMAN BROWN: Okay. And
7 so then, for a restatement of the facts
8 so that I get it, the Chestnut Hill
9 Community Association supports it.

10 MR. PRIMAVERA: Yes.

11 COUNCILWOMAN BROWN: The
12 Chestnut Hill Historical Society supports
13 it.

14 MR. PRIMAVERA: Yes.

15 COUNCILWOMAN BROWN: It's been
16 approved by the Planning Commission?

17 MR. PRIMAVERA: Yes.

18 COUNCILWOMAN BROWN: And --

19 MR. PRIMAVERA: And the zoning
20 Board.

21 COUNCILWOMAN BROWN: And the
22 Zoning Board.

23 MR. PRIMAVERA: And Commerce
24 and PIDC.

25 COUNCILWOMAN BROWN: Okay, all

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2 right then.

3 MR. PRIMAVERA: As a matter of
4 fact, we can't think of any constituency
5 or group that's not in support of it
6 other than the people you'll hear from
7 today who describe themselves as "The
8 Residents Association."

9 COUNCILWOMAN BROWN: Okay,
10 then. Thank you for your testimony.

11 MR. PRIMAVERA: Thank you,
12 Councilwoman.

13 COUNCILWOMAN BROWN: Thank you.

14 COUNCIL PRESIDENT VERNA: Thank
15 you.

16 The Chair recognizes Councilman
17 DiCicco.

18 COUNCILMAN DiCICCO: Thank you,
19 Madam Chair.

20 Good morning again.

21 I want to get back to the
22 parking issue. On the chart here, it
23 shows 42 spaces. I believe it was
24 testified to that 10 percent or 12
25 percent, was it, of the patients arrive

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2 by private vehicle on average?

3 DR. JONES: About a third.

4 COUNCILMAN DiCICCO: A third,
5 I'm sorry, a third. So it would be about
6 12, roughly 12 vehicles.

7 DR. JONES: Yes.

8 COUNCILMAN DiCICCO: How many
9 of the 40 permanent employees would be on
10 -- are they shift work, or are you going
11 to have 40 maximum at anytime, or would
12 there be less than 40?13 DR. JONES: There are variable
14 periods of time. The doctors may come
15 and go the, social worker may come and
16 go.17 COUNCILMAN DiCICCO: Give me a
18 make number at any one given time of the
19 number of employees --

20 DR. JONES: I'm being told 22.

21 COUNCILMAN DiCICCO: Okay, 22.
22 So that gives us 34. If every employee
23 came to work by vehicle, you'd have 34 of
24 the 42 spaces --

25 DR. JONES: Yes.

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2 COUNCILMAN DiCICCO: -- taken
3 up between patients and employees,
4 correct?

5 DR. JONES: Correct.

6 COUNCILMAN DiCICCO: All right.

7 DR. JONES: And I think it may
8 have been in the handout.

9 COUNCILMAN DiCICCO: Roughly.
10 I'm just using rough numbers.

11 DR. JONES: Yes.

12 COUNCILMAN DiCICCO: All right.
13 That could obviously go up and down, but
14 you're still within at least eight to ten
15 spaces that would be still available if
16 you maxed out on employees and the
17 one-third of the patients.

18 DR. JONES: Yes.

19 COUNCILMAN DiCICCO: Also, I
20 notice that you have a lot of
21 improvements in terms of greening. Is
22 there, or will there be, any lighting
23 attached to the building or pedestrian
24 lighting that would light up the
25 perimeter of the property in this plan?

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2 MR. PRIMAVERA: I'm going to
3 ask Mike Malone just to come up
4 because --

5 DR. JONES: Mike is the project
6 manager.

7 MR. PRIMAVERA: (Inaudible,
8 off-mic).

9 ... with the community
10 association, too.

11 COUNCILMAN DiCICCO: Thanks.

12 (Witness comes forward.)

13 MR. MALONE: Yes. And Carl
14 just testified --

15 COUNCILMAN DiCICCO: Identify
16 yourself for the record, please.

17 MR. MALONE: Michael Malone.
18 We do have lighting in the
19 parking lot; there are several poles. So
20 the parking lot will be lit.

21 COUNCILMAN DiCICCO: I'm
22 talking about the perimeter of the
23 building, on the face of the building or
24 on the sidewalk.

25 MR. MALONE: I do not believe

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2 worked closely with the association to
3 work on the building and what the
4 building looks like, what the lighting
5 will be, what the inside lighting will
6 be.

7 So we will work with the
8 community in all of these efforts to make
9 sure the building is appropriate for the
10 community. We will landscape it. And
11 we've even volunteered to put a committee
12 together that would include the
13 physicians, Fresenius, and the community
14 to help oversee what goes on. On the
15 parking, if it's an issue, we'll get
16 those things resolved.

17 But the lighting piece, we will
18 follow the lead and work with the
19 association, where there are a lot of
20 architects and folks on those committees.

21 MR. MALONE: And I was just
22 given the Chestnut Hill document, the
23 community association document. And one
24 of the things that we need to submit
25 before construction is the lighting plan

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2 for their review and comment.

3 COUNCILMAN DiCICCO: The other

4 --

5 COUNCILMAN RIZZO: Madam

6 President.

7 COUNCIL PRESIDENT VERNA:

8 Councilman DiCicco.

9 COUNCILMAN DiCICCO: The other

10 question, the community benefits

11 agreement, Mr. Primavera, is there one in

12 place, you said, or is that still a work

13 if progress?

14 MR. PRIMAVERA: No, there's a

15 community agreement. It was prepared --

16 and you'll here from Mr. Walter Sullivan

17 and Larry McEwen, and it's in our

18 package, 11A. And it goes through most

19 of the issues that were discussed in the

20 various committees and subcommittees of

21 the Chestnut Hill Community Association.

22 So it's in the letter format.

23 And then it says, "May 27, 2010

24 Conditions for CHCA Support." And it's

25 between Mr. Sullivan, who's the president

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2 of the association, and actually Mike
3 Malone.

4 COUNCILMAN DiCICCO: Okay. I
5 don't need the details; I just want to
6 make sure that there's some work in
7 progress.

8 MR. PRIMAVERA: There are,
9 like, 20 issues, and it's all the usual
10 things: materials; colors; mechanical
11 equipment being disguised so that you
12 don't look at a vent; window treatment,
13 shades preferred. It will get pretty
14 detailed.

15 COUNCILMAN DiCICCO: Okay.

16 MR. PRIMAVERA: As a matter of
17 fact, there was even concerns about
18 fluorescent lights. People don't want to
19 look in and see what looks like hospital
20 lighting. So it's going to get pretty
21 detailed as we go.

22 COUNCILMAN DiCICCO: Okay. If
23 you decide to expand, Doctor, let me
24 know. I have some places in my district
25 that would be more than welcome to

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2 support you. Plus I need to create some
3 work for my friends from 989, you know,
4 electrical work and stuff like that.

5 (Laughter.)

6 COUNCIL PRESIDENT VERNA: The
7 Chair recognizes Councilwoman Miller.

8 COUNCILWOMAN MILLER: And one
9 of the other, I think, good features is
10 that the company has decided to put up
11 video surveillance cameras.

12 MR. PRIMAVERA: Yes, that's
13 correct. That came up in our
14 discussions. And I know Councilman Rizzo
15 also mentioned that.

16 So we'll have them. They'll be
17 discreet because we don't want it to look
18 foreboding, but I think it's a good idea
19 both for the safety of the community and
20 for the employees.

21 And LaRhonda was in on that
22 discussions, and she says, Fine, you
23 know, that works for us.

24 COUNCILWOMAN MILLER: Okay.
25 And one other thing I would just like to

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2 add before we bring other folks up is
3 that right now, where they're located in
4 Mt. Airy, it really causes a big sort of
5 traffic issue and parking issue.

6 So with this off-street
7 parking, it really will help. Relocating
8 from Mt. Air to this new site will really
9 help with the parking issues on that
10 particular block.

11 MR. PRIMAVERA: We're
12 fortunate, Councilwoman. I mean, it's
13 rare in Chestnut Hill -- and you know it
14 'cause you drive it all the time -- to
15 have a parking lot that big that's close
16 to Germantown Avenue.

17 COUNCILWOMAN MILLER: Right.

18 MR. PRIMAVERA: The only
19 parking lots that really are available
20 are run by the community association, and
21 they're shared by all the businesses.
22 But this is a freestanding lot solely for
23 this center, which is really a home run.

24 Also, people can walk from here
25 to McDonald's, to Staples, to the Sin Sin

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2 restaurant, so it's going to help the
3 local businesspeople. And it's just very
4 convenient.

5 So, really, we think taking it
6 from the Porta-Potty place -- and, look,
7 that needs to exist somewhere but it
8 doesn't need to exist right off of
9 Germantown Avenue in Chestnut Hill.

10 And this is something that is
11 not only an improvement of the building,
12 but it's a need that's growing. We have
13 a lot of seniors in the area, as you
14 know. And, unfortunately, as the doctor
15 said, the demand is going to continue to
16 grow.

17 And, hopefully, at some point,
18 they're looking for other facilities. So
19 that's one of the reasons they don't want
20 to go beyond 9 o'clock, because they
21 always want to build the next facility.
22 If there's enough demand, they'd rather
23 have a new facility in addition to what
24 they have rather than trying to operate
25 overextended hours in a single location.

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2 COUNCILWOMAN MILLER: Thank

3 you.

4 MR. PRIMAVERA: Thank you.

5 COUNCIL PRESIDENT VERNA: Thank

6 you.

7 The Chair recognizes Councilman

8 Rizzo.

9 COUNCILMAN RIZZO: Thank you,

10 Madam Chair.

11 Good morning.

12 MR. PRIMAVERA: Good morning,

13 Councilman.

14 COUNCILMAN RIZZO: First, I'm a

15 resident of Chestnut Hill. Second, I

16 served as an elected member of the board

17 of the Chestnut Hill Community

18 Association, so I know your pain,

19 counselor, when it comes to process.

20 But, again, I -- you also said

21 that it's respected because of their

22 thoroughness. And we in the community

23 appreciate their hard work.

24 MR. PRIMAVERA: Thank you.

25 COUNCILMAN RIZZO: One of the

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2 things that I appreciate, 'cause it was
3 my suggestion to Council Lady Miller,
4 that cameras be installed. As you know,
5 they're very effective not to just
6 protect the patients and the employees
7 but also your property. So I appreciate
8 the fact that you've accepted my
9 suggestion on that.

10 The other suggestion that I
11 have is that even though you have the
12 circular driveway that we all know and
13 have been exposed to backup alarms, which
14 these vehicles have. There needs to be
15 consideration so that at 8 o'clock at
16 night, 9 o'clock at night, when children
17 are put to sleep, that vehicles use every
18 effort to not have those alarms sound.
19 And then there are devices that can, on a
20 particular cycle of reverse, stop those
21 alarms from operating at least on that
22 one cycle. And I understand that that
23 should be at a minimum because of the
24 configuration of the drop-off point.

25 And the other thing is, you did

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2 mention something that just got my
3 attention. I would hope that the parking
4 lot would be secured and not be able to
5 be used by the people after the operating
6 hours of the facility to go to other
7 venues, because, again, I think that
8 could develop into a problem for the near
9 residents of the facility.

10 I spent a half hour there
11 yesterday, and the building is in very,
12 very dis -- it's in disrepair. And the
13 quicker it gets rehabbed, the better.

14 And I believe that the input
15 that you're going to get to make that
16 building fit into the community is
17 appreciated by me as a resident and also
18 as a councilmember at-large.

19 So I look forward to you doing
20 what you need to do there, but I would
21 hope that you could address the vehicles
22 that are going to be used and that there
23 isn't a nuisance in the community.

24 MR. PRIMAVERA: Dr. Jones says
25 he has information on that.

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2 COUNCIL PRESIDENT VERNA:

3 Doctor?

4 DR. JONES: Thank you.

5 Councilman Rizzo, thank you.

6 Just to give you some context
7 again, when we dialyze patients in the
8 evening, they are the most stable
9 patients that we deal with.

10 And when you look at the
11 ambulances, those who do come by
12 ambulance are more likely in the daytime.
13 So it's unusual to see it in the evening
14 period of time; there might be one.

15 But we'll be, again, attentive
16 to this in, you know, our concern about
17 the neighbors' issues. We want to be
18 good neighbors, so we will work with the
19 neighbors. And if those issues come up,
20 we'll address them with the ambulance.

21 We have a full-time social
22 worker who has very good relationships
23 with the ambulance companies, CCT and
24 Paratransit, and is constantly on the
25 phone with them, and she will help work

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2 in that regard.

3 COUNCILMAN RIZZO: If, on a
4 Sunday morning, at 7:00 a.m., you've ever
5 been sleeping and been awoken by a backup
6 alarm, you can understand people not
7 being happy.

8 The other question I have:
9 Will the building -- not that I'm
10 suggesting that it be open to the
11 community, but if there was a need for a
12 conference room for a community meeting
13 or something like that, would you extend
14 that offer to the community to use the
15 facility for appropriate meetings that
16 might come up that affect the community?

17 DR. JONES: There will be a
18 conference room; it's not very large.
19 But, again, we want to be good neighbors.
20 We'll work with the neighborhood
21 association, and if that's something
22 possible that we can work out, we'd be
23 attentive to that.

24 COUNCILMAN RIZZO: Terrific.
25 Good luck.

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2 DR. JONES: Thank you,
3 Councilman.

4 COUNCILMAN RIZZO: Thank you,
5 Madam Chair.

6 COUNCIL PRESIDENT VERNA: Thank
7 you.

8 The Chair recognizes
9 Councilwoman Brown.

10 COUNCILWOMAN BROWN: Thank you,
11 Madam Chair.

12 A follow-up question on the
13 hours. Is it customary for medical
14 facilities like this to have those hours,
15 as described?

16 DR. JONES: That's pretty much
17 the state of the care throughout the
18 country. Many places are opening up on
19 Tuesday, Thursday permanently. But the
20 standard of care in the Delaware Valley
21 is three shifts: 6 o'clock in the
22 morning to 9 o'clock on Monday,
23 Wednesday, and Friday; and the 6 to 6 on
24 Tuesday, Thursday, and Saturday. That's
25 standard.

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2 COUNCILWOMAN BROWN: Okay.

3 Thank you.

4 And no way to mischaracterize
5 this challenge that you're facing, but is
6 this wrinkle unprecedented?

7 DR. JONES: I've never faced
8 this process before.

9 MR. PRIMAVERA: We had that
10 conversation yesterday. Mike does this
11 all over the country, I'm told.

12 MR. MALONE: Yes. I'm involved
13 in --

14 COUNCIL PRESIDENT VERNA: Mike,
15 please identify yourself for the record.

16 MR. MALONE: Michael Malone.

17 I'm involved in the approval
18 process in several of these and elsewhere
19 in Pennsylvania and in New Jersey and in
20 Oklahoma.

21 And, typically, they are
22 welcomed in communities as a much-needed
23 health care service and receive the
24 support of the community. I mean, all of
25 the issues that we addressed with the

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2 Chestnut Hill Community Association are
3 typically addressed. But at the end of
4 the day, it's considered an inherently
5 beneficial use and fairly benign in terms
6 of traffic.

7 COUNCILWOMAN BROWN:

8 Demographics. Have you done the study or
9 the back homework that drives the
10 decision that a facility at this location
11 indeed becomes beneficial for those
12 citizens, residents, patients, period? I
13 mean, because you mentioned that many of
14 those in that part of the world may have
15 to travel X-number of miles to some other
16 location.

17 So do you have demographics
18 that say to you, Yes, a location like --
19 a facility like this in this location
20 will be needed but just based on need?

21 DR. JONES: Yes, Councilwoman
22 Brown. We have done that. We've got
23 details of the numbers of patients that
24 have end-stage kidney disease in each of
25 the zip codes that are there.

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2 And, again, in northwest
3 Philadelphia, there's a high penetrance,
4 unfortunately, of patients with end-stage
5 renal disease.

6 COUNCILWOMAN BROWN: I see.

7 DR. JONES: But we know the
8 number of patients in each one of the zip
9 codes, and that's why this area is an
10 ideal location for a dialysis community.

11 COUNCILWOMAN BROWN: Okay.

12 MR. PRIMAVERA: I think the
13 doctor's affiliated with Chestnut Hill
14 Hospital.

15 DR. JONES: Yes. I'm the head
16 of the Department of Nephrology at
17 Chestnut Hill Hospital. I formerly was
18 Chairman of Medicine at Germantown
19 Hospital, which, unfortunately, doesn't
20 exist.

21 But I've been in the community
22 for 30 years.

23 COUNCILWOMAN BROWN: Okay.

24 That's important testimony as well.

25 Thank you.

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2 Thank you, Madam President.

3 COUNCIL PRESIDENT VERNA:

4 You're welcome.

5 Dr. Jones, in the event that
6 you cannot find any location in
7 Councilman DiCicco's district, you're
8 also more than welcome to come into mine.

9 DR. JONES: Thank you.

10 COUNCIL PRESIDENT VERNA:

11 LaRhonda, do you have anything to add to
12 the testimony?

13 MS. JONES: No, ma'am. I was
14 here in case you guys had any questions
15 for me.

16 COUNCIL PRESIDENT VERNA: Okay,
17 thank you.

18 The Chair recognizes Councilman
19 Kelly.

20 COUNCILMAN KELLY: Thank you,
21 Madam Chair.

22 Dr. Jones, I just want to
23 commend you for the work that you've been
24 doing to help these poor people who have
25 this disastrous affliction. And I know

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2 of many people -- I know a few people who
3 need this service. And by you providing
4 this service up into that community, I
5 think, is a plus. I know that most of my
6 Council colleagues have people who
7 probably have the same affliction and the
8 same services that they need.

9 And I just want to commend you
10 and, of course, your counselor and
11 everyone else who has tried to do
12 whatever they can to make sure that this
13 service is put into this community.

14 Okay, thank you.

15 DR. JONES: Thank you.

16 And LaRhonda is one of the
17 major reasons why this facility has won
18 national awards for the quality of care
19 that it delivers for the patients,
20 national awards.

21 COUNCIL PRESIDENT VERNA:

22 Wonderful.

23 MR. PRIMAVERA: Thank you.

24 COUNCIL PRESIDENT VERNA: Thank
25 you.

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2 Our next panel?

3 THE CLERK: Current dialysis
4 patient, Louis Incognito.

5 (Witness comes forward.)

6 COUNCIL PRESIDENT VERNA: Good
7 morning.

8 MR. INCOGNITO: Good morning.

9 COUNCIL PRESIDENT VERNA:
10 Please identify yourself for the record.

11 MR. INCOGNITO: My name is
12 Louis J. Incognito, and I am a dialysis
13 patient in Mt. Airy right now.

14 COUNCIL PRESIDENT VERNA: Did
15 you want to testify on this bill, or are
16 you in favor?

17 MR. INCOGNITO: I'm sorry?

18 COUNCIL PRESIDENT VERNA: Are
19 you in favor of the bill before us this
20 morning?

21 MR. INCOGNITO: Am I in favor
22 of the moving of the building?

23 COUNCIL PRESIDENT VERNA:
24 Mm-hmm.

25 MR. INCOGNITO: Yes. Both are

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2 close to our home. We live in Mt. Airy.

3 And the other building, the
4 building we're about to move in, if it's
5 approved, and we hope it is, we'll have
6 much better parking.

7 And I think that it will be
8 another plus. I think it's an asset to
9 Mt. Airy, and it will be an asset to
10 wherever this operation goes.

11 COUNCIL PRESIDENT VERNA: Thank
12 you.

13 Any questions?

14 (No questions.)

15 COUNCIL PRESIDENT VERNA: Thank
16 you, sir.

17 MR. INCOGNITO: You're welcome.

18 COUNCIL PRESIDENT VERNA: Our
19 next panel?

20 CHIEF CLERK: Community
21 Association: Walter Sullivan, Rob Remus
22 and Larry McEwen.

23 (Witnesses come forward.)

24 MR. SULLIVAN: Good morning,
25 Council President and members of Council.

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2 COUNCIL PRESIDENT VERNA: Good
3 morning.

4 MR. SULLIVAN: I am Walter J.
5 Sullivan. I am the president, and I've
6 been privileged to be for almost two
7 years, of the Chestnut Hill Community
8 Association. I think it is stupid for me
9 to give you a long history of this
10 association, so I'll make it brief.

11 For well more than 60 years, we
12 have been the authentic representative of
13 the people of Chestnut Hill. We
14 represent and serve them. I'm elected.
15 The board of 36 are elected by the people
16 of Chestnut Hill, by the members.

17 Now, we have -- let me say
18 incidentally, and this is only
19 incidentally -- that I am a dialysis
20 patient. Lord willing, it looks as
21 though, from Einstein, I will have
22 received the transplant well before this
23 place opens up in Chestnut Hill, but I
24 know about it.

25 The place in Mt. Airy is a very

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2 fine place, but it's old, there are
3 problems, and there sure as heck are
4 problems with parking. If I were from
5 Chestnut Hill and I were wondering about
6 the place coming into Chestnut Hill, and
7 I took a ride down to Mt. Airy with that
8 very small parking lot, yeah, I would see
9 problems that would give me genuine
10 concern, but those problems will not be
11 present in this Chestnut Hill location.

12 The Chestnut Hill Community
13 Association, over decades, has developed
14 a review process. There are a number of
15 committees. The land use planning and
16 zoning committee, ten of the members must
17 be -- it's twelve -- design professionals
18 or those who have expertise in zoning.

19 Might be a lawyer like myself,
20 but it would need to be a lawyer who has
21 that kind of expertise, like the
22 gentleman here, who appears.

23 That's the land use planning
24 and zoning committee.

25 The development review

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2 committee is representatives from the
3 land use planning, plus representatives
4 of principal organizations in the
5 community like the business association
6 and the parking foundation and the
7 historical society.

8 Where appropriate, the traffic,
9 transportation, and parking committee
10 reviews the matter. Where appropriate,
11 the esthetics committee reviews the
12 matter. It comes back to the development
13 review committee, which makes a decision
14 and a recommendation to the board of
15 which I am the chair, obviously.

16 This process in this instance
17 took a number of weeks, and Mr. McEwen
18 can detail it. But every one of these
19 meetings was published. We want the
20 public to come to the meetings. If
21 they're for it, if they're against it.
22 If they have questions, we want them
23 there.

24 And some of them did come. But
25 it was not until it came to the board at

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2 the end of all this -- we felt we were a
3 little bit blind-sided -- that there were
4 petitions and all kinds of things. Work
5 these things out within these committees;
6 that's what they're for.

7 The only issue it came down to,
8 people were -- they had this question and
9 that question, but the only real issue,
10 as you've heard, was hours.

11 Now, they were okay with a
12 third shift until about 9 o'clock on
13 Monday, Wednesday, and Friday, and they
14 didn't want one on Tuesday, Thursday, and
15 Saturday. I don't get the logic of that.

16 But, in any event, we represent
17 folks. So if the developer had been able
18 to live with that, we would have added
19 that condition, even though it doesn't
20 make in my mind a particle of sense. But
21 the developer couldn't live with that
22 limitation.

23 Maybe right now, there wouldn't
24 be any Tuesday, Thursday, and Saturday,
25 but at some point in the future, demand

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2 for patients would cause it.

3 So we approved it, and I think
4 that's rational.

5 And the -- we have a concern
6 when there are neighbors who don't agree
7 with the decisions we make 'cause we
8 represent all of the people of Chestnut
9 Hill. But we have to call it as we see
10 it. And these committees concluded that
11 it was in the best interests, not only of
12 all of Chestnut Hill, but of the
13 immediate neighborhood.

14 And it is because the place
15 looks like -- the place is not appealing,
16 as Councilman Rizzo has pointed out. And
17 I don't know why they want to live nearby
18 that, continuing that way for years.
19 Those who are opposing it I respect but,
20 I believe, are mistaken.

21 COUNCIL PRESIDENT VERNA: Thank
22 you. Thank you, Mr. Sullivan.

23 MR. MCEWAN: My name is Larry
24 McEwen. I'm the co-chair of the
25 development review committee, the much

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2 maligned development review committee of
3 the community association.

4 I do want to say that in a
5 national historic district, our review
6 process, all things going well, can get
7 an applicant through in one month and
8 eight days, which is, I think, the
9 shortest period of time in any national
10 historical district review process in the
11 country.

12 This particular issue was
13 brought to us mid-February. It did take
14 longer than the one month that we
15 actually heard the issue through.
16 Finally, we passed it to the board May
17 18th.

18 There were -- we review a
19 number of things running from the
20 architectural design and, in this case,
21 the renovation proposal relative to the
22 historical property, the Willet Stained
23 Glass studio, which was of interest to
24 the historical society. That group
25 actually met, and I think many of their

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2 suggestions saved the applicant some
3 money in terms of the renovation
4 proposals that they had made and the
5 suggestions we gave to them.

6 So over the course of the time,
7 the architectural design and some of the
8 other issues of landscape, traffic
9 management, and lighting were addressed
10 very well by the applicant, Michael
11 Malone, and his design team.

12 But then the other series of
13 issues that were raised were three
14 really.

15 Traffic. There were some
16 concerns of neighbors about traffic.
17 That Winston Road, I think the daily
18 traffic is 1200 cars. One block over on
19 Germantown Avenue, the daily traffic is
20 12,000 cars, same road width. The 140 to
21 160 additional cars in a day over the 15
22 hours of operation did not seem to us to
23 be a significant increase in the traffic,
24 although we did think about that with the
25 neighbors as they addressed it.

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2 Public safety was the second
3 one. And that one -- again, the
4 establishment of the sidewalk, the idea
5 that when people leave the lot, they
6 would turn right, and some of the other
7 issues seemed to us to make the public
8 safety not be a significant issue there
9 as opposed to other places in the
10 community.

11 The third issue was hours of
12 operation. And it is true that when they
13 first proposed the project to us in
14 February, the hours on Tuesdays,
15 Thursdays, and Saturdays were 6 a.m. to
16 6 p.m.

17 And as the proposal went
18 through the committee in the several
19 months, finally, the applicant came back
20 to us and said, You know, we really need
21 the third shift; Tuesdays, Thursdays, and
22 Saturdays, we need to be open till 9.

23 It was actually something we
24 then had to consider as a committee
25 because we knew there was some opposition

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2 to that. Walter alluded to maybe the
3 logic of it, but there is an issue always
4 when neighbors are confronted with
5 businesses, and that's really an
6 adjacency that happens throughout
7 Chestnut Hill, that people are looking
8 for some sort of break during the weekend
9 hours.

10 We then looked at the
11 operation. We felt that the operation is
12 very internalized to the building in
13 terms of the work itself, that the
14 traffic is actually -- we felt that this
15 lot actually is ideal for the traffic
16 because it does allow for the vans to be
17 stored on the property, not on the
18 street. It does allow the vans move
19 forward, not with the emergency beeper
20 going on.

21 And on balance, we looked at
22 the proposal in the end that the
23 developer is going to do in terms of
24 improvement to the building and consider
25 it potentially a great thing for our

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2 community to have the building restored
3 in this manner that they proposed. And
4 we think it's a use that does not
5 adversely, in our view, affect the
6 quality of life for our near neighbors.

7 So that was our almost
8 unanimous support that we took to the
9 board from our May 18th meeting.

10 Thank you.

11 COUNCIL PRESIDENT VERNA: Thank
12 you.

13 MR. REMUS: Good afternoon.

14 COUNCIL PRESIDENT VERNA: Good
15 afternoon.

16 MR. REMUS: Excuse me. My name
17 is Rob Remus, and I'm a director on the
18 Chestnut Hill Community Association. I
19 also serve on the executive board. I'm
20 also a nearby neighbor who lives and
21 works in the immediate area. I've lived
22 in Chestnut Hill for 11 years.

23 I live about a block away, me
24 and my family, but I do work right across
25 the street from the dialysis center. And

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2 for the last three years, I have been
3 appalled by the look of the building.

4 Having known the previous
5 owners of the building and the previous
6 operator of the building, I was very
7 vocal to him on some of the matters that
8 were concerning me and my family, of
9 which I was concerned of the exterior
10 look of the building because I understand
11 it's a very limited use and it has some
12 really archaic windows. And, you know, I
13 usually notified him when windows were
14 broken.

15 But routinely, there was broken
16 glass on the sidewalk, there was
17 McDonald's bags of food dropped off by
18 contractors, there was contractors'
19 trucks parked on the sidewalk, diesel
20 trucks running. And I had to maneuver
21 around these things as well as my kids.

22 So I was very concerned when I
23 understood that this building was to be
24 converted from G-2 into another use.

25 I am very much for this. I do

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2 not want to see another -- I would not
3 like to see another G-2 use of this
4 property. The Porta-Potties are
5 horrible, but at least there's -- nobody
6 sleeping on the sidewalks in pickup
7 trucks, as far as I'm concerned.

8 So I've been to almost every
9 meeting from the DRC to the historical
10 meetings to every community association
11 meeting with this matter. I have read
12 the details, I have studied them. I have
13 studied the company Fresenius. I have
14 forwarded it on to colleagues and my
15 neighbors. I have met with my neighbors
16 on three or four separate occasions as
17 frequently as -- excuse me, as recently
18 as last Sunday, to address some
19 questions.

20 And one of the points I want to
21 make is, I'm often shocked on how little
22 we talk about the various facts versus
23 what we hear as rumors. I try to address
24 them as best as I can, and I go on from
25 there.

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2 So that's pretty much my
3 opinion of the situation.

4 People have asked me, am I
5 happy about a dialysis center moving down
6 the street from me? I don't have anyone
7 in my family that suffers that needs to
8 be dialyzed. I would very much love to
9 see that entire block be beautiful homes,
10 but that's not in the cards.

11 I am very happy to see that
12 building converted into the dialysis use
13 and to Fresenius's use and Dr. Jones.

14 So I still stand by that.

15 COUNCIL PRESIDENT VERNA: Thank
16 you.

17 Hello, welcome. Good to have
18 you back.

19 MR. SHELTER: Good morning,
20 Madam President. Craig Shelter. It's a
21 delight to be back before you and the
22 committee. It's been quite frankly.

23 I'm here this morning both as a
24 42-year resident of Chestnut Hill, and I
25 was also hired by the developer in this

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2 situation to make testimony before the
3 Zoning Board regarding the history of how
4 this site got zoned.

5 I've also been recently asked
6 by the community president to serve on a
7 negotiating committee of the civic
8 association, dealing with an expansion
9 plan for Chestnut Hill College.

10 And in my years at the City
11 Planning Commission, I was the deputy
12 director when all four quadrants of
13 Chestnut Hill were rezoned.

14 So I think I've brought a lot
15 of institutional memory to the situation.

16 I point out here that I think
17 this is probably the best win/win I've
18 seen of a reuse of an industrial property
19 in the City. And I say this, having
20 spent 19 years at PIDC and 10 years as a
21 private consultant.

22 And what usually happens with
23 industrial properties like this is, you
24 will get successive users there, as we
25 did in Chestnut Hill. When Willet

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2 Stained Glass left and Curtis Roofing
3 came in, it was an industrial use; it
4 wasn't a terrible use, but there wasn't
5 sufficient income from that business to
6 really fix it up.

7 So the idea to have somebody
8 come into this building and fix it up in
9 a way where the exterior got improved,
10 where the parking got improved, where
11 then the access to the site is easy for.

12 Five years of my 42 years, I
13 lived one block away, on 7910 Winston
14 Road. And the thing we worried about as
15 neighbors was the fact that it's the
16 widest commercial Street in Chestnut Hill
17 and was a speedway. So the fact that
18 there's easy access in and out, I think,
19 is a given.

20 Also, the fact that when you go
21 pull into this facility, the wall of the
22 existing building shields noise from
23 going further to the northwest, where
24 more of the neighbors are.

25 So the question was then: What

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2 was the original zoning on this site?

3 And this went back to February of 1977.

4 It was Bill 342. And that was a rezoning
5 that was done in coordination with the
6 civic association and the Planning
7 Commission.

8 And at the time, the idea was
9 to keep the businesses in place, keep
10 them happy, keep jobs in the City, and
11 so, it's why the area -- why that was
12 zoned G-2.

13 The area right next door to it
14 is Philippe Ironwork. They've been
15 there, I think, for 60 or 70 years. And
16 these are tradespeople that everyone in
17 Chestnut Hill uses. There's Roxy Auto on
18 the other side of it, if you want to have
19 your car repaired.

20 So the idea was, keep the
21 industrial uses there until a more
22 appropriate use came along. I think
23 that's its case here.

24 And in light of the time, I'll
25 stop and answer any questions you may

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2 have.

3 COUNCIL PRESIDENT VERNA: Thank

4 you.

5 Are there any questions from

6 members of the committee?

7 The Chair recognizes Councilman

8 Kelly.

9 COUNCILMAN KELLY: Yes. I just

10 have one question to the panel, and I

11 just want to know how many residential

12 properties are located adjacent to this

13 property or across from the property, and

14 how many of 'em are there?

15 MR. SHELTER: I think there are

16 three. If I could go up to the map.

17 COUNCIL PRESIDENT VERNA:

18 Certainly.

19 MR. SHELTER: Yes, three

20 properties.

21 (Mr. Shelter moves to chart on

22 display, away from microphone, and is

23 inaudible at this point.)

24 COUNCILMAN KELLY: Three

25 residential properties?

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2 MR. SHELTER: I guess there
3 would be four. I stand corrected. So
4 there are four properties.

5 COUNCILMAN KELLY: Four
6 properties?

7 Okay, thank you.

8 COUNCIL PRESIDENT VERNA: Thank
9 you.

10 The Chair recognizes Councilman
11 Rizzo.

12 COUNCILMAN RIZZO: Thank you,
13 Madam Chair.

14 Also, I'd like to point out --
15 and I don't think it's been mentioned --
16 that the westerly neighbor is a
17 Philadelphia electric substation. So if
18 you want to talk about a site, that
19 site's going to be there forever as far
20 as I'm concerned. But I just wanted to
21 point out that that substation is the
22 near neighbor to the property in
23 discussion.

24 Thank you, Madam President.

25 COUNCIL PRESIDENT VERNA:

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2 You're welcome.

3 Thank you, gentlemen. We
4 appreciate your coming in to testify.

5 I really want to thank all of
6 you for coming in. You've all been
7 extremely patient, but I just want to say
8 that when you come up to testify, if you
9 could just be as brief as possible,
10 because we do have another hearing that
11 has been scheduled for 11:30 for another
12 committee.

13 So with that being said, I
14 would ask the clerk to please call up the
15 next witnesses.

16 THE CLERK: Ron Recco and Ann
17 Spaeth.

18 (Witnesses come forward.)

19 COUNCIL PRESIDENT VERNA: Good
20 morning, welcome. Please identify
21 yourself for the record.

22 MR. RECCO: Good morning. My
23 name is Ron Recco, and I'm past president
24 of the Chestnut Hill Community
25 Association, one of the founding members

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2 of the Chestnut Hill Residents
3 Association.

4 I have lived in Chestnut Hill,
5 in the same house, paid taxes all these
6 years, way back when oil was 17 cents a
7 gallon. Now, if you want to do the
8 numbers, that goes back to the mid-1960s.

9 A couple of things. First of
10 all, I'd like to thank the committee for
11 hearing me.

12 It's really about rules. And
13 I'm humble to be here, before a Rules
14 Committee, because up until this point,
15 the only one that's been following the
16 rules has been the near neighbors and the
17 Chestnut Hill Residents Association.

18 Despite what's happened, you
19 know, we feel as though the judicial
20 process is being circumvented here. And
21 we were told that this would happen, that
22 if a compromise was not reached, Donna
23 Reed Miller would introduce a bill that
24 would circumvent our day in court.

25 I don't understand how a zoning

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2 board can vote limiting hours -- we're
3 only talking nine hours here -- by
4 unanimous decision, and then turn around
5 and reconsider it, which is not legal,
6 even though it's been going on for years,
7 without any other hearing.

8 Now, this is very, very
9 troublesome to me. The Chestnut Hill
10 Residents Association is all about
11 neighbors. If the majority of the
12 neighbors don't want something, then we
13 support them. If the neighbors do not
14 have a problem with the variance, then we
15 don't object to it.

16 I'll give you an example.
17 Elfant Wissahickon Realtors came in, they
18 had to redo a building and spent
19 \$2 million on Germantown Avenue. They
20 called us and said, you know, Do you
21 object to this? I said, Do the neighbors
22 want it? Yes. We don't object.

23 We are not a splinter group,
24 the Residents Association is not a
25 splinter group.

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2 There have been so many
3 inconsistencies in the testimony you've
4 heard from PIDC, from Mr. Primavera, from
5 Rob Remus -- and I'll just give you a
6 couple of these because they're all on
7 the record.

8 Rob Remus does not live a block
9 away from this site; that's a false
10 staple.

11 Mr. Rhodes said that they want
12 a business like Fresenius because they
13 want small businesses coming in. And
14 then, Mr. Primavera says, which we know
15 is the truth, it's a multi-billion dollar
16 organization from Germany, which will be
17 getting a ten-year tax abatement.

18 We were not aware, until we
19 heard it from him, that an agreement had
20 been reached for no 24/7 operation. This
21 has always been the thing that really
22 affected the near neighbors, the hours of
23 operation, and it still does. But since
24 they're signing an agreement, it looks
25 like a compromise has been reached.

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2 If that's so, and the near
3 neighbors are happy with this, that's
4 fine with the Residents Association.

5 But I want the committee to
6 know that this was put before them right
7 from the get-go. The Residents
8 Association wanted to negotiate the hours
9 right from the beginning. But, no, they
10 went before the community association,
11 Dr. Jones, Fresenius.

12 And what did they do? They
13 were very disingenuous in their speech.
14 They said, "We've never gone to a third
15 shift and we don't anticipate going to a
16 third shift." Now they know that
17 litigation is going to take place in
18 March, so they're trying to circumvent
19 our day in court by coming to you and
20 saying, Introduce this bill, and now
21 we'll negotiate, now we'll sign 24/7.

22 I mean, is this the way you
23 treat your constituents, the people
24 sitting back there that vote you into
25 office? I don't understand it. I just

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2 am dumbfounded that we're even here with
3 the bill being proposed before a Rules
4 Committee when nobody's following the
5 rules.

6 When the Chestnut Hill
7 Community Association, you know, got
8 involved with this from the beginning, we
9 all sat back and said, Let's follow
10 procedure. We'll go to the Zoning Board,
11 which we did. The Zoning Board ruled
12 four-to-nothing in favor of the residents
13 limiting the hours. And then they
14 reconsidered it.

15 But one other point that I'd
16 like to make, and then I'll defer to
17 whatever questions you may have, and that
18 is that the near neighbors -- and this is
19 one of our biggest mottos. The near
20 neighbors should prevail because they're
21 the most impacted.

22 They have over 60 signatures
23 opposing not Fresenius per se, but they
24 want to go back to the standard hours
25 which were originally presented. If this

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2 is the case, they don't have a problem
3 with that. But apparently, they've
4 changed.

5 The standard hours were
6 presented by Dr. Jones right from the
7 get-go, and he said it even today. You
8 know, the standard hours originally --

9 COUNCIL PRESIDENT VERNA: What
10 are the hours that you're referring to?

11 MR. RECCO: The standard hours,
12 which they said would be 6 to 6 three
13 days a week; and 6 to 9 three days a
14 week. The neighbors -- near neighbors
15 don't have a problem with that.

16 And that will be heard in court
17 in March only because that was decided by
18 the Zoning Board, and then the
19 reconsideration, which took place behind
20 closed doors, without any input from the
21 near neighbors. And that's what we're
22 arguing here, due process.

23 And the last statement I have
24 to make, because they took a cheap shot
25 at the Residents Association. I served

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2 on the board for the community
3 association for nine years. I was
4 president of that organization. When I
5 was president, I found misdeeds going on.
6 There was money unaccounted for.

7 It was reported to the Attorney
8 General's Office. And this has all been
9 published a matter of record. The
10 Attorney General's Office fined them and
11 said, You better start complying;
12 otherwise, we're going to have you back
13 here again.

14 Thank you.

15 COUNCIL PRESIDENT VERNA: Thank
16 you.

17 MR. RECCO: I'll entertain any
18 questions.

19 COUNCIL PRESIDENT VERNA: Miss
20 Spaeth.

21 MS. SPAETH: Thank you. My
22 name is Ann Ward Spaeth. I've lived in
23 Chestnut Hill since 1960. I am a
24 resident there, and I have been a member
25 of the Chestnut Hill Community

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2 Association since 1967. When I first
3 became a board member of that group, as a
4 -- as the first president of the
5 newly-formed Chestnut Hill Historical
6 Society, I was one of the incorporators
7 of that group, one of three
8 incorporators.

9 Throughout the following years,
10 I have been on the board of the community
11 association multiple times for -- been
12 elected to it. The last election in this
13 last year, there were not -- there was no
14 formal vote for the people who ran for
15 the board because there were not enough
16 people running.

17 The membership of the community
18 association is currently down. And one
19 of the reasons is that, in my view and in
20 others' views, is that the community
21 association no longer represents the
22 interests of the residents but primarily
23 those of the institutions and the
24 businesses.

25 It's very disturbing to hear --

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2 the Residents Association, of which I am
3 also a member, was formed because in so
4 many instances in perhaps the last ten or
5 twelve years, when there has been a
6 problem between residents' feelings about
7 a development and the business or
8 institution, almost routinely -- in fact,
9 I cannot think of an instance where the
10 community association took the part of
11 the residents.

12 We are not a splinter group.
13 We have been ridiculed by Mr. Sullivan
14 and called --

15 COUNCIL PRESIDENT VERNA: I
16 don't mean to interrupt you, Miss Spaeth.

17 MS. SPAETH: Excuse me.

18 COUNCIL PRESIDENT VERNA: But
19 this really is not our issue. It --

20 MS. SPAETH: Excuse me, excuse
21 me, but --

22 COUNCIL PRESIDENT VERNA: I
23 think we have to talk about the bill
24 before us.

25 MS. SPAETH: Yes. The bill

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2 before us and the fact that it -- the
3 neighbors were not called again to
4 testify, when they were told at first
5 that their request was reasonable, to not
6 allow them to testify the second time
7 seems unreasonable.

8 It was suggested at the board
9 meeting -- I was at the board meeting in
10 May when this was presented to the CHCA
11 board. It was suggested by a CHCA board
12 member that there could be a -- they
13 could come back in two years to reapply
14 for the extra hours if that was needed.

15 In that period of time,
16 neighbors would have had the opportunity
17 to know whether, in fact, Fresenius was a
18 good neighbor and whether they could
19 trust them.

20 The fact that three times at
21 that meeting, they said, "In 30 years,
22 we've never wanted to go to a third
23 shift," and the board voted -- not
24 unanimously by any stretch -- to support
25 them.

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2 But one -- when the
3 reconsideration came about, the
4 neighbors, and I too, came to wonder
5 about the intentions and the veracity
6 actually of what we have been told was
7 agreed to.

8 I -- I -- I hope -- I -- I
9 couldn't come to the first hearing
10 because I was just returning from
11 Germany, where things were beautiful, and
12 I know they can do a beautiful job. But
13 we don't know what will happen in
14 Chestnut Hill.

15 And while the committees are
16 wonderful in their professional status,
17 they cannot know intimately, unless they
18 live in that section, the impact on the
19 lives of the people there. And that is
20 what the neighbors want to know and to
21 assess before granting the full hours.

22 Thank you very much.

23 COUNCIL PRESIDENT VERNA: The
24 Chair recognizes Councilman Greenlee.

25 COUNCILMAN GREENLEE: Thank

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2 you, Madam President.

3 Very quickly. Look, I
4 understand that there certainly is
5 disagreements on the process; I
6 understand that, with the Zoning Board
7 and all. Also, it's quite clear that
8 there's some disputes with the groups in
9 the neighborhood.

10 But Miss Spaeth, I know in your
11 letter, you say, "We count on you" --
12 that's us -- "to support the residents."

13 I think I heard that
14 Mr. Primavera said that the organization
15 would sign an agreement on the hours, and
16 I think that's what the residents want,
17 is to limit to 9 o'clock, right? on three
18 days a week, six on the other.

19 So when you get past everything
20 else -- and what's before us today is
21 whether to change the zoning or not.
22 We're not the Zoning Board, we're not
23 either association.

24 But if it meets what the
25 residents want, then I guess I don't

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2 understand why we shouldn't support it.

3 MS. SPAETH: This is the first
4 time I've heard that. And when we were
5 presented with the case at the board, we
6 did not get the final agreement, which
7 was four pages, single-spaced, until it
8 was placed on the table. It had been
9 sent at noon that day via e-mail. People
10 are at work during the day.

11 COUNCILMAN GREENLEE: Are you a
12 nearby resident, ma'am? Do you live
13 nearby?

14 MS. SPAETH: No. I live
15 opposite of the Chestnut Hill Hospital.

16 COUNCILMAN GREENLEE: Okay.

17 MS. SPAETH: But I am on the
18 community association board.

19 COUNCILMAN GREENLEE: Okay, I
20 understand that, I understand that.

21 But I guess just my question
22 is: When you get past everything else --
23 and I know that's hard to get past
24 everything else -- if those hours, as was
25 presented today, my understanding is,

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2 that's what the community wanted, that's
3 what was in a lot of the communication we
4 got, 'cause that communication said about
5 24/7 operational. It was stated that's
6 not the way it's going to be, there's
7 going to be these hours.

8 So I mean, I don't think, with
9 all due respect, we're here to settle
10 disputes between community associations
11 and all that. We just want to know if
12 this is the right thing to do. That's
13 all.

14 MR. RECCO: Can I answer that,
15 please?

16 COUNCILMAN GREENLEE: Sure.

17 MR. RECCO: Thank you.

18 If they go back to their
19 standard hours, which is 6 to 6 three
20 days a week and 6 to 9 three days, which
21 the ZBA approved, fine.

22 COUNCILMAN GREENLEE: Okay.

23 And that's what they said they were going
24 to do.

25 MR. RECCO: No, no, that's not

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2 what they say. They keep flip-flopping.

3 COUNCIL PRESIDENT VERNA:

4 Mr. Primavera, can you respond to that,
5 please.

6 COUNCILMAN DiCICCO: Madam

7 President, point of order on that
8 question.

9 What is the concern two days
10 versus three days or three days versus
11 two days?

12 COUNCIL PRESIDENT VERNA: I

13 have no idea.

14 COUNCILMAN DiCICCO: I'm just

15 curious about that. Why is it that on
16 certain days, it's accepted up to 9 p.m.
17 and other days it's not? I'm -- what is
18 the objection to that? What's to gain by
19 only doing it three days or two days?

20 MR. RECCO: The near neighbors

21 will speak to that. I'm not a near
22 neighbor.

23 COUNCIL PRESIDENT VERNA:

24 Excuse me, sir. We're really running out
25 of time.

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2 (Addressing Mr. Primavera.)

3 Would you please make it imminently clear
4 what the hours are?

5 MR. PRIMAVERA: Yes. The
6 agreement with the community association,
7 and the agreement we're stating here
8 today, is that we will be running from 6
9 in the morning till 9 at night as the
10 maximum hours.

11 COUNCILMAN GREENLEE: Okay.

12 MR. PRIMAVERA: That doesn't
13 mean we'll run the third shift regularly,
14 but means if, in fact, there's critical
15 demand, we want the ability to run from 6
16 in the morning till 9 at night.

17 Right now, we'll be running 6
18 to 6 Tuesday, Thursday, and Saturday,
19 which is what the neighbors want. But we
20 can't put 2 or \$3 million into a facility
21 and, all of a sudden, find that, as
22 Dr. Jones said, we're turning people away
23 when we have a brand-new facility because
24 people think that we should close at 6.

25 The three hours may be life and

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2 death for some people; whereas, for
3 others, it may be a matter of pride or a
4 matter of getting the last word.

5 COUNCILMAN KELLY: Would that
6 be six days a week or seven days?

7 MR. PRIMAVERA: Six days a
8 week.

9 COUNCILMAN KELLY: Six days a
10 week.

11 Thank you.

12 COUNCILMAN GREENLEE: Okay.
13 I'm sorry about that. I misunderstood.

14 So we're talking about --
15 really what you're arguing about -- the
16 dispute is three hours, three days a
17 week.

18 MR. RECCO: Nine hours, nine
19 hours, which the Zoning Board approved.

20 COUNCILMAN GREENLEE: Okay, I
21 understand that, and I think Councilman
22 DiCicco asked this, and I was distracted.

23 COUNCIL PRESIDENT VERNA: Yeah.
24 Why?

25 COUNCILMAN GREENLEE: What is

1 12.8.10 - RULES - BILL 100753

2 the difference between going to 9
3 o'clock, I think it's, Monday and
4 Wednesday and only to 6 o'clock Tuesday
5 and Thursday? Why do those days make any
6 difference? I mean, any major
7 significance.

8 MR. RECCO: Well, because we
9 followed the process. It's due process
10 and that was decided by --

11 COUNCILMAN GREENLEE: That's
12 not the question.

13 COUNCIL PRESIDENT VERNA: That'
14 s not us; it's the Zoning Board.

15 COUNCILMAN GREENLEE: Yeah, but
16 the question is: Why are those three
17 hours an issue, in reality, to the
18 community? I guess is what I'm getting
19 at. Why are those three hours on those
20 other three days a difference?

21 MR. RECCO: 'Cause the near
22 neighbors have a problem with it.

23 COUNCILMAN GREENLEE: For what
24 reason?

25 COUNCIL PRESIDENT VERNA: What

1 12.8.10 - RULES - BILL 100753

2 is the problem?

3 MR. RECCO: Let them speak to
4 it.

5 COUNCILMAN GREENLEE: Okay,
6 fine.

7 COUNCIL PRESIDENT VERNA: Thank
8 you Miss Spaeth.

9 Our next witness?

10 (Witness comes forward.)

11 COUNCIL PRESIDENT VERNA: Good
12 afternoon, sir please identify yourself
13 for the record.

14 MR. BURKE: Hi. I'm Peter
15 Burke. My wife and I live at 7811
16 Winston Road, which is one half block --
17 not one, not two blocks like other people
18 that have been here.

19 Of course, this -- my wife and
20 I filed -- are the ones who filed the
21 appeal in the Commonwealth Court to the
22 Zoning Board decision reversing their
23 original decision and doing this behind,
24 I'm sorry to say, closed doors; we were
25 not permitted to make any personal

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2 testimony before that decision.

3 I should say, first of all,
4 that I'm not a member of the CHCA and I'm
5 not a member of the CHRA. I live on
6 Winston Road among a number of other
7 people who live on Winston Road who are
8 also not members of either organization.

9 Okay. The timeline of events
10 is that we had several community meetings
11 with the people who were proposing this
12 project. They told us -- Dr. Jones stood
13 up there and said, "We only run Monday,
14 Wednesday, and Friday till 9. We run
15 Tuesday, Thursday, and Saturday till 6."
16 You've heard that drill. And he said,
17 "Those have been our hours for 30 years.
18 We're not going to be very much of an
19 impact on your community."

20 And we -- although we would
21 prefer they not run any night hours, we
22 said okay. You know, we agreed that we
23 would accept a Zoning Board revision --
24 or what do you call it?

25 COUNCIL PRESIDENT VERNA: A

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2 proviso?

3 MR. BURKE: No, no, we would
4 accept their getting permission to
5 operate this facility.

6 Okay. We asked them to put
7 that in writing, like they had put all
8 these other two pages of provisos on
9 building size, building bricks, building
10 windows in a letter to the Chestnut Hill
11 Civic Association. And they rejected
12 that. They rejected it approximately
13 less than one month before the final vote
14 before the CHCA.

15 So a number of neighbors -- not
16 members of either association -- went
17 around. We developed a petition asking
18 members of the community if they would
19 support asking them to continue the
20 maximum hours of operation that they had
21 said they operated for 30 years. And we
22 had approximately 70 signatures on that
23 petition. I think someone has sent you
24 copies of those petitions.

25 Okay, so that's where we are.

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2 And you've gotten the history of the
3 actions did he ZBA.

4 We're upset that the ZBA
5 reversed themselves. So my wife and I
6 filed an appeal, which is our legal
7 right.

8 And we feel very upset that
9 you're jumping into this once again now
10 at the request of the promoters of this
11 project, taking away the due process that
12 we feel we have a right to have before
13 the court of law.

14 Okay. What's the problem with
15 nine hours? First of all, they told us
16 they'd never add them, they never used
17 it. That's a problem, okay.

18 We prefer no night hours. The
19 businesses that exist in the neighborhood
20 -- remember, we're not on Germantown
21 Avenue; we're away from Germantown
22 Avenue. The businesses that exist near
23 our properties where we live don't
24 operate nine hours. We don't have -- I
25 mean, you even have these Philippe

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2 Brothers Ironwork; they don't work at
3 night. Those guys go out and work and
4 they come home 1t 5 o'clock and they
5 leave. The same with the auto body shop;
6 they come in at 8, they leave at 5.
7 There's no business activity, there's no
8 trucks, there's no nothing.

9 This facility is a different
10 animal from what we have dealt with in
11 our neighborhoods.

12 The other thing I wanted to
13 mention is this business about residents.
14 There's apartment buildings on the
15 left-hand side which face Germantown
16 Avenue that back up on this property.
17 There are several houses along Germantown
18 Avenue down beyond the property that
19 also -- they face Germantown but they
20 have their backyard on Winston Road, so
21 they're really Bonn both streets.

22 There's catty-corner across the
23 street houses, single-family, twin houses
24 up Winston Road. Moreland, same
25 situation; there happened to be

1 12.8.10 - RULES - BILL 100753

2 apartments on the other two corners.

3 It's a lot more than four properties of
4 residential people that are impacted by
5 this proposed operation.

6 So I -- I mean -- and the other
7 thing, PECO, they have a facility right
8 next door, a substation. If there's
9 anybody that comes to that facility from
10 PECO once a week maybe, maybe twice a
11 week, we don't have traffic. These
12 businesses are not high-traffic
13 businesses, and they are not nighttime
14 businesses.

15 So that's why we're concerned
16 about nighttime hours.

17 We said okay, we understand.
18 You've got patients that want to be
19 dialyzed at night and that you have a
20 history of operating Monday, Wednesday,
21 and Friday nights, but you have no
22 history of operating Tuesday, Thursday,
23 and Saturday. So why come to the
24 community, tell us all of this, and say
25 oh -- at the last minute, Oh, we got to

1 12.8.10 - RULES - BILL 100753

2 have access to 9 p.m. every night.

3 COUNCIL PRESIDENT VERNA: Thank
4 you, Mr. Burke.

5 MR. BURKE: That's about all I
6 have to say.

7 COUNCIL PRESIDENT VERNA: Okay.
8 Just a moment, please.

9 The Chair recognizes Councilman
10 Greenlee.

11 COUNCILMAN GREENLEE: Thank
12 you, Madam President.

13 Sir, I appreciate first that
14 you're a resident and you're not getting
15 involved in the community association
16 versus the Residents Association; I
17 understand that. And, again, as I said
18 to the other people, I understand the
19 process questions you may have.

20 But I guess I'm still not real
21 clear on what the difference is in the
22 nights. I mean, if it's a problem on
23 Monday with traffic, why would it not be
24 a problem on Tuesday? Or if it's not,
25 vice-versa? You know what I'm saying? I

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2 guess I just don't see something like
3 this that's happening to not allow it to
4 happen because of those few hours. It
5 just doesn't --

6 MR. BURKE: I think we see it
7 just exactly in reverse.

8 COUNCILMAN GREENLEE: Uh-huh.

9 MR. BURKE: Why -- okay. We
10 said, "We'll let that happen. Just give
11 us some peace and quiet three nights a
12 week." And if -- and was Ann Spaeth was
13 right. Walter Sullivan offered them the
14 offices of his organization if, in two
15 years or three years, they felt they
16 needed that extra time, we would hold
17 some public hearings in the community.
18 And if there was no problems with the way
19 they were operating, okay. But they
20 wouldn't accept that either.

21 COUNCILMAN GREENLEE: When you
22 say "peace and quiet," though, how
23 much -- as it was described here, I mean,
24 you're talking about cars pulling in and
25 out. Is it that much -- I mean, what you

1 12.8.10 - RULES - BILL 100753

2 have right now under G-2 would have the
3 potential to have a lot more of traffic
4 and trucks pulling in and that kind of
5 stuff, wouldn't it?

6 MR. BURKE: G-2 depends on what
7 you have there.

8 COUNCILMAN GREENLEE: That's
9 the whole point, yeah.

10 MR. BURKE: The G-2 that was
11 existing there was, again, once again, a
12 daytime operation. They didn't come in
13 at night.

14 COUNCILMAN GREENLEE: I don't
15 believe it has to be, right?

16 COUNCILWOMAN MILLER: No.

17 MR. BURKE: And also, it
18 doesn't have to be G-2 in that sense. I
19 mean, you're going -- you, being the
20 City, is going through this process of
21 redoing the zoning areas.

22 COUNCILMAN GREENLEE: Mm-hmm.

23 MR. BURKE: And if that
24 property is a G-2 -- I've heard it said
25 at least at the zoning committee that

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2 it's not targeted for G-2. It's too
3 small for an industrial operation.

4 COUNCILMAN GREENLEE: Well,
5 that's one of the reasons why they want
6 to -- I think the idea to remap and it
7 change it, yeah, to make it more
8 consistent.

9 MR. BURKE: Well, why are you
10 doing a special legislative end-run here
11 when we have a legitimate lawsuit in a
12 court of law and we're getting cheated
13 out of our -- out of the due process
14 under that circumstances.

15 COUNCILMAN GREENLEE: It
16 doesn't stop the court action.

17 MR. BURKE: What good is a
18 court -- huh?

19 COUNCILMAN GREENLEE: Okay,
20 thank you.

21 COUNCIL PRESIDENT VERNA: The
22 Chair recognizes Councilman DiCicco.

23 COUNCILMAN DiCICCO: Thank you,
24 Madam Chair.

25 You know, I've dealt with a

1 12.8.10 - RULES - BILL 100753

2 number of these types of issues over the
3 years, as have my colleagues, especially
4 the District Council folks, and I'll just
5 give you an example.

6 At Broad and Wolf, which was
7 formerly a funeral home, a developer came
8 to me -- it's directly across the street
9 from the Council President's district, on
10 the east side of Broad -- and proposed to
11 build a drugstore. I forget if it was
12 Walgreen's, one of those national brands.

13 The site is directly across the
14 street from the Methodist Hospital, on
15 the same side of Methodist hospital,
16 where the emergency entrance and parking
17 entrance is to the hospital.

18 The neighbors objected to the
19 drugstore being developed there. We did
20 ask the developer if he would restrict
21 the hours to no later than 12 o'clock.

22 Where I'm going with this is,
23 these are two entirely different types of
24 operations. If this were a drugstore, a
25 CVS or one of those name-brand businesses

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2 that has either 12 hours or 24 hours of
3 operation, I can see the flow of traffic
4 being an imposition to the community.

5 This is really a medical
6 facility which is an office building
7 that, for the most part, does not do
8 ambulatory work or emergency work.

9 If this was strictly an office
10 building that housed people who did
11 clerical work, would there still be
12 objections because it's 9 o'clock?

13 I mean, I look at this as a --
14 and no disrespect to where you live and
15 the folks live near you -- as a dead
16 zone. I see this as a -- it is what it
17 is, a vacant warehouse, with a not-good
18 use of the parking lot, turning into an
19 attractive-looking building that will be
20 somewhat lit, that will employ people.
21 And you will have pedestrian traffic,
22 there's no question, but not a whole lot
23 of that either.

24 And see, I come from the
25 position that we don't live in Mayberry;

1 12.8.10 - RULES - BILL 100753

2 we live in a city. And for me,
3 pedestrian traffic, with some vehicular
4 traffic, is healthy. It's better than
5 what's there.

6 I guess my question, then,
7 would be: If -- hypothetically, if the
8 hours of operation for the six days was
9 6 p.m., would you and your neighbors
10 still be objecting to this proposal?

11 MR. BURKE: I doubt it.

12 COUNCILMAN DiCICCO: So the
13 three hours is the deal-breaker?

14 MR. BURKE: Nighttime,
15 nighttime.

16 COUNCILMAN DiCICCO: Thank you.
17 No other questions.

18 COUNCIL PRESIDENT VERNA: Thank
19 you.

20 Any other questions?

21 (No further questions.)

22 COUNCIL PRESIDENT VERNA: Thank
23 you very much, Mr. Burke.

24 MR. BURKE: Thank you.

25 COUNCIL PRESIDENT VERNA: Do we

1 12.8.10 - RULES - BILL 100753

2 have anyone else to testify on this bill?

3 (No response.)

4 COUNCIL PRESIDENT VERNA:

5 Anyone else to testify on the bill?

6 (No response.)

7 COUNCIL PRESIDENT VERNA: Seein
8 g none, this will conclude our public
9 hearing, and we will now go into a public
10 meeting.

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1 12.8.10 - RULES - PUBLIC MEETING

2 COUNCIL PRESIDENT VERNA: The
3 Chair recognizes Councilman Greenlee
4 regarding Bill No. 100079.

5 COUNCILMAN GREENLEE: Thank
6 you, Madam President.

7 I move that Bill No. 100079 be
8 reported out of this committee with a
9 favorable recommendation and that the
10 rules of Council be suspended so as to
11 allow for first reading at our next
12 session of Council.

13 (Motion duly seconded.)

14 COUNCIL PRESIDENT VERNA: It's
15 been moved and seconded that Bill No.
16 100079 be reported out of committee with
17 a favorable recommendation and, further,
18 that the rules of Council be suspended so
19 as to permit first reading at our next
20 session of Council.

21 All in favor will say aye.

22 Those opposed?

23 The ayes have it, and the
24 motion carries.

25 Again, the Chair recognizes

1 12.8.10 - RULES - PUBLIC MEETING

2 Councilman Greenlee regarding Bill No.
3 100784.

4 COUNCILMAN GREENLEE: Thank
5 you, Madam President.

6 I move that Bill No. 100784 be
7 reported out of this committee with a
8 favorable recommendation and that the
9 rules of Council be suspended to allow
10 for first reading at our next session of
11 Council.

12 (Motion duly seconded.)

13 COUNCIL PRESIDENT VERNA: It
14 has been moved and properly seconded that
15 Bill No. 100784 be reported out of
16 committee with a favorable recommendation
17 and, further, that the rules of Council
18 be suspended so as to permit first
19 reading at our next session of Council.

20 All in favor will say aye.

21 Those opposed?

22 The ayes have it, and the
23 motion carries.

24 The Chair recognizes Councilman
25 Greenlee regarding Bill No. 100753.

1 12.8.10 - RULES - PUBLIC MEETING

2 COUNCILMAN GREENLEE: Thank
3 you, Madam President.

4 I move that Bill No. 100753 be
5 reported out of this committee with a
6 favorable recommendation and that the
7 rules of Council be suspended to allow
8 for first reading at our next session of
9 City Council.

10 (Motion duly seconded.)

11 COUNCIL PRESIDENT VERNA: It
12 has been moved and properly seconded that
13 Bill No. 100753 be reported out of
14 committee with a favorable recommendation
15 and, further, that the rules of Council
16 be suspended so as to permit first
17 reading at our next session of Council.

18 All in favor will indicate by
19 saying aye.

20 Those opposed?

21 The ayes have it, the motion
22 carries.

23 And this concludes our public
24 meeting regarding the Rules Committee.

25 Thank you all very much.

1 12.8.10 - RULES - PUBLIC MEETING

2 (Proceedings end at 12:28 p.m.)

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C E R T I F I C A T E

I HEREBY CERTIFY that the proceedings of the City of Philadelphia Council Committee on Rules are contained fully and accurately in the stenographic notes taken by me on Wednesday, December 8, 2010, and that this is a true and correct statement of same.

JOSEPHINE CARDILLO

Registered Professional Reporter

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