PLANNING & ZONING COMMISSION

Special Meeting

City Council Chambers 800 Game Farm Road, Yorkville, Il Wednesday, July 18, 2018 7:00pm

Meeting Called to Order

Vice-Chairman Jeff Olson called the meeting to order at 7:04pm, roll was called and a quorum was established.

Roll Call:

Reagan Goins-yes, Deborah Horaz-yes, Don Marcum-yes, Jeff Olson-yes, Richard Vinyard-yes

Absent: Randy Harker, Bill Gockman

City Staff

Jason Engberg, Senior Planner

Other Guests

Christine Vitosh, Depo Court

Previous Meeting Minutes June 13, 2018

The minutes were approved as presented on a motion and second by Commissioners Goins and Vinyard, respectively.

Roll call vote: Goins-yes, Horaz-yes, Marcum-yes, Olson-abstain, Vinyard-yes Motion carried: 4-yes, 0-no, 1-abstain

Citizen's Comments None

Public Hearings

Vice-Chairman Olson explained the procedure for the Hearing. There were no guests present to speak. At approximately 7:07pm a motion was made and seconded by Ms. Horaz and Mr. Vinyard, respectively, to open the Hearing.

Roll call: Horaz-yes, Marcum-yes, Olson-yes, Vinyard-yes, Goins-yes. Passed 5-0.

1. PZC 2018-13 The United City of Yorkville, Kendall County, Illinois, petitioner, is proposing a text amendment for consideration of updates to "Chapter 18: Telecommunication Tower and Antenna Regulations" of the United City of Yorkville Zoning Ordinance.

(See Court Reporter transcripts)

The Hearing was closed at approximately 7:18pm on a motion by Ms. Horaz and second by Mr. Vinyard. Roll call: Marcum-yes, Olson-yes, Vinyard-yes, Goins-yes, Horaz-yes Passed 5-0.

Unfinished Business None

New Business

1. **PZC 2018-13** (see description on page 1)

Action Item

Text Amendment

There was no discussion and Ms. Horaz moved and Mr. Vinyard seconded to approve the following motion: In consideration of testimony presented during a Public Hearing on July 18, 2018, the Planning and Zoning Commission recommends approval to the City Council of a request to amend the definitions in Section 10-18-1 of the United City of Yorkville Zoning Ordinance as presented by staff in a memorandum dated July 18, 2018. Roll call: Olson-yes, Vinyard-yes, Goins-yes, Horaz-yes, Marcum-yes. Carried 5-0.

Additional Business

- 1. City Council Action Updates:
 - a. PZC 2018-10 James McNamara garage request approved.
 - b. PZC 2018-11 Michael & Dayle Saar rezoning request approved.

Adjournment

There was no further business and the meeting was adjourned at 7:23pm on a motion by Commissioners Vinyard and Marcum, respectively. Approved on voice vote.

Respectfully submitted by Marlys Young, Minute Taker

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| 10 | PLANNING AND ZONING COMMISSION | |
| 11 | SPECIAL MEETING | |
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| 13 | PUBLIC HEARING | |
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| 17 | 800 Game Farm Road | |
| 18 | Yorkville, Illinois | |
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| 22 | Wednesday, July 18, 2018 | |
| 23 | 7:00 p.m. | |
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| 1 | PRESENT: | | |
| 2 | Mr. | Jeff Olson, Vice-Chairman, | |
| 3 | Ms. | Reagan Flavin Goins, | |
| 4 | Ms. | Deborah Horaz, | |
| 5 | Mr. | Donald Marcum, | |
| 6 | Mr. | Richard Vinyard. | |
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| 9 | ALSO PRE | SENT: | |
| 10 | Mr. | Jason Engberg, Senior Planner, | |
| 11 | Ms. | Marlys Young, Minute Taker. | |
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(WHEREUPON, the following proceedings were had in public hearing:)

VICE-CHAIRMAN OLSON: There is PZC 2018-13, public hearing scheduled for tonight's Planning and Zoning Commission meeting.

The purpose of this hearing is to invite testimony from members of the public regarding the proposed request that is being considered for the motion tonight.

Public testimony from persons

present who wish to speak may be for or against

the request, or to ask questions of the

petitioner regarding the request being heard.

Those persons wishing to testify are asked to speak clearly, one at a time, and state your name and who you represent. You are also asked to sign in at the podium in a complete file. When you come to the podium you are asked to give your testimony.

If you plan to speak during tonight's public hearing as petitioner or as a member of the public, please stand, raise your right hand and repeat after me.

Do we have to do that?

MR. ENGBERG: No one is here, so we can move on.

VICE-CHAIRMAN OLSON: Okay. Seeing as no one is here, the order for receiving testimony is as follows: Petitioner presentation, those who wish to speak -- Do I have to really read this when nobody is here?

MR. ENGBERG: Yes.

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VICE-CHAIRMAN OLSON: Those who wish to speak in favor of this request, those who wish to speak in opposition of this request, questions from the Planning and Zoning Commissioners as to the petitioner.

May I have a motion to open the public hearing on petition number PZC 2018-13?

MS. HORAZ: So moved.

MR. VINYARD: Second.

VICE-CHAIRMAN OLSON: Roll call, please.

MS. YOUNG: Yes. Horaz.

MS. HORAZ: Yes.

MS. YOUNG: Marcum.

MR. MARCUM: Yes.

MS. YOUNG: Olson.

Vitosh Reporting Service

VICE-CHAIRMAN OLSON: Yes.

MS. YOUNG: Vinyard.

MR. VINYARD: Yes.

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MS. YOUNG: And Goins.

MS. GOINS: Yes.

MS. YOUNG: Thank you.

VICE-CHAIRMAN OLSON: PZC 2018-13,
United City of Yorkville, Kendall County,
Illinois, petitioner, is proposing a text
amendment for consideration of updates to Chapter
18, Telecommunication Tower and Antenna
Regulations of the United City of Yorkville
Zoning Ordinance.

Is the petitioner --

MR. ENGBERG: That would be me, so --

VICE-CHAIRMAN OLSON: Jason.

MR. ENGBERG: I will give a quick update on everything, let you guys know, everyone. So the IML, the Illinois Municipal League, we did this last year, they had certain regulations that came out. We updated our code to follow those regulations.

There is a new update and to file this, this needs to be -- these regulations need

to be passed by August, so we are holding this special meeting. We couldn't meet last week, so we are meeting today to get this done.

Really, all that's -- for you guys,

I know it was a thick PZC packet with lots of

details, but really there are three different

things being amended. The big one is in the

Public Works Code, which we are not over -
reviewing; the one is in the Building Code, which

we are also not reviewing, but there are changes

to the Zoning Code, which is what we are

reviewing tonight.

The real changes is just updating what they consider the definitions for small satellite antennas and removing our previous one. That's really what we are reviewing.

We added everything to it just so you guys would be aware of everything the City changed. It's really about cell towers in the public right-of-way co-locating on certain telephone poles or possibly the water tower, things like that. Things that the City owns.

It really has more to do with cell towers and new technologies coming out and

locating on public property. It doesn't affect the private property people leasing out space to a cell company or anything like that.

Anything like in the Zoning Code, that's staying the same; the only thing changing is just how it's defined.

So if you have any questions or anything about the definition, we can go through or --

MR. MARCUM: I have one question. On your memo here, the processing application, you are filing an application within 90 days, yea or nay. If they don't say yea, then it's automatically -- or if they don't say nay, it's automatically yea, and if you are planning on going forward with that, the non-responsive approval, for want of a better term, you have to give notice, more than 75 days later, but the thing that didn't make sense to me -- and I will confess that I was too sloppily to not have read all the materials of the Code.

The receipt of the deemed approval notice shall not preclude the City's denial of the permit request within the time limits as

provided under this ordinance.

Well, it seems like the 90 days goes by, you are approved, you gave your notice after 75 and up to 90 days after you made your application.

I mean, that makes it sound to me like the door is still open somehow to reject it even though it doesn't seem like it should be. I could be misreading that.

MR. ENGBERG: To invoke the deemed approved -- 75 days and after the submission of a completed application. The permit shall be deemed approved on the latter of the 90th day after submission of the complete application or the tenth day after the receipt of the deemed approved notice by the City. Receipt of the deemed deemed --

So your question is?

MR. MARCUM: So the last sentence is the one --

MR. ENGBERG: Receipt of the deemed approved notice shall not preclude the City's denial of the permit request within the time limits.

1 MR. MARCUM: That doesn't seem fair. 2 VICE-CHAIRMAN OLSON: It's certainly in 3 the City's best interest. MR. ENGBERG: Yeah. This section about 4 the actual proposed things that they need to know 5 is more or less in the Public Works section. 6 7 My answer to that specific question, I mean, these were -- that's one of those things, 8 9 these were brought up to -- from the IML as a 10 recommendation. 11 If you have a question on why that 12 is, I don't really have an answer, but Public 13 Works -- I can get that information to you. 14 MR. MARCUM: I just wondered if maybe 15 the word "not" was not supposed to be in there 16 or something. MR. ENGBERG: The receipt of the deemed 17 approved notice shall not --18 MR. MARCUM: Shall not preclude. Well, 19 20 it would make more sense, shall preclude --MR. ENGBERG: Okay. It should say shall 21 22 preclude the City's denial.

MR. ENGBERG: Okay. I'll tell you what.

That would make more sense.

MR. MARCUM:

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I will highlight that. That's not technically in the zoning part. I will highlight that. I will bring that up to our administration to talk that over and see if it was just a typo.

MS. GOINS: The only thing that came up to me when I was reading through, there doesn't seem to be any limit on small cell facilities that could end up on a city pole.

I know we've talked about it before, above your sight line, but is there a potential for that?

MR. ENGBERG: My assumption would be that if you are a cell phone, you're not going to want to be all locked up on one pole anyway, so while there is no -- I mean, it's not written down, again, I think we had something that was a question for the --

MS. GOINS: I was just thinking about from aesthetics.

VICE-CHAIRMAN OLSON: There is constraint in there for how big it can be, six cubic feet?

MS. GOINS: So they're small.

MS. HORAZ: Ten feet high.

MS. GOINS: If there is a particular popular area that all different companies want to use, are you going to see them all stacked up on each other?

MR. ENGBERG: And it would be one of those things, too, since they have to apply for a permit through us, the City would have final say and be like you know what, that's not the right location for that.

VICE-CHAIRMAN OLSON: I did have one technical question, too. It said that after they are abandoned for -- and I don't remember what it was, X amount of days or months or whatever, how do you know if one is abandoned? It's not like it has a light flickering to tell you.

MS. HORAZ: Yeah.

VICE-CHAIRMAN OLSON: How does the City know when it's abandoned and know when -- Is that even possible to know, or is it just, you know, three years down the road, they're going oh, this one is falling apart, oh, it's abandoned, okay, let's go collect --

MR. ENGBERG: Pretty much. I mean, for the most part --

| | 12 |
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| 1 | VICE-CHAIRMAN OLSON: Cell tower |
| 2 | inspector. |
| 3 | MS. HORAZ: They have to renew their |
| 4 | permit. |
| 5 | VICE-CHAIRMAN OLSON: That's a good |
| 6 | point. |
| 7 | MR. MARCUM: Every five years. |
| 8 | MS. HORAZ: Yeah, but isn't there |
| 9 | something every year that they have to do? |
| 10 | MR. ENGBERG: Yeah, it's a yearly, |
| 11 | annual fee, so |
| 12 | MS. HORAZ: I had one other question, |
| 13 | too, if everybody is finished. Say it is |
| 14 | abandoned and a company went out of business. Is |
| 15 | there a bond or something or does that fee kind |
| 16 | of cover that? |
| 17 | MR. ENGBERG: Typically the City would |
| 18 | ask for a surety bond depending on the amount |
| 19 | that it cost to put up there. |
| 20 | MS. HORAZ: All right. Say it's on a |
| 21 | water tower. |
| 22 | MR. ENGBERG: It's typical policy for |
| 23 | the City for those kinds of things, especially if |
| 24 | there is an abandonment clause in it, to require |

a bond.

MS. HORAZ: I didn't see that.

MR. ENGBERG: Is it -- It may not be written in there, but it is typically a policy of the City. Is it --

MS. HORAZ: So there is a bond? I know there is an abandonment clause. Is there a -- You know, like a builder when they have a bond.

MR. ENGBERG: I'm not sure. That is something I can look through definitely and get more information to you on that one.

MS. HORAZ: I mean, it says the City, you know, has the right after it's abandoned to take it down or get rid of it, but, I mean, we're going to be in it for costs to do that.

MR. ENGBERG: Yeah, for the most part, especially with this stuff for the abandonment, you're right, if it's in disrepair, falling down, that's when you clearly say like obviously it's broken, repairing it is in the clause.

MS. HORAZ: But technology changes and they'll just leave it and, you know, move on to something else.

MR. ENGBERG: It's possible. I don't

14 1 know any other way to figure out --2 MS. HORAZ: Something you can bring up. 3 MR. ENGBERG: Yeah, it's definitely 4 something I can bring up, and I'll take all these 5 notes --6 MS. HORAZ: You are getting questions on 7 other parts. 8 MR. ENGBERG: Yeah. I mean, for the 9 most part, this stuff is all the Public Works 10 section, this is something City Council will look 11 and listen to Tuesday. 12 MS. HORAZ: It didn't come up, these 13 questions. 14 MR. ENGBERG: Well, yeah, and I'll 15 definitely bring these up to them. I am writing 16 a cover memo for them tomorrow; it will go in 17 with all your comments and sections so they can 18 read it to see if they have insight. 19 VICE-CHAIRMAN OLSON: Okay. So our 20 comments go off to them. 21 MR. ENGBERG: Correct. 22 VICE-CHAIRMAN OLSON: What we are voting

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on tonight --

what pertains.

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VICE-CHAIRMAN OLSON: That was good that arrow was in there.

MR. ENGBERG: Even if I am not as knowledgeable on it as I'd like, you know, I wanted to --

VICE-CHAIRMAN OLSON: Sometimes you were, though. Co-locating, I didn't know that was a word.

MR. ENGBERG: That's very common for co-location on towers, like water towers and things like that.

MS. HORAZ: What was that word?

MR. ENGBERG: Co-location --

MS. HORAZ: Oh, yeah, it's --

MR. ENGBERG: -- of different cell towers.

VICE-CHAIRMAN OLSON: You knew that?

MR. ENGBERG: You really just need --

MS. HORAZ: I'm in the communications business.

MR. MARCUM: I don't think co-location should be spelled with two L's.

MR. ENGBERG: So, yes, so just moving on from that, do we have any -- So we're really just getting rid of personal wireless facility services, those definitions, adding a much more small wireless facility, a much more defined definition there, which was recommended by the

| | PZC - July 18, 2018 - Public Hearing |
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| 1 | MS. GOINS: Yes. |
| 2 | MS. YOUNG: Horaz. |
| 3 | MS. HORAZ: Yes. |
| 4 | (Which were all the |
| 5 | proceedings had in the |
| 6 | public hearing portion |
| 7 | of the meeting.) |
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STATE OF ILLINOIS)

(COUNTY OF LASALLE)

I, Christine M. Vitosh, a Certified Shorthand Reporter, do hereby certify that I transcribed the proceedings had at the public hearing and that the foregoing, Pages 1 through 19, inclusive, is a true, correct and complete computer-generated transcript of the proceedings had at the time and place aforesaid.

I further certify that my certificate annexed hereto applies to the original transcript and copies thereof, signed and certified under my hand only. I assume no responsibility for the accuracy of any reproduced copies not made under my control or direction.

As certification thereof, I have hereunto set my hand this 31st day of July A.D., 2018.

Christine M. Vitosh, CSR Illinois CSR No. 084-002883

| 0 | aforesaid [1] - 19:9 ALSO [1] - 2:9 | certification [1] - 19:16 | company [2] - 7:3, 12:14 | E |
|--|--|--|-----------------------------|--------------------------------|
| | amended [1] - 6:7 | Certified [1] - 19:3 | complete [3] - 3:18, | |
| 084-002883 [1] - 19:20 | amendment [1] - 5:10 | certified [1] - 19:12 | 8:14, 19:7 | end [1] - 10:8 |
| | amount [2] - 11:13, | certify [2] - 19:4, | completed [1] - 8:12 | Engberg [1] - 2:10 |
| 1 | 12:18 | 19:10 | computer [1] - 19:8 | ENGBERG [34] - 4:2, |
| • | AND [1] - 1:10 | Chairman [1] - 2:2 | computer-generated | 4:9, 5:15, 5:17, 8:10, |
| | T 7 7 | CHAIRMAN [26] - 3:4, | [1] - 19:8 | 8:21, 9:4, 9:17, 9:21, |
| 1 [1] - 19:6 | annexed [1] - 19:10 | • • • | 1 | 9:24, 10:12, 11:5, |
| 18 [2] - 1:22, 5:11 | annual [1] - 12:11 | 4:4, 4:10, 4:19, 5:1, | confess [1] - 7:20 | 11:23, 12:10, 12:17, |
| 19 [1] - 19:6 | answer [2] - 9:7, 9:12 | 5:7, 5:16, 9:2, 10:20, | consider [1] - 6:14 | 12:22, 13:3, 13:9, |
| | Antenna [1] - 5:11 | 11:10, 11:17, 12:1, | consideration [1] - | 13:16, 13:24, 14:3, |
| 2 | antennas [1] - 6:15 | 12:5, 14:19, 14:22, | 5:10 | |
| | anyway [1] - 10:14 | 15:3, 15:11, 15:18, | considered [1] - 3:10 | 14:8, 14:14, 14:21, |
| | apart [1] - 11:21 | 15:21, 16:2, 16:13, | constraint [1] - 10:21 | 14:24, 15:5, 15:15, |
| 2018 [2] - 1:22, 19:17 | application [5] - 7:11, | 17:2, 17:6, 17:10, | control [1] - 19:15 | 15:19, 15:23, 16:5, |
| 2018-13 [3] - 3:5, 4:16, | 7:12, 8:5, 8:12, 8:14 | 17:17, 17:21 | copies [2] - 19:12, | 16:9, 16:11, 16:14, |
| 5:7 | applies [1] - 19:11 | changed [1] - 6:19 | 19:14 | 16:19 |
| | apply [1] - 11:6 | changes [3] - 6:10, | correct [2] - 14:21, | especially [2] - 12:23, |
| 3 | 1 | 6:13, 13:21 | 19:7 | 13:17 |
| <u> </u> | approval [2] - 7:17, | changing [1] - 7:5 | cost[1] - 12:19 | exact [1] - 15:6 |
| | 7:22 | Chapter [1] - 5:10 | 1 | |
| 31st [1] - 19:17 | approved [6] - 8:3, | 1 | costs [1] - 13:15 | F |
| | 8:11, 8:13, 8:16, | Christine [2] - 19:3, | Council [1] - 14:10 | |
| 7 | 8:22, 9:18 | 19:20 | COUNTY [1] - 19:2 | |
| | area [1] - 11:2 | CITY [1] - 1:6 | County [1] - 5:8 | facilities [1] - 10:7 |
| | arrow [1] - 15:22 | City [12] - 5:8, 5:12, | cover [2] - 12:16, | facility [2] - 16:21, |
| 75 [3] - 7:18, 8:4, 8:11 | assume [1] - 19:13 | 6:18, 6:22, 8:16, | 14:16 | 16:23 |
| 7:00 [1] - 1:23 | assumption [1] - | 11:7, 11:17, 12:17, | CSR [2] - 19:20, 19:20 | fair [1] - 9:1 |
| 7.00[1] 1.20 | 10:12 | 12:23, 13:5, 13:12, | cubic [1] - 10:22 | fairly [1] - 15:12 |
| 0 | August [1] - 6:1 | 14:10 | | falling [2] - 11:21, |
| 8 | automatically [2] - | city [2] - 10:8, 15:10 | D | 1 |
| | V | City's [4] - 7:23, 8:22, | <u> </u> | 13:18 |
| 800 [1] - 1:17 | 7:14, 7:15 | 9:3, 9:22 | | Farm [1] - 1:17 |
| 87-page [1] - 15:11 | aware [1] - 6:18 | clause [3] - 12:24, | days [6] - 7:12, 7:18, | favor [3] - 4:11, 17:3, |
| or-page[i] - 15.11 | | 13:7, 13:20 | 8:2, 8:4, 8:11, 11:13 | 17:6 |
| • | B | The state of the s | Deborah [1] - 2:4 | fee [2] - 12:11, 12:15 |
| 9 | | clearly [2] - 3:16, | deemed [7] - 7:22, | feet [2] - 10:22, 10:24 |
| | h | 13:19 | • • • • | figure [1] - 14:1 |
| 90 [3] - 7:12, 8:2, 8:4 | best [1] - 9:3 | close [1] - 17:13 | 8:10, 8:13, 8:15, | file [2] - 3:19, 5:23 |
| • • | better [1] - 7:17 | co [5] - 6:20, 16:3, | 8:17, 8:21, 9:17 | filing [1] - 7:12 |
| 90th [1] - 8:13 | big [2] - 6:7, 10:21 | 16:6, 16:9, 16:17 | defined [2] - 7:6, | final [1] - 11:7 |
| | — bond [5] - 12:15, | co-locating [2] - 6:20, | 16:23 | finished [1] - 12:13 |
| Α | 12:18, 13:1, 13:6, | 16:3 | definitely [3] - 13:10, | |
| | 13:8 | co-location [3] - 16:6, | 14:3, 14:15 | five [1] - 12:7 |
| A D m 10:47 | bring [4] - 10:3, 14:2, | 16:9, 16:17 | definition [2] - 7:8, | Flavin [1] - 2:3 |
| A.D [1] - 19:17 | 14:4, 14:15 | code [1] - 5:21 | 16:24 | flickering [1] - 11:15 |
| abandoned [6] - | broken [1] - 13:20 | Code [7] - 6:8, 6:9, | definitions [3] - 6:14, | follow [1] - 5:21 |
| 11:12, 11:14, 11:18, | brought [1] - 9:9 | 1 | 15:2, 16:22 | following [1] - 3:1 |
| 11:21, 12:14, 13:13 | 1 | 6:11, 7:4, 7:21, 15:2, | denial [3] - 7:23, 8:23, | follows [1] - 4:6 |
| abandonment [3] - | builder[1] - 13:8 | 15:17 | 9:22 | foregoing [1] - 19:6 |
| 12:24, 13:7, 13:17 | Building [1] - 6:9 | collect [1] - 11:22 | 1 | forward [1] - 7:16 |
| accuracy [1] - 19:14 | business [2] - 12:14, | coming [1] - 6:24 | details [2] - 6:6, 15:6 | front [1] - 15:17 |
| actual [1] - 9:5 | 16:16 | comments [2] - 14:17, | different [3] - 6:6, | 11.0115 [1] = 10.17 |
| added [1] - 6:17 | | 14:20 | 11:2, 16:11 | |
| adding [1] - 16:22 | C | Commission [1] - 3:6 | direction [1] - 19:15 | G |
| • | _ | COMMISSION [1] - | disrepair [1] - 13:18 | |
| admin [1] - 15:9 | | 1:10 | Donald [1] - 2:5 | Game [1] - 1:17 |
| administration [1] - | cell [7] - 6:19, 6:23, | Commissioners [1] - | done [2] - 6:3, 17:4 | 1 |
| 10:3 | 7:3, 10:7, 10:13, | 4:13 | door [1] - 8:7 | generated [1] - 19:8 |
| administrator [1] - | 12:1, 16:11 | i | down [4] - 10:16, | Goins [3] - 2:3, 5:4, |
| 15:10 | certain [2] - 5:20, 6:20 | common [1] - 16:5 | | 17:24 |
| | certainly [1] - 9:2 | communications [1] - | 11:20, 13:14, 13:18 | GOINS [6] - 5:5, 10:5, |
| aesthetics [1] - 10:19 | Celuality II * 3.2 | | | |
| aesthetics [1] - 10:19 affect [1] - 7:2 | certificate [1] - 19:10 | 16:15 companies [1] - 11:2 | during [1] - 3:21 | 10:18, 10:23, 11:1, |

| L (1) - 16:18 SALLE [1] - 19:2 (3) - 5:20, 6:2, 19 er [1] - 8:13 gue [1] - 5:19 sing [1] - 7:2 ve [1] - 13:22 s [1] - 9:6 at [1] - 10:7 its [2] - 7:24, 8:24 p [1] - 10:10 en [1] - 14:11 ating [3] - 6:20, 1, 16:3 ation [4] - 11:9, i:6, 16:9, 16:17 ked [1] - 10:14 k [2] - 13:10, 14:10 king [1] - 15:1 | 4:18, 4:23, 5:3, 5:15, 5:17, 7:10, 8:10, 8:19, 8:21, 9:1, 9:4, 9:14, 9:14, 9:17, 9:19, 9:21, 9:23, 9:24, 10:12, 11:5, 11:23, 12:7, 12:20, 13:3, 13:9, 13:16, 13:24, 14:3, 14:8, 14:14, 14:21, 14:24, 15:5, 15:14, 15:15, 15:19, 15:23, 16:5, 16:9, 16:11, 16:14, 16:17, 16:19, 17:16, 17:19, 17:23 MS [37] - 4:17, 4:20, 4:21, 4:22, 4:24, 5:2, 5:4, 5:5, 5:6, 10:5, 10:18, 10:23, 10:24, 11:1, 11:16, 12:3, 12:8, 12:12, 12:20, 13:2, 13:6, 13:12, 13:21, 14:2, 14:6, 14:12, 16:8, 16:10, 16:15, 17:15, 17:18, 17:20, 17:22, 17:24, 18:1, 18:2, 18:3 | 17:2, 17:6, 17:10, 17:17, 17:21 one [17] - 3:16, 4:2, 4:5, 6:7, 6:9, 6:15, 7:10, 8:20, 9:8, 10:14, 11:5, 11:10, 11:14, 11:21, 12:12, 13:11, 17:11 open [2] - 4:15, 8:7 opposition [2] - 4:12, 17:8 order [1] - 4:5 ordinance [1] - 8:1 Ordinance [1] - 5:13 original [1] - 19:11 owns [1] - 6:22 P p.m [1] - 1:23 packet [1] - 6:5 Pages [1] - 19:6 part [5] - 10:2, 11:24, 13:16, 14:9, 15:15 particular [1] - 11:1 | potential [1] - 10:10 preclude [5] - 7:23, 8:22, 9:19, 9:20, 9:22 present [2] - 3:12, 17:3 PRESENT [2] - 2:1, 2:9 presentation [1] - 4:6 pretty [1] - 11:23 previous [1] - 6:15 private [1] - 7:2 proceedings [4] - 3:2, 18:5, 19:5, 19:8 processing [1] - 7:11 property [2] - 7:1, 7:2 proposed [2] - 3:9, 9:5 proposing [1] - 5:9 provided [1] - 8:1 Public [5] - 6:8, 9:6, 9:12, 14:9, 15:9 PUBLIC [1] - 1:13 public [14] - 3:3, 3:5, 3:8, 3:11, 3:22, 3:23, 4:16, 6:20, 7:1, |
|--|--|--|--|
| [1] - 16:18 SALLE [1] - 19:2 [3] - 5:20, 6:2, 19 er [1] - 8:13 gue [1] - 5:19 sing [1] - 7:2 ve [1] - 13:22 s [1] - 9:6 it [1] - 11:15 it [1] - 10:7 its [2] - 7:24, 8:24 p [1] - 10:10 en [1] - 14:11 ating [3] - 6:20, 1, 16:3 ation [4] - 11:9, i:6, 16:9, 16:17 ked [1] - 10:14 k [2] - 13:10, 14:10 king [1] - 15:1 | 5:17, 7:10, 8:10, 8:19, 8:21, 9:1, 9:4, 9:14, 9:17, 9:19, 9:21, 9:23, 9:24, 10:12, 11:5, 11:23, 12:7, 12:22, 13:3, 13:9, 13:16, 13:24, 14:3, 14:8, 14:14, 14:21, 14:24, 15:5, 15:14, 15:15, 15:19, 15:23, 16:5, 16:9, 16:11, 16:14, 16:17, 16:19, 17:16, 17:19, 17:23 MS [37] - 4:17, 4:20, 4:21, 4:22, 4:24, 5:2, 5:4, 5:5, 5:6, 10:5, 10:18, 10:23, 10:24, 11:1, 11:16, 12:3, 12:8, 12:12, 12:20, 13:2, 13:6, 13:12, 13:21, 14:2, 14:6, 14:12, 16:8, 16:10, 16:15, 17:15, 17:18, 17:20, 17:22, 17:24, | one [17] - 3:16, 4:2, 4:5, 6:7, 6:9, 6:15, 7:10, 8:20, 9:8, 10:14, 11:5, 11:10, 11:14, 11:21, 12:12, 13:11, 17:11 open [2] - 4:15, 8:7 opposition [2] - 4:12, 17:8 order [1] - 4:5 ordinance [1] - 5:13 original [1] - 19:11 owns [1] - 6:22 P p.m [1] - 1:23 packet [1] - 6:5 Pages [1] - 19:6 part [5] - 10:2, 11:24, 13:16, 14:9, 15:15 | preclude [5] - 7:23, 8:22, 9:19, 9:20, 9:22 present [2] - 3:12, 17:3 PRESENT [2] - 2:1, 2:9 presentation [1] - 4:6 pretty [1] - 11:23 previous [1] - 6:15 private [1] - 7:2 proceedings [4] - 3:2, 18:5, 19:5, 19:8 processing [1] - 7:11 property [2] - 7:1, 7:2 proposed [2] - 3:9, 9:5 proposing [1] - 5:9 provided [1] - 8:1 Public [5] - 6:8, 9:6, 9:12, 14:9, 15:9 PUBLIC [1] - 1:13 public [14] - 3:3, 3:5, 3:8, 3:11, 3:22, 3:23, |
| [1] - 16:18 SALLE [1] - 19:2 [3] - 5:20, 6:2, 19 er [1] - 8:13 gue [1] - 5:19 sing [1] - 7:2 ve [1] - 13:22 s [1] - 9:6 it [1] - 11:15 it [1] - 10:7 its [2] - 7:24, 8:24 p [1] - 10:10 en [1] - 14:11 ating [3] - 6:20, 1, 16:3 ation [4] - 11:9, i:6, 16:9, 16:17 ked [1] - 10:14 k [2] - 13:10, 14:10 king [1] - 15:1 | 8:19, 8:21, 9:1, 9:4, 9:14, 9:14, 9:17, 9:19, 9:21, 9:23, 9:24, 10:12, 11:5, 11:23, 12:7, 12:20, 13:3, 13:9, 13:16, 13:24, 14:3, 14:8, 14:14, 14:21, 14:24, 15:5, 15:14, 15:15, 15:19, 15:23, 16:5, 16:9, 16:11, 16:14, 16:17, 16:19, 17:16, 17:19, 17:23 MS [37] - 4:17, 4:20, 4:21, 4:22, 4:24, 5:2, 5:4, 5:5, 5:6, 10:5, 10:18, 10:23, 10:24, 11:1, 11:16, 12:3, 12:8, 12:12, 12:20, 13:2, 13:6, 13:12, 13:21, 14:2, 14:6, 14:12, 16:8, 16:10, 16:15, 17:15, 17:18, 17:20, 17:22, 17:24, | 4:5, 6:7, 6:9, 6:15, 7:10, 8:20, 9:8, 10:14, 11:5, 11:10, 11:14, 11:21, 12:12, 13:11, 17:11 open [2] - 4:15, 8:7 opposition [2] - 4:12, 17:8 order [1] - 4:5 ordinance [1] - 5:13 original [1] - 19:11 owns [1] - 6:22 P p.m [1] - 1:23 packet [1] - 6:5 Pages [1] - 19:6 part [5] - 10:2, 11:24, 13:16, 14:9, 15:15 | 8:22, 9:19, 9:20, 9:22 present [2] - 3:12, 17:3 PRESENT [2] - 2:1, 2:9 presentation [1] - 4:6 pretty [1] - 11:23 previous [1] - 6:15 private [1] - 7:2 proceedings [4] - 3:2, 18:5, 19:5, 19:8 processing [1] - 7:11 property [2] - 7:1, 7:2 proposed [2] - 3:9, 9:5 proposing [1] - 5:9 provided [1] - 8:1 Public [5] - 6:8, 9:6, 9:12, 14:9, 15:9 PUBLIC [1] - 1:13 public [14] - 3:3, 3:5, 3:8, 3:11, 3:22, 3:23, |
| SALLE [1] - 19:2 (3] - 5:20, 6:2, 19 er [1] - 8:13 gue [1] - 5:19 sing [1] - 7:2 ve [1] - 13:22 s [1] - 9:6 at [1] - 10:7 its [2] - 7:24, 8:24 ve [1] - 10:10 en [1] - 14:11 ating [3] - 6:20, 1, 16:3 ation [4] - 11:9, i:6, 16:9, 16:17 ked [1] - 10:14 k [2] - 13:10, 14:10 king [1] - 15:1 | 9:14, 9:17, 9:19, 9:21, 9:23, 9:24, 10:12, 11:5, 11:23, 12:7, 12:10, 12:17, 12:22, 13:3, 13:9, 13:16, 13:24, 14:3, 14:8, 14:14, 14:21, 14:24, 15:5, 15:14, 15:15, 15:19, 15:23, 16:5, 16:9, 16:11, 16:14, 16:17, 16:19, 17:16, 17:19, 17:23 MS [37] - 4:17, 4:20, 4:21, 4:22, 4:24, 5:2, 5:4, 5:5, 5:6, 10:5, 10:18, 10:23, 10:24, 11:1, 11:16, 12:3, 12:8, 12:12, 12:20, 13:2, 13:6, 13:12, 13:21, 14:2, 14:6, 14:12, 16:8, 16:10, 16:15, 17:15, 17:18, 17:20, 17:22, 17:24, | 7:10, 8:20, 9:8, 10:14, 11:5, 11:10, 11:14, 11:21, 12:12, 13:11, 17:11 open [2] - 4:15, 8:7 opposition [2] - 4:12, 17:8 order [1] - 4:5 ordinance [1] - 5:13 original [1] - 19:11 owns [1] - 6:22 P p.m [1] - 1:23 packet [1] - 6:5 Pages [1] - 19:6 part [5] - 10:2, 11:24, 13:16, 14:9, 15:15 | 9:22 present [2] - 3:12, 17:3 PRESENT [2] - 2:1, 2:9 presentation [1] - 4:6 pretty [1] - 11:23 previous [1] - 6:15 private [1] - 7:2 proceedings [4] - 3:2, 18:5, 19:5, 19:8 processing [1] - 7:11 property [2] - 7:1, 7:2 proposed [2] - 3:9, 9:5 proposing [1] - 5:9 provided [1] - 8:1 Public [5] - 6:8, 9:6, 9:12, 14:9, 15:9 PUBLIC [1] - 1:13 public [14] - 3:3, 3:5, 3:8, 3:11, 3:22, 3:23, |
| SALLE [1] - 19:2 (3] - 5:20, 6:2, 19 er [1] - 8:13 gue [1] - 5:19 sing [1] - 7:2 ve [1] - 13:22 s [1] - 9:6 at [1] - 10:7 its [2] - 7:24, 8:24 ve [1] - 10:10 en [1] - 14:11 ating [3] - 6:20, 1, 16:3 ation [4] - 11:9, i:6, 16:9, 16:17 ked [1] - 10:14 k [2] - 13:10, 14:10 king [1] - 15:1 | 9:21, 9:23, 9:24, 10:12, 11:5, 11:23, 12:7, 12:10, 12:17, 12:22, 13:3, 13:9, 13:16, 13:24, 14:3, 14:8, 14:14, 14:21, 14:24, 15:5, 15:14, 15:15, 15:19, 15:23, 16:5, 16:9, 16:11, 16:14, 16:17, 16:19, 17:16, 17:19, 17:23 MS [37] - 4:17, 4:20, 4:21, 4:22, 4:24, 5:2, 5:4, 5:5, 5:6, 10:5, 10:18, 10:23, 10:24, 11:1, 11:16, 12:3, 12:8, 12:12, 12:20, 13:2, 13:6, 13:12, 13:21, 14:2, 14:6, 14:12, 16:8, 16:10, 16:15, 17:15, 17:18, 17:20, 17:22, 17:24, | 10:14, 11:5, 11:10, 11:14, 11:21, 12:12, 13:11, 17:11 open [2] - 4:15, 8:7 opposition [2] - 4:12, 17:8 order [1] - 4:5 ordinance [1] - 5:13 original [1] - 19:11 owns [1] - 6:22 P p.m [1] - 1:23 packet [1] - 6:5 Pages [1] - 19:6 part [5] - 10:2, 11:24, 13:16, 14:9, 15:15 | 17:3 PRESENT [2] - 2:1, 2:9 presentation [1] - 4:6 pretty [1] - 11:23 previous [1] - 6:15 private [1] - 7:2 proceedings [4] - 3:2, 18:5, 19:5, 19:8 processing [1] - 7:11 property [2] - 7:1, 7:2 proposed [2] - 3:9, 9:5 proposing [1] - 5:9 provided [1] - 8:1 Public [5] - 6:8, 9:6, 9:12, 14:9, 15:9 PUBLIC [1] - 1:13 public [14] - 3:3, 3:5, 3:8, 3:11, 3:22, 3:23, |
| (g) - 5:20, 6:2, (g) - 5:20, 6:2, (g) - 8:13 (g) - 19: - 5:19 (e) - 13:22 (e) - 13:22 (e) - 13:22 (e) - 10:15 (f) - 10:7 (f) - 10:10 (e) - | 10:12, 11:5, 11:23, 12:7, 12:10, 12:17, 12:22, 13:3, 13:9, 13:16, 13:24, 14:3, 14:8, 14:14, 14:21, 14:24, 15:5, 15:14, 15:15, 15:19, 15:23, 16:5, 16:9, 16:11, 16:14, 16:17, 16:19, 17:16, 17:19, 17:23 MS [37] - 4:17, 4:20, 4:21, 4:22, 4:24, 5:2, 5:4, 5:5, 5:6, 10:5, 10:18, 10:23, 10:24, 11:1, 11:16, 12:3, 12:8, 12:12, 12:20, 13:2, 13:6, 13:12, 13:21, 14:2, 14:6, 14:12, 16:8, 16:10, 16:15, 17:15, 17:18, 17:20, 17:22, 17:24, | 11:14, 11:21, 12:12, 13:11, 17:11 open [2] - 4:15, 8:7 opposition [2] - 4:12, 17:8 order [1] - 4:5 ordinance [1] - 8:1 Ordinance [1] - 5:13 original [1] - 19:11 owns [1] - 6:22 P p.m [1] - 1:23 packet [1] - 6:5 Pages [1] - 19:6 part [5] - 10:2, 11:24, 13:16, 14:9, 15:15 | 17:3 PRESENT [2] - 2:1, 2:9 presentation [1] - 4:6 pretty [1] - 11:23 previous [1] - 6:15 private [1] - 7:2 proceedings [4] - 3:2, 18:5, 19:5, 19:8 processing [1] - 7:11 property [2] - 7:1, 7:2 proposed [2] - 3:9, 9:5 proposing [1] - 5:9 provided [1] - 8:1 Public [5] - 6:8, 9:6, 9:12, 14:9, 15:9 PUBLIC [1] - 1:13 public [14] - 3:3, 3:5, 3:8, 3:11, 3:22, 3:23, |
| 19 er [1] - 8:13 gue [1] - 5:19 sing [1] - 7:2 ve [1] - 13:22 s [1] - 9:6 et [1] - 10:7 its [2] - 7:24, 8:24 et [1] - 10:10 en [1] - 14:11 ating [3] - 6:20, 1, 16:3 ation [4] - 11:9, i:6, 16:9, 16:17 ked [1] - 10:14 k [2] - 13:10, 14:10 king [1] - 15:1 | 12:7, 12:10, 12:17, 12:22, 13:3, 13:9, 13:16, 13:24, 14:3, 14:8, 14:14, 14:21, 14:24, 15:5, 15:14, 15:15, 15:19, 15:23, 16:5, 16:9, 16:11, 16:14, 16:17, 16:19, 17:16, 17:19, 17:23 MS [37] - 4:17, 4:20, 4:21, 4:22, 4:24, 5:2, 5:4, 5:5, 5:6, 10:5, 10:18, 10:23, 10:24, 11:1, 11:16, 12:3, 12:8, 12:12, 12:20, 13:2, 13:6, 13:12, 13:21, 14:2, 14:6, 14:12, 16:8, 16:10, 16:15, 17:15, 17:18, 17:20, 17:22, 17:24, | 13:11, 17:11 open [2] - 4:15, 8:7 opposition [2] - 4:12, 17:8 order [1] - 4:5 ordinance [1] - 8:1 Ordinance [1] - 5:13 original [1] - 19:11 owns [1] - 6:22 P p.m [1] - 1:23 packet [1] - 6:5 Pages [1] - 19:6 part [5] - 10:2, 11:24, 13:16, 14:9, 15:15 | PRESENT [2] - 2:1, 2:9 presentation [1] - 4:6 pretty [1] - 11:23 previous [1] - 6:15 private [1] - 7:2 proceedings [4] - 3:2, 18:5, 19:5, 19:8 processing [1] - 7:11 property [2] - 7:1, 7:2 proposed [2] - 3:9, 9:5 proposing [1] - 5:9 provided [1] - 8:1 Public [5] - 6:8, 9:6, 9:12, 14:9, 15:9 PUBLIC [1] - 1:13 public [14] - 3:3, 3:5, 3:8, 3:11, 3:22, 3:23, |
| er [1] - 8:13 igue [1] - 5:19 sing [1] - 7:2 ve [1] - 13:22 s [1] - 9:6 it [1] - 10:7 its [2] - 7:24, 8:24 ve [1] - 10:10 en [1] - 14:11 ating [3] - 6:20, 1, 16:3 ation [4] - 11:9, i:6, 16:9, 16:17 ked [1] - 10:14 k [2] - 13:10, 14:10 king [1] - 15:1 | 12:22, 13:3, 13:9, 13:16, 13:24, 14:3, 14:8, 14:14, 14:21, 14:24, 15:5, 15:14, 15:15, 15:19, 15:23, 16:5, 16:9, 16:11, 16:14, 16:17, 16:19, 17:16, 17:19, 17:23 MS [37] - 4:17, 4:20, 4:21, 4:22, 4:24, 5:2, 5:4, 5:5, 5:6, 10:5, 10:18, 10:23, 10:24, 11:1, 11:16, 12:3, 12:8, 12:12, 12:20, 13:2, 13:6, 13:12, 13:21, 14:2, 14:6, 14:12, 16:8, 16:10, 16:15, 17:15, 17:18, 17:20, 17:22, 17:24, | 13:11, 17:11 open [2] - 4:15, 8:7 opposition [2] - 4:12, 17:8 order [1] - 4:5 ordinance [1] - 8:1 Ordinance [1] - 5:13 original [1] - 19:11 owns [1] - 6:22 P p.m [1] - 1:23 packet [1] - 6:5 Pages [1] - 19:6 part [5] - 10:2, 11:24, 13:16, 14:9, 15:15 | 2:9 presentation [1] - 4:6 pretty [1] - 11:23 previous [1] - 6:15 private [1] - 7:2 proceedings [4] - 3:2, 18:5, 19:5, 19:8 processing [1] - 7:11 property [2] - 7:1, 7:2 proposed [2] - 3:9, 9:5 proposing [1] - 5:9 provided [1] - 8:1 Public [5] - 6:8, 9:6, 9:12, 14:9, 15:9 PUBLIC [1] - 1:13 public [14] - 3:3, 3:5, 3:8, 3:11, 3:22, 3:23, |
| igue [1] - 5:19 sing [1] - 7:2 ve [1] - 13:22 s [1] - 9:6 it [1] - 10:7 its [2] - 7:24, 8:24 ve [1] - 10:10 en [1] - 14:11 ating [3] - 6:20, 1, 16:3 ation [4] - 11:9, sic, 16:9, 16:17 ked [1] - 10:14 k [2] - 13:10, 14:10 king [1] - 15:1 | 13:16, 13:24, 14:3, 14:8, 14:14, 14:21, 14:24, 15:5, 15:14, 15:15, 15:19, 15:23, 16:5, 16:9, 16:11, 16:14, 16:17, 16:19, 17:16, 17:19, 17:23 MS [37] - 4:17, 4:20, 4:21, 4:22, 4:24, 5:2, 5:4, 5:5, 5:6, 10:5, 10:18, 10:23, 10:24, 11:1, 11:16, 12:3, 12:8, 12:12, 12:20, 13:2, 13:6, 13:12, 13:21, 14:2, 14:6, 14:12, 16:8, 16:10, 16:15, 17:15, 17:18, 17:20, 17:22, 17:24, | open [2] - 4:15, 8:7 opposition [2] - 4:12, 17:8 order [1] - 4:5 ordinance [1] - 8:1 Ordinance [1] - 5:13 original [1] - 19:11 owns [1] - 6:22 P p.m [1] - 1:23 packet [1] - 6:5 Pages [1] - 19:6 part [5] - 10:2, 11:24, 13:16, 14:9, 15:15 | presentation [1] - 4:6 pretty [1] - 11:23 previous [1] - 6:15 private [1] - 7:2 proceedings [4] - 3:2, 18:5, 19:5, 19:8 processing [1] - 7:11 property [2] - 7:1, 7:2 proposed [2] - 3:9, 9:5 proposing [1] - 5:9 provided [1] - 8:1 Public [5] - 6:8, 9:6, 9:12, 14:9, 15:9 PUBLIC [1] - 1:13 public [14] - 3:3, 3:5, 3:8, 3:11, 3:22, 3:23, |
| sing [1] - 7:2 ve [1] - 13:22 s [1] - 9:6 it [1] - 11:15 it [1] - 10:7 its [2] - 7:24, 8:24 [1] - 10:10 en [1] - 14:11 ating [3] - 6:20, 1, 16:3 ation [4] - 11:9, s [6, 16:9, 16:17 ked [1] - 10:14 k [2] - 13:10, 14:10 king [1] - 15:1 | 14:8, 14:14, 14:21, 14:24, 15:5, 15:14, 15:15, 15:19, 15:23, 16:5, 16:9, 16:11, 16:14, 16:17, 16:19, 17:16, 17:19, 17:23 MS [37] - 4:17, 4:20, 4:21, 4:22, 4:24, 5:2, 5:4, 5:5, 5:6, 10:5, 10:18, 10:23, 10:24, 11:1, 11:16, 12:3, 12:8, 12:12, 12:20, 13:2, 13:6, 13:12, 13:21, 14:2, 14:6, 14:12, 16:8, 16:10, 16:15, 17:15, 17:18, 17:20, 17:22, 17:24, | opposition [2] - 4:12, 17:8 order [1] - 4:5 ordinance [1] - 8:1 Ordinance [1] - 5:13 original [1] - 19:11 owns [1] - 6:22 P p.m [1] - 1:23 packet [1] - 6:5 Pages [1] - 19:6 part [5] - 10:2, 11:24, 13:16, 14:9, 15:15 | pretty [1] - 11:23 previous [1] - 6:15 private [1] - 7:2 proceedings [4] - 3:2, 18:5, 19:5, 19:8 processing [1] - 7:11 property [2] - 7:1, 7:2 proposed [2] - 3:9, 9:5 proposing [1] - 5:9 provided [1] - 8:1 Public [5] - 6:8, 9:6, 9:12, 14:9, 15:9 PUBLIC [1] - 1:13 public [14] - 3:3, 3:5, 3:8, 3:11, 3:22, 3:23, |
| sing [1] - 7:2 ve [1] - 13:22 s [1] - 9:6 it [1] - 11:15 it [1] - 10:7 its [2] - 7:24, 8:24 [1] - 10:10 en [1] - 14:11 ating [3] - 6:20, 1, 16:3 ation [4] - 11:9, s [6, 16:9, 16:17 ked [1] - 10:14 k [2] - 13:10, 14:10 king [1] - 15:1 | 14:24, 15:5, 15:14, 15:15, 15:15, 15:19, 15:23, 16:5, 16:9, 16:11, 16:14, 16:17, 16:19, 17:16, 17:19, 17:23 MS [37] - 4:17, 4:20, 4:21, 4:22, 4:24, 5:2, 5:4, 5:5, 5:6, 10:5, 10:18, 10:23, 10:24, 11:1, 11:16, 12:3, 12:8, 12:12, 12:20, 13:2, 13:6, 13:12, 13:21, 14:2, 14:6, 14:12, 16:8, 16:10, 16:15, 17:15, 17:18, 17:20, 17:24, 17:24, | 17:8 order [1] - 4:5 ordinance [1] - 8:1 Ordinance [1] - 5:13 original [1] - 19:11 owns [1] - 6:22 P p.m [1] - 1:23 packet [1] - 6:5 Pages [1] - 19:6 part [5] - 10:2, 11:24, 13:16, 14:9, 15:15 | previous [1] - 6:15 private [1] - 7:2 proceedings [4] - 3:2, 18:5, 19:5, 19:8 processing [1] - 7:11 property [2] - 7:1, 7:2 proposed [2] - 3:9, 9:5 proposing [1] - 5:9 provided [1] - 8:1 Public [5] - 6:8, 9:6, 9:12, 14:9, 15:9 PUBLIC [1] - 1:13 public [14] - 3:3, 3:5, 3:8, 3:11, 3:22, 3:23, |
| ve [1] - 13:22 s [1] - 9:6 it [1] - 11:15 it [1] - 10:7 its [2] - 7:24, 8:24 o [1] - 10:10 o n [1] - 14:11 ating [3] - 6:20, 1, 16:3 ation [4] - 11:9, s (6, 16:9, 16:17 ked [1] - 10:14 k [2] - 13:10, 14:10 king [1] - 15:1 | 15:15, 15:19, 15:23, 16:5, 16:9, 16:11, 16:14, 16:17, 16:19, 17:16, 17:19, 17:23 MS [37] - 4:17, 4:20, 4:21, 4:22, 4:24, 5:2, 5:4, 5:5, 5:6, 10:5, 10:18, 10:23, 10:24, 11:1, 11:16, 12:3, 12:8, 12:12, 12:20, 13:2, 13:6, 13:12, 13:21, 14:2, 14:6, 14:12, 16:8, 16:10, 16:15, 17:15, 17:18, 17:20, 17:24, 17:24, | order [1] - 4:5 ordinance [1] - 8:1 Ordinance [1] - 5:13 original [1] - 19:11 owns [1] - 6:22 P p.m [1] - 1:23 packet [1] - 6:5 Pages [1] - 19:6 part [5] - 10:2, 11:24, 13:16, 14:9, 15:15 | private [1] - 7:2 proceedings [4] - 3:2, 18:5, 19:5, 19:8 processing [1] - 7:11 property [2] - 7:1, 7:2 proposed [2] - 3:9, 9:5 proposing [1] - 5:9 provided [1] - 8:1 Public [5] - 6:8, 9:6, 9:12, 14:9, 15:9 PUBLIC [1] - 1:13 public [14] - 3:3, 3:5, 3:8, 3:11, 3:22, 3:23, |
| s [1] - 9:6 it [1] - 11:15 it [1] - 10:7 its [2] - 7:24, 8:24 [1] - 10:10 en [1] - 14:11 ating [3] - 6:20, 1, 16:3 ation [4] - 11:9, 6:6, 16:9, 16:17 ked [1] - 10:14 k [2] - 13:10, 14:10 king [1] - 15:1 | 16:5, 16:9, 16:11, 16:14, 16:17, 16:19, 17:16, 17:19, 17:23 MS [37] - 4:17, 4:20, 4:21, 4:22, 4:24, 5:2, 5:4, 5:5, 5:6, 10:5, 10:18, 10:23, 10:24, 11:1, 11:16, 12:3, 12:8, 12:12, 12:20, 13:2, 13:6, 13:12, 13:21, 14:2, 14:6, 14:12, 16:8, 16:10, 16:15, 17:15, 17:18, 17:20, 17:22, 17:24, | ordinance [1] - 8:1 Ordinance [1] - 5:13 original [1] - 19:11 owns [1] - 6:22 P p.m [1] - 1:23 packet [1] - 6:5 Pages [1] - 19:6 part [5] - 10:2, 11:24, 13:16, 14:9, 15:15 | proceedings [4] - 3:2, 18:5, 19:5, 19:8 processing [1] - 7:11 property [2] - 7:1, 7:2 proposed [2] - 3:9, 9:5 proposing [1] - 5:9 provided [1] - 8:1 Public [5] - 6:8, 9:6, 9:12, 14:9, 15:9 PUBLIC [1] - 1:13 public [14] - 3:3, 3:5, 3:8, 3:11, 3:22, 3:23, |
| it [1] - 11:15 it [1] - 10:7 its [2] - 7:24, 8:24 [1] - 10:10 en [1] - 14:11 ating [3] - 6:20, 1, 16:3 ation [4] - 11:9, 6:6, 16:9, 16:17 ked [1] - 10:14 k [2] - 13:10, 14:10 king [1] - 15:1 | 16:14, 16:17, 16:19, 17:16, 17:19, 17:23 MS [37] - 4:17, 4:20, 4:21, 4:22, 4:24, 5:2, 5:4, 5:5, 5:6, 10:5, 10:18, 10:23, 10:24, 11:1, 11:16, 12:3, 12:8, 12:12, 12:20, 13:2, 13:6, 13:12, 13:21, 14:2, 14:6, 14:12, 16:8, 16:10, 16:15, 17:15, 17:18, 17:20, 17:22, 17:24, | Ordinance [1] - 5:13 original [1] - 19:11 owns [1] - 6:22 P p.m [1] - 1:23 packet [1] - 6:5 Pages [1] - 19:6 part [5] - 10:2, 11:24, 13:16, 14:9, 15:15 | 18:5, 19:5, 19:8 processing [1] - 7:11 property [2] - 7:1, 7:2 proposed [2] - 3:9, 9:5 proposing [1] - 5:9 provided [1] - 8:1 Public [5] - 6:8, 9:6, 9:12, 14:9, 15:9 PUBLIC [1] - 1:13 public [14] - 3:3, 3:5, 3:8, 3:11, 3:22, 3:23, |
| it [1] - 10:7 its [2] - 7:24, 8:24 • [1] - 10:10 • [1] - 14:11 • [1] [3] - 6:20, 1, 16:3 • [4] - 11:9, 6:6, 16:9, 16:17 • [4] - 10:14 • [2] - 13:10, 14:10 • [3] - 15:1 | 17:16, 17:19, 17:23 MS [37] - 4:17, 4:20, 4:21, 4:22, 4:24, 5:2, 5:4, 5:5, 5:6, 10:5, 10:18, 10:23, 10:24, 11:1, 11:16, 12:3, 12:8, 12:12, 12:20, 13:2, 13:6, 13:12, 13:21, 14:2, 14:6, 14:12, 16:8, 16:10, 16:15, 17:15, 17:18, 17:20, 17:22, 17:24, | original [1] - 19:11 owns [1] - 6:22 P p.m [1] - 1:23 packet [1] - 6:5 Pages [1] - 19:6 part [5] - 10:2, 11:24, 13:16, 14:9, 15:15 | processing [1] - 7:11 property [2] - 7:1, 7:2 proposed [2] - 3:9, 9:5 proposing [1] - 5:9 provided [1] - 8:1 Public [5] - 6:8, 9:6, 9:12, 14:9, 15:9 PUBLIC [1] - 1:13 public [14] - 3:3, 3:5, 3:8, 3:11, 3:22, 3:23, |
| its [2] - 7:24, 8:24 • [1] - 10:10 • [1] - 14:11 ating [3] - 6:20, 1, 16:3 ation [4] - 11:9, 6:6, 16:9, 16:17 ked [1] - 10:14 k [2] - 13:10, 14:10 king [1] - 15:1 | MS [37] - 4:17, 4:20, 4:21, 4:22, 4:24, 5:2, 5:4, 5:5, 5:6, 10:5, 10:18, 10:23, 10:24, 11:1, 11:16, 12:3, 12:8, 12:12, 12:20, 13:2, 13:6, 13:12, 13:21, 14:2, 14:6, 14:12, 16:8, 16:10, 16:15, 17:15, 17:18, 17:20, 17:22, 17:24, | p.m[1] - 6:22 p.m[1] - 1:23 packet [1] - 6:5 Pages [1] - 19:6 part [5] - 10:2, 11:24, 13:16, 14:9, 15:15 | property [2] - 7:1, 7:2 proposed [2] - 3:9, 9:5 proposing [1] - 5:9 provided [1] - 8:1 Public [5] - 6:8, 9:6, 9:12, 14:9, 15:9 PUBLIC [1] - 1:13 public [14] - 3:3, 3:5, 3:8, 3:11, 3:22, 3:23, |
| a [1] - 10:10 an [1] - 14:11 ating [3] - 6:20, 1, 16:3 ation [4] - 11:9, 6:6, 16:9, 16:17 ked [1] - 10:14 k [2] - 13:10, 14:10 king [1] - 15:1 | 4:21, 4:22, 4:24, 5:2, 5:4, 5:5, 5:6, 10:5, 10:18, 10:23, 10:24, 11:1, 11:16, 12:3, 12:8, 12:12, 12:20, 13:2, 13:6, 13:12, 13:21, 14:2, 14:6, 14:12, 16:8, 16:10, 16:15, 17:15, 17:18, 17:20, 17:22, 17:24, | p.m[1] - 1:23 packet [1] - 6:5 Pages [1] - 19:6 part [5] - 10:2, 11:24, 13:16, 14:9, 15:15 | proposed [2] - 3:9, 9:5 proposing [1] - 5:9 provided [1] - 8:1 Public [5] - 6:8, 9:6, 9:12, 14:9, 15:9 PUBLIC [1] - 1:13 public [14] - 3:3, 3:5, 3:8, 3:11, 3:22, 3:23, |
| en [1] - 14:11 ating [3] - 6:20, 1, 16:3 ation [4] - 11:9, 6:6, 16:9, 16:17 ked [1] - 10:14 k [2] - 13:10, 14:10 king [1] - 15:1 | 5:4, 5:5, 5:6, 10:5, 10:18, 10:23, 10:24, 11:1, 11:16, 12:3, 12:8, 12:12, 12:20, 13:2, 13:6, 13:12, 13:21, 14:2, 14:6, 14:12, 16:8, 16:10, 16:15, 17:15, 17:18, 17:20, 17:22, 17:24, | p.m [1] - 1:23 packet [1] - 6:5 Pages [1] - 19:6 part [5] - 10:2, 11:24, 13:16, 14:9, 15:15 | proposing [1] - 5:9 provided [1] - 8:1 Public [5] - 6:8, 9:6, 9:12, 14:9, 15:9 PUBLIC [1] - 1:13 public [14] - 3:3, 3:5, 3:8, 3:11, 3:22, 3:23, |
| ating [3] - 6:20, 1, 16:3 ation [4] - 11:9, 6:6, 16:9, 16:17 ked [1] - 10:14 k[2] - 13:10, 14:10 king [1] - 15:1 | 10:18, 10:23, 10:24, 11:1, 11:16, 12:3, 12:8, 12:12, 12:20, 13:2, 13:6, 13:12, 13:21, 14:2, 14:6, 14:12, 16:8, 16:10, 16:15, 17:15, 17:18, 17:20, 17:22, 17:24, | p.m [1] - 1:23 packet [1] - 6:5 Pages [1] - 19:6 part [5] - 10:2, 11:24, 13:16, 14:9, 15:15 | provided [1] - 8:1 Public [5] - 6:8, 9:6, 9:12, 14:9, 15:9 PUBLIC [1] - 1:13 public [14] - 3:3, 3:5, 3:8, 3:11, 3:22, 3:23, |
| 1, 16:3 ation [4] - 11:9, i:6, 16:9, 16:17 ked [1] - 10:14 k [2] - 13:10, 14:10 king [1] - 15:1 | 11:1, 11:16, 12:3, 12:8, 12:12, 12:20, 13:2, 13:6, 13:12, 13:21, 14:2, 14:6, 14:12, 16:8, 16:10, 16:15, 17:15, 17:18, 17:20, 17:22, 17:24, | packet [1] - 6:5 Pages [1] - 19:6 part [5] - 10:2, 11:24, 13:16, 14:9, 15:15 | Public [5] - 6:8, 9:6, 9:12, 14:9, 15:9 PUBLIC [1] - 1:13 public [14] - 3:3, 3:5, 3:8, 3:11, 3:22, 3:23, |
| ation [4] - 11:9, 6:6, 16:9, 16:17 ked [1] - 10:14 k [2] - 13:10, 14:10 king [1] - 15:1 | 12:8, 12:12, 12:20, 13:2, 13:6, 13:12, 13:21, 14:2, 14:6, 14:12, 16:8, 16:10, 16:15, 17:15, 17:18, 17:20, 17:22, 17:24, | packet [1] - 6:5 Pages [1] - 19:6 part [5] - 10:2, 11:24, 13:16, 14:9, 15:15 | 9:12, 14:9, 15:9 PUBLIC [1] - 1:13 public [14] - 3:3, 3:5, 3:8, 3:11, 3:22, 3:23, |
| 6:6, 16:9, 16:17 ked [1] - 10:14 k [2] - 13:10, 14:10 king [1] - 15:1 | 13:2, 13:6, 13:12, 13:21, 14:2, 14:6, 14:12, 16:8, 16:10, 16:15, 17:15, 17:18, 17:20, 17:22, 17:24, | packet [1] - 6:5 Pages [1] - 19:6 part [5] - 10:2, 11:24, 13:16, 14:9, 15:15 | 9:12, 14:9, 15:9 PUBLIC [1] - 1:13 public [14] - 3:3, 3:5, 3:8, 3:11, 3:22, 3:23, |
| ked [1] - 10:14 k [2] - 13:10, 14:10 king [1] - 15:1 | 13:21, 14:2, 14:6, 14:12, 16:8, 16:10, 16:15, 17:15, 17:18, 17:20, 17:22, 17:24, | Pages [1] - 19:6 part [5] - 10:2, 11:24, 13:16, 14:9, 15:15 | PUBLIC [1] - 1:13 public [14] - 3:3, 3:5, 3:8, 3:11, 3:22, 3:23, |
| k [2] - 13:10, 14:10 king [1] - 15:1 | 14:12, 16:8, 16:10, 16:15, 17:15, 17:18, 17:20, 17:22, 17:24, | part [5] - 10:2, 11:24, 13:16, 14:9, 15:15 | public [14] - 3:3, 3:5, 3:8, 3:11, 3:22, 3:23, |
| king [1] - 15:1 | 16:15, 17:15, 17:18, 17:20, 17:22, 17:24, | 13:16, 14:9, 15:15 | 3:8, 3:11, 3:22, 3:23, |
| | 17:20, 17:22, 17:24, | | |
| | | particular [1] - 11:1 | |
| M | 18:1, 18:2, 18:3 | | 17:11, 17:13, 17:14, |
| IAI | | parts [1] - 14:7 | |
| | Municipal [1] - 5:19 | passed [1] - 6:1 | 18:6, 19:5 |
| | | PDF [1] - 15:12 | purpose [1] - 3:7 |
| rcum [3] - 2:5, | N | people [1] - 7:2 | put [2] - 12:19, 15:16 |
| 22, 17:18 | 14 | permit [5] - 7:24, 8:12, | PZC [4] - 3:4, 4:16, |
| RCUM [10] - 4:23, | | 8:23, 11:7, 12:4 | 5:7, 6:5 |
| 10, 8:19, 9:1, 9:14, | name [1] - 3:17 | personal [1] - 16:21 | |
| 19, 9:23, 12:7, | nay [2] - 7:13, 7:14 | persons [2] - 3:11, | Q |
| 6:17, 17:19 | need [3] - 5:24, 9:5, | | |
| rlys [1] - 2:11 | 16:14 | 3:15 | |
| terials [1] - 7:21 | needs [1] - 5:24 | pertains [1] - 15:20 | questions [6] - 3:13, |
| an [7] - 8:6, 9:8, | new [2] - 5:23, 6:24 | petition [2] - 4:16, | 4:12, 7:7, 14:6, |
| | nobody [1] - 4:8 | 17:12 | 14:13, 17:4 |
| | , | 1 | quick [1] - 5:17 |
| | 1 | | _ |
| • • | 1 | 5:14 | R |
| | | phone [1] - 10:13 | |
| | | place [1] - 19:9 | i 43 2:00 |
| 3, 18:7 | i i | plan [1] - 3:21 | raise [1] - 3:23 |
| mber [1] - 3:23 | 8:3, 8:16, 8:22, 9:18 | Planner [1] - 2:10 | read [4] - 4:7, 7:20, |
| mbers [1] - 3:8 | number [1] - 4:16 | planning (1) - 7:15 | 14:18, 15:19 |
| mo [2] - 7:11, | | 1 * * * * * * * * * * * * * * * * * * * | reading [1] - 10:6 |
| I:16 | 0 | 1 | Reagan [1] - 2:3 |
| nute [1] - 2:11 | | 1 7 | real [1] - 6:13 |
| reading [1] - 8:9 | | | really [10] - 4:7, 6:4, |
| • • • | | 1 | 6:6, 6:16, 6:19, 6:23, |
| • • | | | 9:12, 14:24, 16:14, |
| • • | Olson [3] - 2:2, 4:24, | 1 * * * * * * * * * * * * * * * * * * * | 16:20 |
| | 17:20 | 1 . | Receipt [2] - 8:16, |
| | OLSON [26] - 3:4, 4:4, | poles [1] - 6:21 | 8:21 |
| 13 1/ 1/ | 4:10, 4:19, 5:1, 5:7. | policy [2] - 12:22, 13:4 | receipt [3] - 7:22, |
| | | manulanus 14:0 | 1 7 7 7 |
| ve [2] - 4:3, 13:22 | | popular[1] - 11.2 | 8:15, 9:17 |
| | 5:16, 9:2, 10:20, 11:10, 11:17, 12:1, | portion [1] - 18:6 | receiving [1] - 4:5 |
| 3 4 1 4 1 4 3 4 | mber [1] - 3:23 mbers [1] - 3:8 mo [2] - 7:11, ::16 uute [1] - 2:11 :reading [1] - 8:9 nths [1] - 11:13 st [4] - 11:24, ::16, 14:9, 15:15 tion [3] - 3:10, 15, 17:12 | non [1] - 7:16 non-responsive [1] - 7:16 non-responsive [1] - 7:16 notes [1] - 14:5 notice [6] - 7:18, 7:23, 8:3, 8:16, 8:22, 9:18 number [1] - 3:8 no [2] - 7:11, ::16 ute [1] - 2:11 reading [1] - 8:9 nths [1] - 11:13 st [4] - 11:24, ::16, 14:9, 15:15 tition [3] - 3:10, 15, 17:12 ve [2] - 4:3, 13:22 | non [1] - 7:16 non-responsive [1] - 7:16 notes [1] - 1:11 pting [4] - 3:6, 6:2, 3, 18:7 mber [1] - 3:23 mbers [1] - 3:8 mo [2] - 7:11, :16 ute [1] - 2:11 reading [1] - 8:9 nths [1] - 11:24, :16, 14:9, 15:15 tion [3] - 3:10, 15, 17:12 ve [2] - 4:3, 13:22 vert [2] - 4:3, 13:22 vert [2] - 4:7 |

recommendation [1] -9:10 recommended [1] -16:24 regarding [3] - 3:9, 3:14, 17:11 Regulations [1] - 5:12 regulations [3] - 5:20, 5:22, 5:24 reject [1] - 8:7 remember [1] - 11:12 removing [1] - 6:15 renew [1] - 12:3 repairing [1] - 13:20 repeat [1] - 3:24 Reporter [1] - 19:4 represent [1] - 3:17 reproduced [1] -19:14 request [9] - 3:9, 3:13, 3:14, 4:11, 4:12, 7:24, 8:23, 17:4, 17:8 require [1] - 12:24 response [2] - 17:5, 17.9 responsibility [1] -19:13 responsive [1] - 7:16 reviewing [4] - 6:9, 6:10, 6:12, 6:16 Richard [1] - 2:6 rid [2] - 13:14, 16:21 right-of-way [1] - 6:20 Road [1] - 1:17 road [1] - 11:20 roll [2] - 4:19, 17:17 rough [1] - 15:13

S

satellite [1] - 6:15 scheduled [1] - 3:5 second [3] - 4:18, 15:14, 17:16 section [3] - 9:4, 9:6, 14:10 sections [1] - 14:17 see [4] - 10:4, 11:3, 13:2, 14:18 Seeing [2] - 4:4, 17:10 seem [3] - 8:8, 9:1, 10:7 Senior[1] - 2:10 sense [3] - 7:19, 9:20, 9:23 sentence [1] - 8:19 services [1] - 16:22 set [1] - 19:16

shall (6) - 7:23, 8:12. 8:22, 9:18, 9:20, 9:21 Shall [1] - 9:19 **Shorthand** [1] - 19:3 sight [1] - 10:10 sign [1] - 3:18 signed [1] - 19:12 simple [1] - 15:12 six [1] - 10:21 sloppily [1] - 7:20 small [4] - 6:14, 10:7, 10:23, 16:23 so.. [1] - 15:10 Sometimes [1] - 16:2 sound [1] - 8:6 space [1] - 7:3 Speaking [1] - 17:6 **SPECIAL** [1] - 1:11 special [1] - 6:2 **specific** [1] - 9:7 spelled [1] - 16:18 SS [1] - 19:1 stacked [1] - 11:3 stand [1] - 3:23 STATE [1] - 19:1 state [1] - 3:16 staying [1] - 7:5 still [1] - 8:7 stuff [2] - 13:17, 14:9 submission [2] - 8:11, supposed [1] - 9:15 surety [1] - 12:18

Т

Taker [1] - 2:11 technical [2] - 11:11, 15:13 technically [1] - 10:1 technologies [1] -6:24 technology [1] - 13:21 Telecommunication [1] - 5:11 telephone [1] - 6:21 Ten [1] - 10:24 tenth [1] - 8:15 term [1] - 7:17 testify [1] - 3:15 testimony [6] - 3:8, 3:11, 3:20, 4:5, 17:11, 17:13 text [1] - 5:9 thereof [2] - 19:12, 19:16 thick [1] - 6:5 thinking [1] - 10:18

three [2] - 6:6, 11:20 today [1] - 6:3 tomorrow [1] - 14:16 tonight [3] - 3:10, 6:12, 14:23 tonight's [2] - 3:5, 3:22 tower [3] - 6:21, 12:1, 12:21 Tower [1] - 5:11 towers [5] - 6:19, 6:24, 16:6, 16:12 transcribed [1] - 19:4 transcript [2] - 19:8, 19:11 tried [1] - 15:16 true [1] - 19:7 Tuesday [1] - 14:11 two [1] - 16:18 typical [1] - 12:22 typically [2] - 12:17, 13:4

U

typo [1] - 10:4

under [3] - 8:1, 19:12, 19:14
UNITED [1] - 1:6
United [2] - 5:8, 5:12
up [12] - 8:4, 9:9, 10:3, 10:5, 10:8, 10:14, 11:3, 12:19, 14:2, 14:4, 14:12, 14:15
update [2] - 5:17, 5:23
updated [1] - 5:21
updates [1] - 5:10
updating [1] - 6:13

V

vICE [1] - 17:21 Vice [1] - 2:2 VICE [25] - 3:4, 4:4, 4:10, 4:19, 5:1, 5:7, 5:16, 9:2, 10:20, 11:10, 11:17, 12:1, 12:5, 14:19, 14:22, 15:3, 15:11, 15:18, 15:21, 16:2, 16:13, 17:2, 17:6, 17:10, 17:17 VICE-CHAIRMAN [1] -17:21 Vice-Chairman [1] -VICE-CHAIRMAN [25] - 3:4, 4:4, 4:10,

4:19, 5:1, 5:7, 5:16, 9:2, 10:20, 11:10, 11:17, 12:1, 12:5, 14:19, 14:22, 15:3, 15:11, 15:18, 15:21, 16:2, 16:13, 17:2, 17:6, 17:10, 17:17

VINYARD [5] - 4:18, 5:3, 15:14, 17:16, 17:23

Vinyard [3] - 2:6, 5:2, 17:22

Vitosh [2] - 19:3, 19:20

voting [2] - 14:22,

W

water [3] - 6:21, 12:21,

14:24

16:6 Wednesday [1] - 1:22 week (1) - 6:2 WHEREUPON [1] -3:1 wireless [2] - 16:21. 16:23 wish [5] - 3:12, 4:7, 4:10, 4:11, 15:5 wishes [2] - 17:3, 17:7 wishing [1] - 3:15 wondered [1] - 9:14 word [3] - 9:15, 16:4, 16:8 Works [5] - 6:8, 9:6, 9:13, 14:9, 15:9 write [1] - 15:7 writing [1] - 14:15 written [3] - 10:15, 13:4, 15:8

Y

year [2] - 5:20, 12:9 yearly [1] - 12:10 years [2] - 11:20, 12:7 YORKVILLE [2] - 1:6, 1:7 Yorkville [3] - 1:18, 5:8, 5:12 YOUNG [11] - 4:20, 4:22, 4:24, 5:2, 5:4, 5:6, 17:18, 17:20, 17:22, 17:24, 18:2 Young [1] - 2:11

Z

zoning [1] - 10:2 ZONING [1] - 1:10 Zoning [7] - 3:6, 4:13, 5:13, 6:11, 7:4, 15:2, 15:17