

In compliance with the Open Public Meetings Act of the State of New Jersey adequate notice of this meeting has been mailed to The Daily Record and posted at the municipal building.

ROLL CALL:

Members Present: Dan Nelsen, Joe Fleischner, Nelson Russell, Mayor David Scapicchio, Jim Staszak, Scott Van Ness (7:37 p.m.), John Ferrante, Howie Weiss (7:41 p.m.)

Members Absent: John Mania

Members Excused: Steve Bedell

Professionals Attending: Chuck McGroarty, Planning Consultant, Eugene Buczynski, P.E., Tiena Cofoni, Esq., John Miller, Esq., Catherine Natafalusy, Planning Administrator

Professionals Excused: Edward Buzak, Esq.

APPLICATION #PB 11-27 – TOMASA JALLAD

MR. STASZAK: If anyone is here for Tomasa Jallad that application is going to be carried to December 8, 2011 all notices will carry until then.

(RESCHEDULED TO DECEMBER 8, 2011 PUBLIC MEETING)

APPROVAL OF MINUTES

August 18, 2011 Public Meeting

Motion: Joe Fleischner
Second: Nelson Russell

Roll Call:

Joe Fleischner - yes
Nelson Russell - yes

September 8, 2011 Public Meeting

Motion: Nelson Russell
Second: Joe Fleischner

Roll Call:

Joe Fleischner - yes
Nelson Russell - yes

RESOLUTIONS FOR APPROVAL

Resolution No. PB 11-10 – Woodfield at Mt. Olive Homeowners Association – (Block 8400, Lot 11)

MR. STASZAK: Any questions or comments?

MS. COFONI: Mr. Chairman?

MR. STASZAK: Yes Tiena.

MS. COFONI: We had some revisions per the applicant's comments that I just . . . I think Catherine gave you each a black line version in front of you. For the record I'll go through at least the substantive changes. The first one is actually the first Whereas clause, we feel that Mt. Olive Homeowner's Association has made application to the Planning Board of the Township of Mt. Olive for an amendment to the building option plan for each section of the single-family detached homes within the development which was originally located on Block 8400, Lot 11 on the official tax map of Mt. Olive. Second whereas clause down on page two added the word "detached". So it says the portion of the sentence, the 357 single-family detached court homes. Again detached court homes is referenced in paragraph one, in paragraph two and in paragraph three. Paragraph three also removes 25 foot or to allow larger decks on the majority of properties that accommodate such structures without encroaching into the rear yard setback instead of the 25 foot rear yard setback. Paragraph ten again references

court homes and then the end of that paragraph the words “in accordance with sections 9.01 and 9.03 of the Declaration of Covenants and Restrictions of the Homeowner’s Association and the resolution adopted by the Board of Trustees on May 28, 2009.” I think that was an issue that references the document that was the basis for the fact that they needed approval from the Homeowner’s Association. I just wanted to reference that specific document. Paragraph one on page four of the single-family detached court homes similar reference to above was added. Again in paragraph G that same language is added. Paragraph two, court home is added and it also says to the applicable Board of the Township of Mt. Olive. The end of that paragraph as set forth in paragraph ten of the findings of fact. And that’s all of the revisions.

MR. STASZAK: Does anybody have any questions or comments on the revisions as stated? Seeing none motion to approve PB 11-10.

MR. RUSSELL: I’ll move that resolution PB 11-10 be approved with changes.

MR. FLEISCHNER: I’ll second it.

MR. STASZAK: Roll call please.

MRS. NATAFALUSY: Joe Fleischner - yes
 Nelson Russell - yes
 Jim Staszak - yes

Resolution #PB 10-32 – Ralph & Joseph Marina – (Block 7000, Lot 47)

MR. STASZAK: Comments or questions on the resolution?

MS. COFONI: I actually Mr. Chairman, I have one revision and that is on page two paragraph two and I can read it to you. It says the property is an existing undersized lot as a minimum lot acre of, it did read 4 acres is required and 3.027 acres exists, it’s been modified and corrected to say 5 acres is required and 3.02 acres exists. So the 4 was changed to a 5, correction there. And that’s the only change there.

MR. MCGROARTY: No wait?

MS. COFONI: Do you think it’s four?

MR. MCGROARTY: I know it’s four.

MR. BUCZYNSKI: I thought it was four too.

MR. MCGROARTY: It’s confusing because the density is such that it . . . it is 4 acres.

MS. COFONI: Okay then what we’re going to do is in paragraph two is going to stay 4 and then it’s also I think it says 5 acres, yes and in paragraph one on page four after the Now, Therefore be it resolved that 5 acres is going to change to 4.

MRS. NATAFALUSY: So that resolution has to be changed.

MS. COFONI: Yes I’ll revise that.

MR. STASZAK: Are we going to vote on that?

MS. COFONI: Yeah you can vote on it.

MR. FLEISCHNER: So we’re going back to the original.

MS. COFONI: The 4 needs to be in both places the 4 acres is required yeah.

MR. FLEISCHNER: Okay.

MR. STASZAK: Okay. Who originally moved on that?

MR. FLEISCHNER: Nobody I’m going to do it.

MR. STASZAK: Okay go ahead.

MR. FLEISCHNER: I'll move we approve PB 10-32 based on what Tiena said.

MR. RUSSELL: I'll second it.

MR. STASZAK: Roll call Catherine.

MRS. NATAFALUSY: Joe Fleischner - yes
 Nelson Russell - yes
 Jim Staszak - yes
 Scott Van Ness -

MR. VAN NESS: Can we just clarify real quickly what the change was?

MS. COFONI: It was referring to the minimum lot acre size lot area requirement and there was some confusion as to whether it was 4 or 5 acres. Chuck correctly said it was 4 so it's changed to 4 throughout.

MR. VAN NESS: Thank you very much. Yes.

Resolution No. PB 11-15 (Amended) Michael Callaremi – (Block 8100, Lots 43)

Motion: Scott Van Ness
 Second: Nelson Russell

Roll Call:

Joe Fleischner - yes
 Nelson Russell - yes
 Mayor Scapicchio - yes
 Jim Staszak - yes
 Scott Van Ness - yes

Resolution No. PB 11-24 – Old Hickory Estates – (Block 3002, Lot 3)

Motion: Joe Fleischner
 Second: Nelson Russell

Roll Call:

Joe Fleischner - yes
 Nelson Russell - yes
 Mayor Scapicchio - yes
 Jim Staszak - yes
 Scott Van Ness - yes

COMMITTEE REPORTS

MR. STASZAK: Okay committee reports Mr. Mayor.

MAYOR SCAPICCHIO: Nothing to report.

MR. STASZAK: Mr. Mania is out. Environmental Commission?

MR. RUSSELL: We meet Wednesday.

MR. STASZAK: The ordinance committee met on Tuesday and we're continuing our work and we'll have something to report back in a while after we continue to work on that. Street naming, Howie is not here. Open Space I don't think we have anybody for Open Space.

MR. RUSSELL: Do we have anybody on Open Space now that Rene is gone?

MR. STASZAK: No I don't think so we're going to have to

MRS. NATAFALUSY: We have to get somebody to volunteer to be on the Open Space Committee. I'm not sure if we want to wait until the first of the year.

MAYOR SCAPICCHIO: I did get word today that the County open Space Committee that the Freeholders approved \$250,000 to purchase the BASF, 57 acre out parcel site and the Land Conservatory has committed \$75,000.

EXTENSION REQUEST

APPLICATION #PB 10-07 – ROBERT & FAITH DONNELLY

MR. STASZAK: Okay moving on extension request PB 10-07 Robert & Faith Donnelly Block 7000, Lot 80, 79 River Road extension request for a variance. And Mr. Weiss is here. Good evening.

MRS. DONNELLY: Good evening.

MR. STASZAK: You're here for an extension on your variance.

MRS. DONNELLY: Yes.

MR. STASZAK: Okay would you explain?

MRS. DONNELLY: Well the reports were turned over to the DEP and it took them longer to get back

MS. COFONI: If I may interrupt for just a second. Can we just swear you in and get your name on the record?

(FAITH DONNELLY SWORN IN FOR THE RECORD)

MS. COFONI: If you could state your full name spelling your last name and giving your address for the record please.

MRS. DONNELLY: Faith Ginsberg-Donnelly (D-O-N-N-E-L-L-Y) 79 River Road, Flanders.

MS. COFONI: Thank you.

MRS. DONNELLY: Anyway the DEP took longer to get back to us with their approvals and now it's too late to do it so we have to wait for the Spring.

MR. STASZAK: Okay and Catherine when did her variance expire?

MS. COFONI: I don't think it's expired yet.

MRS. NATAFALUSY: No it hasn't expired I think they're coming in for an extension.

MS. COFONI: I think it expires December 16th Catherine?

MRS. NATAFALUSY: The resolution was adopted on December 16, 2010 so it would be a year.

MS. COFONI: Yeah so December 15.

MR. STASZAK: You're looking for a one year extension? Okay. Board members have any questions or comments? Seeing none motion?

MR. NELSEN: I'll make a motion we approve PB 10-07.

MR. RUSSELL: I'll second it.

MR. STASZAK: For a one year extension.

MR. NELSEN: A one year extension.

MR. STASZAK: Catherine roll call please?

MRS. NATAFALUSY: Dan Nelsen - yes
 Joe Fleischner - yes
 Nelson Russell - yes
 Mayor Scapicchio - yes
 Jim Staszak - yes
 Scott Van Ness - yes
 John Ferrante - yes

MRS. DONNELLY: Thank you.

MR. STASZAK: Okay Mr. Chairman is

MR. WEISS: Thanks Jim.

APPLICATION #PB 11-25 – PANERA, LLC

MR. WEISS: All right so then we're ready for our first development matter tonight PB 11-25 Panera, LLC preliminary and final site plan with variances located at 30 International Drive South Block 4100, Lot 9.01. This evening Paul . . .

MR. CONCIATORI: Conciatori.

MR. WEISS: Welcome Paul.

MR. CONCIATORI: Thank you. Good evening everybody Paul Conciatori with the law firm of Price, Meese, Shulman & D'Arminio representing the applicant Panera Bread. As the Chairman indicated we're here for preliminary and final site plan approval along with a couple of variances which I'll give a brief overview on in a moment. The application is for obviously the existing bakery/café that's at the shopping center. This application really has two primary parts to it, one is incorporating a drive-thru for this facility. This is part of a retro-fitting project that Panera is undertaking for all of its existing Panera locations and you'll hear some testimony from a number of people both professional and from Panera on that. As well we are updating the sign package which is also part of Panera's program to get all of their locations consistent with the branding and the lettering and you'll hear testimony they're putting their new, what they call mother bread logo which is essentially the brand for Panera. And the process is to make all of them look uniform and to make sure that locations particularly ones like this look like the up to date facilities as opposed to something that's outdated. I'll have this evening four witnesses, it sounds like a lot but I think we can get through them relatively quickly. I have a planner, my engineer, a traffic engineer as well as the applicant representative. What I'd like to do I spoke to Ms. Cofoni earlier my planner John McDonough has a command performance at another continued hearing. Typically in logical order I'd like to have my applicant testify first but in light of the fact that it's a continued hearing I'd like to ask the Board's indulgence to have him testify first obviously to the extent he has any factual information he's relying upon you will hear it come out of the words of our applicant representative right after him. But I'd like to do that if that's okay.

MR. WEISS: Well let me just (inaudible) you said you were going to bring in your planner first or the applicant first?

MR. CONCIATORI: I was planning on doing the planner first because he has another hearing and I'd like to get him . . . it's a continued one and again any information that he summarizes will be testified to in detail by the applicant representative he'll be testifying right after him.

MR. WEISS: Chuck does that cause a problem for you at all?

MR. MCGROARTY: For me? No Mr. Chairman.

MR. WEISS: Okay Board? Because we don't normally do it that way but I don't have a problem with it.

MR. CONCIATORI: Yeah it's kind of a unique . . . he has a continued hearing and it's kind of a . . . it's that kind of thing I think it's important that he get his testimony in. So one last housekeeping matter, we did and I'm not sure if our office had already submitted it but we did get our Morris County Planning Board exemption letter dated 8/11/11 I believe it was already sent but to the extent it wasn't I'll just note that for the record.

MRS. NATAFALUSY: We have it.

MR. CONCIATORI: You have it okay terrific. Well then without, unless there's anything else without any further ado I can start, get Mr. McDonough sworn in and start.

MR. WEISS: No problem.

(JOHN McDONOUGH SWORN IN FOR THE RECORD)

MS. COFONI: If you could state your full name, spelling your last name and giving your business address please?

MR. McDONOUGH: Yes hello my name is John McDonough and that's spelled (M-c-D-O-N-O-U-G-H) and my business address is 101 Gilbralter Drive in Morris Plains, New Jersey.

MS. COFONI: Thank you.

MR. McDONOUGH: You're welcome.

MR. CONCIATORI: Mr. McDonough perhaps you can give the Board the benefit of your qualifications and experience as a planner.

MR. McDONOUGH: Yes I am a licensed professional planner in the State of New Jersey. I am also a member of the American Institute of Certified Planners. I've been accepted in the capacity of a planner and also as a landscaped architect which I'm licensed in the State as well throughout numerous Land Use Boards throughout the State including this Board I've been here before and just about all Morris County towns as well.

MR. CONCIATORI: We'd ask that he be qualified as a professional planner.

MR. WEISS: I do remember seeing Mr. McDonough before. Does anybody else have a question? We'll accept Mr. McDonough as an expert planner.

MR. CONCIATORI: Thank you. Mr. McDonough perhaps you can start for the Board by giving a general overview of what you did in preparation for your testimony and a background on the site which can provide a context for some more specific zoning testimony.

MR. McDONOUGH: Absolutely. As part of our review of any application we review the property in question, we review the site, we review the application as it's been filed before you, your Ordinance, your Master Plan and the like. We've done that here I'm very familiar with the site I'm local to the area I frequent the site very often, frequent the shopping center very often so I have I think a very fair and thorough knowledge of the center. What I've done Mr. Chairman is put together some photo exhibits to photo document my findings with respect to existing conditions. I brought multiple copies of what I guess will be A-1 for the record.

MR. CONCIATORI: Right is that what we would . . . A-1?

MR. WEISS: Yeah tell us what A-1 is.

MR. McDONOUGH: A-1 will be a three sheet document that's 11 x 17 in size, it will contain photographs on each sheet. The first is an aerial photograph that's been downloaded from the Bing website of fairly recent vintage. We'll see some snow on the ground which is last year not recent although it could be similar to what we've seen in the last week or so. I also show on page two ground photographs that I took within the last week and you will . . .

MR. WEISS: Mr. McDonough what we'll do is on the first page the aerial photograph we'll make that A-1 and then we'll call A-2 your ground photograph.

MS. COFONI: Is there a date on that first one?

MR. McDONOUGH: There's not a specific date on the Bing photograph its 2010 is what it says.

MR. CONCIATORI: A-2 are the four ground photos that Mr. McDonough has . . .

MR. McDONOUGH: A-2 will be four ground photos that I took again within the last week or so that are reflective of the existing building from four sides.

MR. CONCIATORI: And then the last sheet I guess we'll make A-3?

MR. McDONOUGH: And the last sheet A-3 will be four photographs that I also took on the same exact day basically showing a panoramic of the land uses that surround the subject site.

MS. COFONI: And do either A-2 or A-3 have dates on them?

MR. McDONOUGH: A-2 was taken on 11/4/11 and so was A-3.

MS. COFONI: Okay.

MR. McDONOUGH: And I will hand those out. Okay and for orientation purposes photograph A-1 north would be oriented down. So Route 80 would be running left to right on the bottom off sheet, and Route 206 would be running up and down on the left hand side of the sheet. We're looking at a property that is one of the largest and newest shopping centers in Morris County. We have major tenants which I have labeled on here and you can see the string of Lowe's, Michaels, Bed, Bath & Beyond, TJ Maxx, Old Navy, working our way to WalMart in the upper right and then in the lower right hand corner PetSmart and the associated units that are associated with that tenant as well. We're looking at over 500,000 square feet of retail that is part of a Master Plan commercial site and also a site that if I were to pan back is well buffered from the surrounding properties. So this has been a very well planned and well laid out shopping center that has also been very viable and I think a very positive asset not only locally but regionally as well. We can also see two pads that are at the center of the site, restaurant pads including the Panera Café which I've labeled and I show the fourth side of the building where the drive-thru component would be going. Just below that I've indicated the McDonald's restaurant which presently does have a drive-thru component. The subject drive-thru will be aligned opposite the McDonald's drive-thru and you'll hear from the traffic engineer as to how that functions in a safe and efficient manner. We also note that the Panera site is relatively remote and off center from the other units and I think that's important because there are some signage variances that the applicant is asking here. It's important as we look at the way the buildings are laid out and this building in particular clear and safe identification of this particular building becomes important in terms of safe navigation of the site. In terms of the developed Panera Café which is on the next sheet where I've shown from four views including frame number one which is the view of the north façade of the subject bakery. Panning over on the longer access is the view of the east side of the façade of the subject bakery. The third view is more of a bland view that is facing the south or the rear this faces the larger tenants this is what is facing internally into the center. The other two views are facing more externally to the surrounding ring road International Drive that runs around the center. And then finally an even more bland or blank view is on the west side of the façade. This also faces internal and is the main view of the café that's seen as customers or shoppers would exit the main tenant buildings. You get a sense of the mass and scale of the building and the signage that's there and the like. We're looking at it in terms of the numbers a building that is built and operated in accordance with your 2003 approval 4,660 square feet, you have 150 spaces most inside but we do have outdoor seating that's part of that number as well, and 50 parking spaces that are associated with that use based on your one per three standard in the ordinance. Next we flip over to the surrounding land uses and again this is a major shopping center so we're keeping it focused on what's happening in the center itself. Frame number 5 we're looking at from the front of the Panera Café at the McDonald's which would be to the north and you see in the right hand corner of that photograph where that drive-thru is located. If we were to pan to the left that's where the proposed drive-thru would be going. The next frame swinging around to the right we're looking at the land use to the west and you get a sense of the abundance of parking that extends all the way out to the Petsmart buildings at the far side of the shopping mall. And then finally swinging back to the south we see the string of the major tenants immediately south of us including again Bed, Bath & Beyond, Michaels, TJ Maxx and the like that's more or less a panoramic view that continues between 7 and 8. Again to show the sense of the parking the mass and scale and the, what you'll hear is an abundant supply of parking in the immediate area. In terms of the plan engineers and the following experts will get into the specifics for you but in general from a planning standpoint the plan is to take that dead wall, that wall that I showed in frame number 4 on A-2 and run a drive-thru along that wall. And you can see a window in the front that's where the drive-thru would start and traffic would be coming at you at this particular location. Again we would locate it opposite the McDonalds. There will be queuing for 8 vehicles, there will be a bump out operationally for the drive up window to accommodate 300 square feet. At peak there would be 4 new workers associated with this particular aspect of the operation and then there's new signage as well which I'll get to in a moment. In short the

proposal for the signage is to take the lettering that you see the familiar Panera Bread name and add the Panera Bread logo which is the familiar logo that we see at most Panera Breads it's actually identified as what they call "mother bread" so that will facilitate the identity of the site and update the identity of the site. And also we're going to adding the word drive-thru and make clear that there is this component to the operation as well. That's going to bump up the signage numbers on the site and I'll get to the particulars momentarily. In terms of the zone the entire center is in your C-LI Commercial/Light Industrial district which as we know allows for a wide variety of uses. The subject use as a restaurant and with its ancillary drive-thru component is a permitted use in the zone so I do appreciate the Board taking me out of turn and allowing me to deal with what are really bulk issues this evening and not the usual planning related use issues that might be associated with an application. So from a zoning standpoint this application meets what I would call the higher tiers of zoning. Compliant in terms of use, compliant in terms of density, in terms of height, and in terms of setbacks and as you'll hear through the engineer also an overall reduction in the impervious coverage on the property. And just to reinforce that's going to be a reduction in the overall impervious coverage associated with this building. In terms of the variances we're looking for two-fold. One is related to parking count, I said we had 50 spaces assigned to this building we need to knock out 11 to accommodate the drive-thru so there will be 39 parking spaces associated with this building versus the 50 that would be required by the ordinance. We're not adding anymore seats we're simply taking spaces out to accommodate the drive-thru. And then there's the wall signage which would be associated with frames number 1 and frames number 3 on sheet number two that's the short access of the building. Those are the signs that would be in variance and again keeping the Panera Bread name, adding the logo and adding the word drive-thru. On the wall sign area on the north side that would be what we see for frame number 1. We're looking for 85.89 square feet whereas your ordinance allows for just under 50 square feet.

MS. COFONI: I'm sorry could you say that number again?

MR. McDONOUGH: I'll take it a little slower yes. Its 85.89 square feet is proposed and 49.82 is what's allowed. On the south side the aggregate of the new signage will equate to 98.71 square feet and again 49.82 is what's allowed. And the way we get to that 49.82 is by taking 5 percent of the area of the building façade. That's your maximum threshold 5 percent of the building façade. So let's start first with the justification for the parking variance which I see as justifiable under the C-2 standard. Again just from a general standpoint with the Municipal Land Use Law the Statute does recognize that zoning is not meant to be inflexible or rigid that it does allow for relaxation under appropriate circumstances. And again the foundation will be laid behind me but I think that the Board will see that there is a basis for this under the C-2 criteria which takes the benefits of the application as a whole and weighs that against what will be very little detriment as you'll hear. In terms of the betterments I turn to number of purposes under the Municipal Land Use Law right there at the preamble we have several. First convenience for customers and the efficiency of operation, you will hear about the operational testimony and how this provides for a more convenient and efficient way of accommodating customers. And this is also part of a substantial nationwide movement as well and responds to a demand by moms and to accommodate the elderly and the like to facilitate not having to get out of the car. And again we're dealing with what is a permitted use and recognized as an appropriate use within the context of this zone. Also it's taking what I see, and I think the photographs helps support that this is taking underutilized space and putting it back into functional use. The spaces on that particular side of the building are not as inviting as the spaces on the other side of the building where we have the more attractive front door and certainly the announcement or the welcoming or inviting entryway into the building. Additionally we are looking at enhancing the aesthetic of the café. I focus in particular on Frames number 3 and number 4 we are looking to introduce awnings, signage and just bring life to this side of the building which again is the side that faces the main stream the main flow of the site and is relatively bland and non-descript presently. This again has an excess with a purpose of the Municipal Land Use Law to promote a desirable visual environment that is the purpose as I under the Statute. I also see an excess with Purpose A promotion of the public welfare again with the efficiency. Purpose H the free flow of traffic which you'll hear again from the traffic engineer as to how that purpose is advanced as well. And also Purpose M which is the efficient use of land taking this unproductive space putting it back into productive use. That's the weight that's on the positive side. On the negative side we weigh impacts to public health, safety and welfare. In terms of the public good I see no impact in terms of noise, in terms of glare, in terms of congestion or safety you'll hear how this will affect safe flow through the center. I see no substantial detriment in terms of your zone plan or ordinance. You'll hear that the supply will meet the actual demand at this location 39 spaces are certainly appropriate to accommodate what's been historically there with the addition of just 4 employees at peak at this location. And given the abundance of parking around the center and the provision of sharing of use with the other retailers there is certainly an abundant supply of parking to accommodate the reduction here elsewhere on the center. The new drive-thru will not change or interfere with any of the approved deliveries, it will not interfere with hours of operation or change the hours of operation, it will not

interfere or change the make-up of the interior café, the sit down portion that's there now. From an operational standpoint, from a customer service standpoint that will remain exactly the same as we now experience it. So all said weighing the positive and the negative I believe the variance on the negative side can certainly be granted without substantial detriment to the public good and without substantial impairment of your zone plan or ordinance. On balancing I look at the benefits of convenience, customer service outweighing any conceivable detriment. Taking something that's been quite effective without detriment at other locations and carrying it here to Mt. Olive I think justifies the variance under the C-2 criteria. That's the parking variance. In terms of the statutory relief for signage

MR. BUCZYNSKI: Excuse me just go back to the parking variance for a minute?

MR. McDONOUGH: Yes sir.

MR. BUCZYNSKI: John do you have a plan that actually shows where the 39 spaces are?

MR. McDONOUGH: I do and I think I should mark the site plan which is identified as SP-2 for the record I think we are up to A-4?

MS. COFONI: Yes.

MR. WEISS: You can mark it with today's date too please.

MS. COFONI: What is the date on that plan actually?

MR. McDONOUGH: The date on this plan is 7/7/11 unrevised.

MS. COFONI: And I'm sorry it's SP

MR. McDONOUGH: It is SP-2 under the site plan.

MS. COFONI: Thank you.

MR. McDONOUGH: And this is not an existing condition map but the 11 spaces that are lost . . . well let me orient the Board, with respect to this particular plan north would be oriented to the left, the café you can see the long access runs north and south and we're looking at adding the drive-thru component to what would be the west side of the café that's the darker coloring. That's where the 11 parking spaces are now at a right angle to the subject building so they butt right up against the building, the ones that are being lost. And I think they pick up in frame number 4. There actually is a loss of 17 along this particular area but there will be a gain of spaces on the south side of the building so that is a net loss of 11 spaces.

MR. WEISS: Well we have a document in our package that's what you're looking at correct? I know we haven't entered this as an exhibit but . . .

MR. CONCIATORI: Right that's part of what we submitted with the application.

MR. WEISS: Correct so there's a photograph for anybody on the Board that's concerned of the western view of the café showing the spots that will be eliminated. Correct Gene?

MR. BUCZYNSKI: Yeah.

MR. CONCIATORI: So if you can kind of continue in terms of just answering that question in terms of the parking is essentially located, the 17 spaces where the drive-thru would essentially be.

MR. McDONOUGH: Yes again what you're seeing there will be a divide between, that's the darker color between the actual drive-thru and the building itself that's where those spaces that are being lost.

MR. CONCIATORI: Any other questions from the planning end of course we will have not only our traffic engineer but our engineer to go into the detail in terms of identifying exactly where they are in a sense of planning generally on the parking if there's any other questions on that aspect.

MR. WEISS: Well let's stick with the parking variance, does anybody on the Planning Board have any questions I think that's pretty self explanatory.

MR. RUSSELL: Yeah I see they're storing snow in there in the pictures it doesn't seem to be a great deal of use.

MR. WEISS: Correct. Chuck did you want to discuss the parking variance at all?

MR. MCGROARTY: Nothing, I have no concerns.

MR. WEISS: I didn't think so. Okay let's move on to your next witness.

MR. McDONOUGH: And towards the commissioners comment they are storing snow against the building which is perhaps not the optimum scenario.

MR. RUSSELL: Well it shows that the parking spaces aren't really needed.

MR. McDONOUGH: That's my point. And by the way again they're not taken on the same date but you can see they were doing that approximately a year ago with the snow piled in the same location.

MR. CONCIATORI: And to the extent you want to mark . . .

MR. McDONOUGH: Perhaps I can mark A-5 as well for the sign plan and for the record A-5 is also dated 7/7/11 today's date no revisions and I'll mark today's date no revisions.

MS. COFONI: And is that a sheet in the plans?

MR. McDONOUGH: That is a sheet in the plans as well it is Sheet S-1 prepared by Core States.

MS. COFONI: Thank you.

MR. CONCIATORI: Mr. McDonough using that exhibit and any others orient the Board in terms of the variance on the signage and your expert conclusions regarding support from a zoning perspective for those variances.

MR. McDONOUGH: What A-5 shows are the four elevations of the building and we'll start in the upper left hand corner which would be . . . this would be the east elevation and we're looking at essentially keeping the make-up of the building the way it is now the signage plan the way it is now but for the incorporation of what you'll see on a larger detail on this frame. The mother bread logo which equates to approximately 74 square feet when added in with the full Panera Bread verbage. The drive-thru itself is another 13.6 square feet so the aggregate is what triggers the variance, that will all be on the frame above the entry door there are awnings and decorative components that are on that side as well that will be upgraded consistent with Panera's present logo and imaging scheme. There's no variance associated with this side of the building the aggregate signage is less than 5 percent of the building façade so there's no variance on this particular side. Again that's the main face it's also the face where we have the outdoor seating area. The next face shifting through the upper right hand corner you're looking at what is the main entry into the building, again adding the logo, adding the word drive-thru I'll come back to the numbers in a moment but you get a sense of how the combination will fit within the back drop of the architecture and the entryway into the building. It's certainly not looking overbearing or out of context within the overall make-up of the building and actually as this plan shows creating a nice welcoming entry into the building itself. We've got awnings and other decorative lighting as well that are included. This does have a variance and this is above the ordinance requirement of 5 percent. The actual numbers again we're looking at 85.89 versus the 49.82. The next frame lower left we're looking at the drive-thru side where we'll incorporate new awnings and again queuing for the drive-thru component. No variance will be associated with the signage on this particular side we are going to put the words drive-thru here as well above the window to the northern most corner of the property 13.6 square feet is what's proposed on this side of the building wall. And then finally the last frame we've swung around to the south side again we've incorporated the logo, we've incorporated the word drive-thru within the green back drop that's formed by the frame and the architecture that's there now again, simply to contemporize the signage on the property and bring it on par with Panera's nationwide program.

MR. WEISS: What are the numbers of that fourth frame?

MR. McDONOUGH: That fourth frame is 98.71 square feet again versus the 49.82. In terms of the justifications on the north side we're looking at . . . it was approved for 60.6 square feet so we're increasing it above the approval by 25.2 square feet.

MS. COFONI: I'm sorry excuse me I didn't catch what you just said.

MR. McDONOUGH: The north sign was approved, I read the resolution of approval for the prior, it was approved for 60.6 square feet, that's a differential of 25.2 square feet and the breakdown of that 25.2 square feet is basically the logo which is around 22 square feet, and the drive-thru which is about 12 square feet. Similarly on the south side that was approved for 53.3 square feet this is actually an increase of 45.4 square feet. The reason for that is we're dealing with a vertical element on this portion of the building and your signage ordinance requires that dimensions for signs be measured out to out. Because of the vertical arrangement of the lettering and the logo triggers a greater land area, a great face area if you will of the sign as though it were a true panel sign. We're actually dealing with a channel type sign here where we're dealing with isolated letters so the actual area of the sign is much less than if we were to draw a box around the actual sign itself. So the appearance on the building is not as intense as a full panel sign would be at this particular location. So those are the numbers and in terms of the benefits, the updated signage will benefit customers with improved way finding and with branding and bringing the site up to par with other Panera sites. Logos are allowed in this zone again it's just the area that we're asking relief for, not to have the logo per say and this has an nexus with the Municipal Land Use Purpose A the promotion of the general welfare by providing clear and safe identification of the site. Purpose H free flow of traffic, and Purpose I which is the aesthetics clause again I think it brings the building into more familiar brand and into a look that certainly is in harmony with the architecture of the building in terms of the overall size of the signs. On the negative side I see none in terms of visual impact it's not overbearing, it fits within the context of the backdrop. Functionally we're not looking at a signage program that's distracting or overbearing to drivers. In terms of the zone plan the pad sites generally we find will have larger signage again because they are remote and tucked away from some of the larger tenants and I think that's exactly what's happening here. That offset I think warrants this additional signage. I think the variance can be granted without substantial detriment to the public good or without substantial impairment of your zone plan and on balancing the signage variances like the parking variances are justifiable under that C-2 balancing test. So all said from a planning standpoint I think this is a good upgrade to what's a positive asset to the center which is a positive asset to the region and in terms of the literal requirements of the statutory criteria I think they're easily met and an approval is warranted here.

MR. CONCIATORI: Thank you. That's the testimony from Mr. McDonough if there are questions at this point?

MR. WEISS: Chuck do you have questions on the testimony that was just given?

MR. MCGROARTY: Just an observation or two. I mean I don't really challenge it or quarrel with it but I will point out just a couple of things. I mean the sign area I agree with Mr. McDonough the sign area it gives the impression that that is a much larger sign than perhaps the visual impression would be because of the lettering. But I mean the sign area was larger than was permitted in the first place so back when Mr. McDonough referenced the north and south side at a larger area I'm not even sure because I didn't review the resolution but presumably that was done by variance the first time since that exceeded 5 percent. So this would increase the request of the variance that was granted in the past and I guess the question would be if there was a variance granted once why wasn't that sufficient to meet the needs now? Obviously they weren't thinking of a drive-thru at that time so I understand that part. The only other thing I'd say is I'm not really sure if it meets the criteria of H or even I but it only really has to meet one and if general welfare as Mr. McDonough's argument is that it promotes the general welfare by alerting people out in the mall to where the drive-thru is then I don't have an argument with that. Lastly though I would observe some caution when we say that it will have no impact on the zone plan. I mean the sign regulations were modified some years ago for this regional mall as a matter of fact in order to allow signage on all four sides. Because the ordinance prior to that only allowed signage on a façade facing a street and the realization was in a mall such as this that's impractical. So buildings like this building would be allowed to have signage on all four sides. So at one point the sign regulations were updated to reflect a different reality but the Board and ultimately the governing body at the time decided 5 percent was an appropriate standard to keep. Now the reasons you've heard tonight I think they're good and sound ones but just to bear in mind that I don't think it will have absolutely no impact on the zone plan because if Panera thinks that it's important to have this amount of signage out there then perhaps others in the mall will have a similar request at some point and that will have to be dealt with when the time comes. But I don't think this is a unique situation and it's something that you just might want to keep in mind.

MR. WEISS: Thanks Chuck, anybody have any comments for that? Follow up?

MAYOR SCAPICCHIO: Just parking. Where do you pick up the 8 spaces?

MR. McDONOUGH: You'll hear from the engineer but I believe they're on the south side of the building.

MAYOR SCAPICCHIO: Okay.

MR. CONCIATORI: Yeah and you'll have clear testimony on where that is.

MAYOR SCAPICCHIO: Thank you.

MR. WEISS: Nelson go ahead.

MR. RUSSELL: Yeah I notice that the entrance to your drive-thru is directly opposite the entrance to the McDonald's drive-thru.

MR. McDONOUGH: Correct.

MR. RUSSELL: And that's a fairly narrow road going by McDonald's. I see people coming up and making a left into the McDonald's entrance at the same time people are coming down making a left into your drive-in. I'd like to see some stop signs or something there to control what is now going to become a dangerous intersection.

MR. McDONOUGH: That is a point that's well taken and I'm sure the traffic expert will address it.

MR. CONCIATORI: And in fact it is one of the comments in the engineer's report which you will hear for the record that we will comply with. So in concert with your comments we've got that and we'll be doing that.

MR. RUSSELL: Okay.

MR. WEISS: Anybody else? Well it looks like there are no questions from the Planning Board. Tiena?

MS. COFONI: Because the planner is going to have to leave I don't know if you want to open it to the public just for his . . .

MR. WEISS: I will I wanted to make sure he was done.

MR. CONCIATORI: Thank you very much yes we're done with this witness.

MR. WEISS: Oh you are okay well then and no other questions from the Planning Board let me open it to the public if there's anyone in the audience that has a question for the testimony that was delivered by Mr. McDonough on planning no is your opportunity. Seeing none I'll close it to the public. Mr. McDonough thank you very much.

MR. McDONOUGH: Thank you very much.

MR. CONCIATORI: Mr. McDonough is going to stay a few minutes as long as he can just in case something comes up but I do very much again appreciate the Board's indulgence with that.

MR. VAN NESS: I have one quick question.

MR. CONCIATORI: Sure.

MR. VAN NESS: Do you have the square footage of the individual letter signs? What the square footage of those is?

MR. McDONOUGH: Isolated each letter?

MR. VAN NESS: Yeah.

MR. McDONOUGH: I'll have to check.

MR. VAN NESS: If you would?

MR. McDONOUGH: Thanks.

MR. MCGROARTY: Actually and while you're there Mr. McDonough Mr. Van Ness just reminded me, were you going to address the two free-standing signs? Not necessarily by variance because I don't know if that's somewhat of a gray area I don't know if a planning variance is necessary but the two panel boards that you have proposed, the menu boards.

MR. McDONOUGH: Yeah the menu boards I believe will be address as we go through the site operations. Really what we're dealing with is your typical menu board and then a preview board for vehicles that are queued that's slightly smaller than the full menu board. Again I don't know of any variance relief that's associated with it but it is . . . we'll hear about the actual dimensions as we go through.

MR. CONCIATORI: Yeah and I don't see that variances are required for it I'll give you just the extent so you can hear the testimony that you'll hear now essentially they're the preview board, the multiple board is really the way drive-thru's are becoming as the state of the art is. The board that you will order from will be configured a little differently the information will essentially be the same on the preview board but what they find is that it might be oriented a little differently but as people are in the queue they have an opportunity to kind of start thinking about what they're ordering and it kind of helps the efficiency. And you'll hear from Mr. Disanza in about five minutes and he'll deal with that. But that's basically what we're looking at.

MR. MCGROARTY: What I mentioned in the report was that when this mall was approved the developer of the mall sought and received approval from the Planning Board for a sign manual. And so the sign manual is what governs signage in this regional mall and that's referenced in the town's ordinance in Section 400-95. The sign manual is very specific in terms of the kinds area signage, it doesn't really speak to this kind of signage but as the Board knows there's McDonald's and Wendy's which I think have those kinds of boards and Catherine had checked this and there were no variances required then. So to be consistent it would seem no variances are required now. There is one provision in the sign manual which does say pad occupants may provide some signage that's not all together real helpful but it doesn't say no signage is permitted. But we thought it was important just to at least bring it out in front of you.

MR. CONCIATORI: And thank you and on that point I did take a look at it at the manual and the resolution that adopted it. What it really is talking about is essentially ground signs that say for example you know here's Panera basically this is where this is a ground sign that might say Bed, Bath & Beyond. These are signs that are actually operational these are obviously required for the drive-thru as opposed to simply having a monument sign that says here is where this particular use is. So I do think it certainly something to have as a context but it's really talking about simply identifying where a user is as opposed to these signs which are actually part of an operational issue which is the drive-thru which is why I think those other signs were not required a variance because they're really not part of what that overall sign manual was meant to address.

MR. WEISS: Chuck is that something we should address in the Ordinance Committee?

MR. MCGROARTY: I think so at some . . . yes I think so Mr. Chairman we've already made a note of it but I agree with the gentleman at this point I mean I would read it the same way.

MR. CONCIATORI: Thank you. At this point I can call my next witness Mr. Anthony Disanza he is the project manager for Panera Bread and who has personal detail with this site and others and can provide the operational testimony which Mr. McDonough relied upon for his testimony.

(ANTHONY DISANZA SWORN IN FOR THE RECORD)

MS. COFONI: If you could state your full name spelling your last name and giving your business address for the record please.

MR. DISANZA: It's Tony Disanza (D-I-S-A-N-Z-A) 3630 South Guyron Road, St. Louis, Missouri.

MR. CONCIATORI: Thank you have a seat. Mr. Disanza for the record why don't you confirm your title and just provide the Board with some general idea of your familiarity with not only this location but operational issues related to Panera really across the country.

MR. DISANZA: Yes I've been a project manager with Panera for the last 8 years and working on a new construction development department and we started this drive-thru retrofit program about one year and a half ago where we've taken our existing bakery/café's and are incorporating the drive-thru units into those.

MR. CONCIATORI: Okay and therefore this is part of that retrofit program I assume?

MR. DISANZA: That's correct yes.

MR. CONCIATORI: Okay. In terms of this specific application we heard Mr. McDonough testify to it but why don't you just explain in your own words what are essentially the two things that we're looking to accomplish here at this site.

MR. DISANZA: Yeah as previously mentioned we're applying for the drive-thru retrofit at this current location that we're operating in the International Plaza Center along with adding the drive-thru retrofit we want to add our latest signage program to the location that incorporates our latest logo and brand identity.

MR. CONCIATORI: I assume then that this program is one that you'd like all your Panera Bakery Café's to look the same I guess.

MR. DISANZA: Yes currently we do a refresh about every 7 years on our bakery cafes and this particular café is up for that refresh so the awnings will get updated as well as the signage and it just so happens we'll incorporate the new logo with the drive-thru.

MR. CONCIATORI: Okay. Starting with the drive-thru why don't you just give some details in terms of how it would operate and things that the Board might find useful to understand how this will be implemented.

MR. DISANZA: Well in this particularly location we'll be adding about a 300 square foot drive-thru retrofit onto our existing location and it will incorporate its own production area essentially the sandwiches and salads, espresso drinks and soft drinks will be served out of that 300 square foot unit. So nobody from the other line that's currently serving the dining customers will be in there that will have its own separate staff so it will be self sufficient and those people will be just for the drive-thru.

MR. CONCIATORI: So in essence it's a redundant essentially duplicate line system for preparation that is dedicated solely for drive-thru customers.

MR. DISANZA: That is correct yes.

MR. CONCIATORI: Okay. In terms of the restaurant that exists now based on that kind of redundancy will there be any change whatsoever to inside how the restaurant presently operates, seats, anything of that nature?

MR. DISANZA: No change to the existing layout, no change to seating we're not losing anything on the inside it will stay the same.

MR. CONCIATORI: Okay in terms of you mentioned the new 300 square foot what I'll call bump-out which will be where the new drive-thru prep areas will be, what's your expectation in terms of local hirers, employees that kind of thing?

MR. DISANZA: Yeah we'll look to fill about maybe 12 to 15 new jobs for that drive-thru and those 12 to 15 will be spread over different shifts throughout the week. There will be at least at max. maybe 4 people in that drive-thru location working so each individual shift will probably accommodate 2 to 4 people that work in there.

MR. CONCIATORI: Okay. You indicated that the restaurant itself will not change and in fact the way the orders are prepared, etc. since there's no mixing of the drive-thru versus restaurant. Would you expect to find benefits to the drive-thru for the inside restaurant use?

MR. DISANZA: What we've been able to find in past locations the reason we went to this program in the first place was obviously a convenience for our customers and it alleviates the died in customers that cannot find a place to sit, they now have an option to go through the drive-thru so it

alleviates the lines on the inside and it gets more parking spaces for other customers that want to come in and just overall gives our customers an option to go through rather than come in.

MR. CONCIATORI: So then I guess what you're saying is that if I'm someone who does not want to dine in without the drive-thru I'd have to park, walk in, get it, walk back out, now essentially I would just use the drive-thru.

MR. DISANZA: Right instead of taking it out or taking it away you now have the option to drive-thru and get the same products you can inside.

MR. CONCIATORI: In terms of a breakdown of inside versus drive-thru's when you have them operating do you have a sense based on your experience at other locations of what that rough percentage of breakdown may be in terms of it?

MR. DISANZA: Yes we've seen anywhere from a 15 to 25 percent usage of the drive-thru once we've put these on.

MR. CONCIATORI: Okay. In terms of hours of operation will there be any change at all to what is currently hours of operation with the incorporation of a drive-thru?

MR. DISANZA: The drive-thru will operate the same hours as the restaurant it will not operate any later hours so those hours will not change.

MR. CONCIATORI: Okay. In terms of . . . you've mentioned a couple of times about your experience, and you mentioned the retrofit program at others. In providing this testimony what are you drawing from that experience? Do you have a lot of these already on line? Why don't you give the Board a sense, when you talk about the experience of what that's coming from.

MR. DISANZA: Yes currently Panera has roughly 1400 units nationwide. Out of those we have maybe 70 drive-thru's and of those 70 about half of those are what we call these retrofits so we're fairly new to the drive-thru's but what we found is they've been very . . . the customers have been very supportive of them and again it just gives them a different option than coming inside.

MR. CONCIATORI: Do you have any sense of time in terms of free flow of the drive-thru in terms of the products you provide. Do you have with those 70 existing bakery café's do you have a sense of roughly what the time is from order to service?

MR. DISANZA: So what we found we've got a reporting tool that once you place your order, once you get to the menu board and place your order by the time you pick up your food it's anywhere from 3-1/2 to 4 minutes on average. Just because that's the self-sufficiency of the drive-thru so it's a pretty quick turn around.

MR. CONCIATORI: And in terms of similar with that data in terms of how many cars at any one time may be in the drive-thru do you have a sense of that kind of thing?

MR. DISANZA: We found that our peak in our busier cafes there's no more than 8 cars in a stack from our peak time which is normally 11:00 a.m. to 2:00 p.m.

MR. CONCIATORI: Okay. Moving on to the signs we've already talked about it some degree but is there anything else you want to add in terms of what your accomplishing apart from the signs that actually say you know identifying the drive-thru. The front and back walls are going to updated I guess?

MR. DISANZA: Yeah we've just incorporating as mentioned before in previous testimony our current logo and just the identification that this location will now have a drive-thru.

MR. CONCIATORI: Okay. The planner had brought it up and I spoke briefly about it but perhaps you can provide the Board with some more detail regarding the menu order board versus the preview board in terms of how that works and what you found in your experiences as to why that's important, etc.

MR. DISANZA: Well normally the menu board or order board is 4 cars back from the window, 4 to 5 cars back from the window. The preview board would be maybe at car 6 and as you've mentioned before that just gives the customer an idea that they can get in their mind what they may want when

they get up there. So it's in essence is previewing what the actual menu board is going to state and that just gives them the option to know what they're going to order once they get to the menu board.

MR. CONCIATORI: And have you found that to be in your operation, is that seem to be something that is effective?

MR. DISANZA: That's indicative at I think in the drive-thru times the times the one reason maybe why they are so quick to the 3-1/2, 4 minutes is because people have in mind what they want to order once they get up there because of the preview board.

MR. CONCIATORI: Okay and in terms of preview versus menu is it essentially the same information?

MR. DISANZA: It is the same information there is just some what we call our POP our items that may be featured that particular month will be on the menu board in a different area maybe than the preview board. But it is the same menu yes.

MR. CONCIATORI: And is those kind of multi-boards is that what you're seeing as kind of in the general industry as it relates to drive-thru's?

MR. DISANZA: Yes that's typical in other locations as well.

MR. CONCIATORI: And in terms of one last thing on the sign package and I think you mentioned it but obviously branding and really the implementation and really why we're over on the variance end is really the incorporation of the logo which was not part of the original application. That's obviously something in terms of uniformity and branding that's critical maybe you can give the Board a sense because that's really what is a large part of where the variance is coming from.

MR. DISANZA: Yeah well as mentioned this bakery café I believe it was 2003 when it opened and since then we've come up with our what we call our "mother bread" our brand identity so we've wanted to incorporate that into these locations when we go back and put the drive-thru's in, as well as going forward in our remodel programs.

MR. CONCIATORI: Okay those are all of the direct questions I have for Mr. Disanza.

MR. WEISS: Nelson please.

MR. RUSSELL: Will you be serving soup?

MR. DISANZA: Out of the drive-thru yes sir.

MR. RUSSELL: Is that an appropriate food for someone behind the wheel of a car?

MR. DISANZA: As long as they're not maybe trying to eat it while they're driving, it comes in a to-go container that does have a cover on it so we do serve soup out of the drive-thru yes.

MR. WEISS: I have a question a real quick question. Going back to the signs I'm noticing in this photograph, maybe Chuck you can help me on this one, you seem to have a flag or a banner this one particularly says "Shop Dine Relax", how do we account for that in the sign calculation?

MR. MCGROARTY: Well it shouldn't be there.

MR. CONCIATORI: Which . . . I'm trying to see which . . .

MR. WEISS: Yeah that's the picture.

MS. COFONI: Oh on the light pole there's a flag.

MR. CONCIATORI: Is that you Mr. Disanza did you put that . . .

MR. DISANZA: I don't believe that is our sign I can direct that question to our district manager but I don't believe that . . .

MR. VAN NESS: The complex generally puts up different signs. Whether it applies to that restaurant owner I don't know. The complex itself has its own set of merchant signs because if you look at the larger sign you can see it all the way across the parking lot. And they change it throughout the seasons to different things.

MR. WEISS: Okay so that's got nothing to do with Panera then.

MR. DISANZA: It does not.

MR. WEISS: Okay.

MR. FLEISCHNER: Howie?

MR. WEISS: Joe?

MR. FLEISCHNER: I apologize if I'm asking a question that we've already answered.

MR. CONCIATORI: That's quite all right that's what we're here for.

MR. FLEISCHNER: Now you're saying if I get this right you're creating like a duplicate kitchen.

MR. DISANZA: That's correct yes.

MR. FLEISCHNER: Now for the drive-in customer will that provide the same entire menu that you offer inside?

MR. DISANZA: Yes sir we'll have a sandwich unit, a salad unit and then each like a separate soda fountain as well as an espresso machine that will serve just the drive-thru.

MR. FLEISCHNER: Okay so in this area then you're stating that you basically have enough room for all of the stuff that you have inside like the bagels on one side and all of the stuff that we shouldn't be eating because it's too sweet.

MR. DISANZA: Yes we'll have in that 300 square feet, basically 30 by 10 addition there will be those separate components to serve the same menu that we serve out of the dining area.

MR. FLEISCHNER: Okay and I would guess that your traffic person will probably get into it more but you show on the drawing that there's 8 vehicles okay and you've got 2 before the signs where they preview at any time you're showing that there's . . . I'm looking at the front cover where there's 8 vehicles in this lane.

MR. DISANZA: Okay yeah.

MR. FLEISCHNER: Do you experience in other facilities where there's greater than 8 cars there might be 12 cars so like where do these other cars go?

MR. DISANZA: Yeah as I've mentioned before we have not seen over the 8 max. at our peak times I can just reflect that from the current locations we have open now.

MR. FLEISCHNER: All right thank you.

MR. WEISS: Scott?

MR. VAN NESS: It's anticipated you're going to have 15 to 25 percent increase in your . . . well not increase but about 15 to 25 percent of your business will use the drive-thru is that correct?

MR. DISANZA: Yes.

MR. VAN NESS: Is there a calculation for the Mt. Olive store how many people that equates to or how many cars that equates to in an hour?

MR. DISANZA: I wouldn't be able to put a number on the percentage.

MR. VAN NESS: I'm going to be quite honest my biggest concern is the stacking of the vehicles outside of your drive-thru lane. It's already a difficult intersection without you having a drive-thru there, the McDonald's drive-thru just the way where your front door is and the way the stores are situated next to each other it's a problem area. And if there's going to be stacking beyond the confines of your lane I have a concern about that. For safety and a traffic standpoint.

MR. CONCIATORI: And certainly that obviously is something we've thought of and as I said our engineer and our traffic engineer will do it and we'll speak directly to that certainly from this operational end just so we are clear I mean I guess and we talked about the 70 stores and that's . . . you talk about the monitoring and the time I mean it's pretty well monitored in terms of your drive-thru's so when you're talking about not seeing more than 8 I mean that's really from hard data kind of that you see.

MR. DISANZA: That's what we've seen from our reports yes.

MR. VAN NESS: Where's the nearest drive-thru Panera from here?

MR. DISANZA: Oh gosh from here it would probably be Allentown, PA.

MR. CONCIATORI: This is the first in New Jersey. I have a number pending but this is the first one so far. But Allentown is the closest I guess?

MR. DISANZA: Yeah.

MR. BUCZYNSKI: Hey Scott?

MR. VAN NESS: Yes.

MR. BUCZYNSKI: They just wouldn't be allowed to go beyond that 8 though they can't go out into that lane.

MR. VAN NESS: I understand that but it could sway my decision as to whether or not I would even support the project.

MR. CONCIATORI: Also just as a . . . and again you'll hear this but I think there's also a reality that the clear, which I think we all have, reality of the over abundance of parking I mean again this is from me, if we are at that point and it's that long then someone may just decide to park instead. So I think not only do we not see it from an operational end I think as a matter of judgment there's so much ample parking really even with you know the net loss of whatever it is 11 or 7 whatever the number is. You have an over abundance of it so someone will be there and they may just decide it's easier to just park and go in but certainly . . .

MR. VAN NESS: Is the staffing of this extra kitchen part of company policy? Is it company policy, is it written in company policy that the staffing of this kitchen will be separate and used separately from the interior kitchen?

MR. DISANZA: I don't think it's a company policy I just think we found in the past we've had to hire more staff to support the drive-thru once it's opened.

MR. CONCIATORI: I think your question is more . . . you've decided that the best way to accomplish this is to have a duplicate set in a small bump-out area rather than using the . . . is that what your question is?

MR. VAN NESS: My question is that when seasonal shopping comes next week and Panera is getting slammed for lunch and for dinner and let's say you had the drive-thru and the drive-thru is getting slammed is the drive-thru going to suffer because you need to pull people from the drive-thru to accommodate the needs of the interior restaurant?

MR. DISANZA: I would say we would make accommodations for staff for that day if we know it's particularly going to be a . . . it's just like any other busy time of year we provide staff to support the bakery café in those times.

MR. CONCIATORI: So in essence obviously operationally they like being busy obviously to state the obvious so they'll make sure . . . I assume and that's why you spoke about the range of numbers of

associates, the help you would obviously plan ahead for a busy day to make sure you have the staff on hand.

MR. DISANZA: Yes that's correct.

MR. CONCIATORI: It's certainly in their self interest to do that obviously.

MR. WEISS: Dan did you have a question?

MR. NELSEN: Yeah it's kind of piggy-backing on what Scott was saying. Backing up of anything more than 8 cars, can you access this coming in from the west? Can you access this drive-thru from the west coming from the McDonalds side?

MR. CONCIATORI: Yeah I think those questions really are traffic engineer and regular engineer would probably the person to answer as opposed to Mr. Disanza in terms of that.

MR. NELSEN: Okay I'll wait.

MR. CONCIATORI: So I would respectfully say good question let's just have the people who are qualified to answer that.

MR. WEISS: Guys anybody else? Anybody else have any other questions? Anything else?

MR. CONCIATORI: That's it for Mr. Disanza.

MR. WEISS: Okay let me open it to the public if anybody in the audience has any questions for the testimony given by Mr. Disanza now would be the right time. Seeing none I'll close it to the public and we thank you for coming.

MR. DISANZA: Thank you.

MR. CONCIATORI: What I'm going to do I think that makes sense since certainly our site plan engineer will have further data but I think the questions that I'm hearing so I'm going to have my traffic engineer go next so that way we can get into some of those questions that seems to be the pertinent ones. That way we can get them quicker than later so with that Mr. Welsh.

(MATTHEW WELCH SWORN IN FOR THE RECORD)

MS. COFONI: If you could state your full name spelling your last name and giving your business address for the record please.

MR. WELCH: Sure my name is Matthew Welch (W-E-L-C-H) I'm a project manager with Stonefield Engineering and Design located at 36 Ames Avenue, Suite 2B in Rutherford, NJ.

MS. COFONI: Thank you.

MR. WELCH: Mr. Welch can you please provide the Board the benefit of your education, occupation, experience, etc. for purposes of engineering specifically traffic.

MR. WELCH: Sure I received my Bachelor of Science and Civil Engineering from Rensselaer Polytechnic Institute. I'm a licensed professional engineer in the State of New Jersey and I've prepared over a hundred traffic impact studies and over 25 NJDOT Access applications. I'm a member of the Institute of Transportation Engineers, I have served as a consultant to various County and Municipal Engineering Departments and have been previously testified as an expert traffic witness in the State of New Jersey.

MR. CONCIATORI: Sure I would ask that he be qualified as a professional engineer in relation to traffic.

MR. WEISS: Gene do you have any questions on that?

MR. BUCZYNSKI: No.

MR. WEISS: Anybody else? Okay we'll accept Mr. Welch as a traffic engineer.

MR. CONCIATORI: Thank you.

MR. WELCH: Thank you.

MR. CONCIATORI: Mr. Welch you obviously heard the couple of witnesses before you which did provide some general orientation of where the site is certainly the Board is familiar with it but as you see fit in relation specifically to the testimony you're going to go with if there's anything else you want to point out to them as it relates to the general site area, etc. please do so.

MR. WELCH: Yeah absolutely. And if I may go up to the board, as was previously testified the Panera is . . . and again I'm referring to this exhibit A-4. Panera is situated in the northerly section of the shopping center the McDonalds is located just west of Panera.

MR. CONCIATORI: You can also refer to this if you'd like.

MR. WELCH: Oh that's actually probably the easier one.

MR. CONCIATORI: Yeah I think it is which is . . . this is A-1.

MR. WELCH: Absolutely I'm going to refer to A-1 which was (inaudible) Mr. McDonough. The south is to the top of the page you'll see the Panera located centrally, to the north you have Michaels, Bed, Bath & Beyond, TJ Maxx and Lowe's to the east, Walmart to the west. PetSmart and Bed, Bath & Beyond

MR. WEISS: Mr. Welch I don't want to steal your thunder I think we are all clear of what that orientation is.

MR. WELCH: Absolutely.

MR. WEISS: I think the concern of the Planning Board as you heard is not that we're really concerned about the traffic as it impacts the other side I guess we talked about, the northern end by the McDonald entrance, the McDonald's drive-thru to where the proposed entrance of the Panera drive-thru. I think that's the kind of testimony we want to hear.

MR. WELCH: Absolutely. The Panera as was testified the Panera drive-thru is located in the vicinity of the McDonalds entrance. You will notice that there is an offset between the two drive-thrus of approximately 20 to 25 feet offset from each other. The issue was raised of what happens if a vehicle wants to make a left into McDonalds and a left into Panera. Due to the offset those lefts could occur concurrently without conflicting with each other. So would those movements be able to occur? Yes they would and in a safe manner. Also just in terms of the general drive-thru operations when we think of a typical drive-thru and McDonald's and the Wendy's typically most of their business does occur through the drive-thru. You know more times than not when I visit McDonalds I'm in the drive-thru I'm not going inside. For Panera's typically its only 15 to almost 25 percent of their business in the drive-thru so they don't see the queues that we see at a McDonalds and at a Wendy's. And as they talked about in the 70 drive-thrus that they're currently operating they haven't experienced a queue of more than 8 vehicles at any given time. Just again, I just want to glance over the parking we did perform a parking analysis and prepared a report dated September 12, 2011. In this report we did study the parking area during the peak lunch time and evening periods on a typical weekday and Saturday and what we found is as we've generally discussed the majority of the existing parking occurs on the east side of the Panera and on the west side where the drive-thru is going there's it's mostly sparse there is some employee parking so in terms of can the parking can the removal of these spaces be accommodated without sufficiently impacting the parking and the remainder of the shopping center we believe it can.

MR. CONCIATORI: In terms of just on a housekeeping note Mr. Welch you did in fact prepare a report and this was submitted I don't know if the Board's policy is to separately re-mark it as an exhibit it was part of the application submission.

MR. WEISS: No we don't need to mark that report.

MR. CONCIATORI: Okay I just wanted to make sure. Mr. Welch in terms of any other, obviously we'll probably have some comments but in terms of the parking and the overall operations is there anything else that you'd like to add in terms of just what you've seen in your studies and in the report?

MR. WELCH: Not really again we've talked about there is sufficient parking on this site to accommodate the drive-thru and the fact that in terms of the proximity to McDonalds these are both entrances there's no vehicles coming out of those drive-thru's there. The exit from the Panera drive-thru is located towards the middle of this north, south parking aisle on the west side of Panera, there's not a lot of parking over here, there's not a lot of vehicles going down that aisle. In terms of vehicles exiting that drive-thru we do have, are proposing stop cars so that the traffic coming down the aisle is aware that there is an intersection.

MR. CONCIATORI: Okay and again you started with a delivery just to understand it again, the McDonalds drive-thru versus the Panera there is in fact an offset of, what was the distance?

MR. WELCH: Yeah there's an offset of approximately 25 feet which is more than adequate for a vehicle to make a left into the Panera and people to go left into the McDonalds at the same time. Also when you think about it if a vehicle is waiting to make a left into the Panera, a left into the McDonalds they'll essentially create a gap forwarding the traffic turn in so that it almost compliments each other in that manner.

MR. CONCIATORI: Okay I think that's all of the testimony for Mr. Welch.

MR. WEISS: Scott go ahead.

MR. VAN NESS: Okay you have 8 cars in your drive-thru lane.

MR. WELCH: Correct.

MR. VAN NESS: And then you have 2 cars behind that that want to get in coming from the McDonalds side. What in turn happens to that whole area there?

MR. WELCH: Again that isn't a situation that we would see happening based on our conversation with Panera based on their existing operations. If you see a long queue you're likely to just to park in a parking space and walk into the store.

MR. VAN NESS: Tell me what happens to that intersection when that condition exists.

MR. WELCH: If the scenario happened where a vehicle was not able to turn into the Panera . . .

MR. VAN NESS: 2 cars extra that's all I'm asking.

MR. WELCH: 2 cars extra, so they would be queued in the parking aisle, they would not be able to turn.

MR. VAN NESS: Your parking lot, I mean I don't think any of us have a concern about the parking I think the parking is sufficient. There's more spaces than people up there ever. The concern ultimately is that intersection. Let's refer to the exit of the drive-thru for a moment, is the site plan an accurate depiction of the existing conditions?

MR. WELCH: Yes.

MR. VAN NESS: And the island that is across from the stop for the exit of the drive-thru truly exists there or is it just a drawing?

MR. WELCH: That island exists there if you look at on Mr. McDonough's exhibit A-1.

MR. VAN NESS: Right that island does exist? Or does it have to be created?

MR. WELCH: The island exists.

MR. VAN NESS: I just need to know that it exists.

MR. BUCZYNSKI: By looking at . . . if I could just add looking at the site plan you don't see that 25 feet between the two entrances though.

MR. VAN NESS: I do see it.

MR. BUCZYNSKI: You see 25 feet?

MR. VAN NESS: Yes.

MR. BUCZYNSKI: It looks like they're almost opposite one another.

MR. VAN NESS: Well you know I see it's more . . . it's off-set by maybe a car length. I mean we only need one car to stick out from the end of that lane to be an issue. One car is going to create a problem. I think the solution isn't really in your profession it's in keeping Panera to task and making sure that they get their people out, their customers through the drive-thru. So I'm kind of torn on it that it might be infrequent but we already have a problem in the shopping center. I mean I disagree with you earlier, your planner about how wonderfully this complex was designed to me it's a disaster.

MR. CONCIATORI: I mean I think that . . . and I certainly hear that point and I think that you know to talk in terms of self interest I mean obviously they're in business to get people through there and I think . . . and that's why I really put my client to the question of well how long does it take and I asked them that question which is why I had him tell me is that there is a decent amount of it and yes can you come up with scenarios, certainly I think there. They're goal is to get people out quick because they're not . . . otherwise they'll be losing business.

MR. VAN NESS: You're going to end up having a conflict with your neighbor McDonalds. If Panera lane is backing up enough where it's blocking McDonald's lanes. And Ronald has a lot more people behind it.

MR. CONCIATORI: Right and I think that that's operationally where they're looking to accomplish it. Yes?

MR. STASZAK: My question is where are the orders being placed in relation to the building itself?

MR. WELCH: If you look at . . . the actual orders occur, if notice the cars are marked 1, 2, 3, 4, 5?

MR. STASZAK: Right.

MR. WELCH: The orders are occurring at car 5 and car 6 is at the preview board.

MR. STASZAK: So if you do have 5 cars that want to come in, so you go 1, 2, 3, 4 number 5 is into the street.

MR. WEISS: No.

MR. BUCZYNSKI: No.

MR. WELCH: No.

MR. STASZAK: No? Going back from the order board. If you have 5 cars in the queue with number 5 being the order, the first one count back five you're into the intersection.

MR. WELCH: That's if all five cars came to the Panera at the exact same time.

MR. STASZAK: In the Christmas season? It's not an 8 car queue really it's a 4 car queue because you can only have 4 cars in line at that order board.

MR. WELCH: Well no . . . obviously as you can see there is a volume of 8 in there I mean you can have 8 cars in there.

MR. BUCZYNSKI: What I think we need to look at is there's still 8 cars that have to get to the order, they're saying in all honesty I don't know about you but if I'm the 8th car and they're telling me it takes 3-1/2 to 4 minutes I'm going to wait a half an hour to get something from Panera Bread. I'm not going to wait a half an hour to stay in queue.

MR. WELCH: Again this is a convenience to the existing Panera patrons. They're going to go whichever . . .

MR. CONCIATORI: And the reality is if they're . . .

MS. COFONI: That actually raises an issue I had because the day of the storm I was actually in a drive-thru where it took about 25 minutes. Is there an ability to get out of line of the drive-thru?

MR. WELCH: Yes.

MS. COFONI: Or is it blocked?

MR. WELCH: If you look at the westerly end of the drive-thru there is what's a mountable curb it's about 4 inches high it's similar to a speed bump that in case there is an emergency you know you're in the aisle and your wife has got to go to the hospital and you can in an emergency get out of that aisle. And remember the 4 minutes is from when they get to the order board to when they leave the drive-thru window. So that 4 minute time is overlapping, if you order for a minute every second minute you're at car number 4 and then car number 5 this person is starting. So it's not 4 minutes one car, 4 minutes the next car, those 4 minutes are overlapping.

MR. WEISS: Okay let's go Joe was first and then David.

MR. FLEISCHNER: Did you ever do a traffic count of the number of cars heading I guess it would be from right to left. In other words how many cars go in that traffic lane on a daily basis? Because people coming from down that way are also people who want to get to the turn not necessarily to go to McDonalds but are leaving Bed, Bath & Beyond, Michaels, TJ Maxx and they want to get to the point where they can get out to a traffic light rather than trying to make a left turn further exit.

MR. WELCH: A traffic light is located on the north side of McDonalds.

MR. FLEISCHNER: Right. So quite a few people from . . . that are shopping in the shopping center come down that road to go past Panera and to also go past McDonalds so they can get to the turn to the traffic light.

MR. WELCH: Yeah there's a couple of different ways to get to the traffic light. One is to come down this road by International Drive South and second is if you go down more towards Walmart and make a right and just cut through the parking lot.

MR. FLEISCHNER: Right I understand that but people already in the shopping center are driving down there and my concern is people then trying to get into Panera from there they may not be able to because if someone is coming down the opposite way they're stopped because somebody is waiting to get in to make a left turn to come in to Panera drive-thru.

MR. WELCH: So you're concerned if someone is waiting to make a left in Panera and there's a car coming up the outside road?

MR. FLEISCHNER: I apologize.

MR. WELCH: That's okay we'll figure it out.

MR. FLEISCHNER: If you're coming down this road to get out of the shopping center and you have a car that says oh I think I'll go through the drive-thru but there's 3 cars here so they can't get in so now they've backed up this entire area because they can't get into there until the traffic moves. Did you ever do a count to see how many cars come down this road during the course of . . .

MR. WELCH: We didn't perform any traffic count at this, I will say again in the condition where the traffic queued if it did back up out of the drive-thru which again we're saying that we do not think it's going to, this is a 25 foot wide road with relatively low speeds so the people could if there was a car waiting to make a left, go around that vehicle providing there were no cars coming in the opposite direction.

MR. WEISS: Dave?

MAYOR SCAPICCHIO: Where do you pick up the 8 parking spaces?

MR. WELCH: I believe the 8 parking spaces you're referring to one the issues that I think they talked about in the parking table in terms of 8 vehicle positions? Right and those are the vehicles that you can get into the drive-thru lane?

MAYOR SCAPICCHIO: They call them 8 parking spaces on this report they call it 8

MR. WELCH: In terms of 8 vehicles those 8 are in the drive-thru lane. And one thing I don't think I touched on it much but because of the drive-thru what we anticipate is the total amount of vehicles associated with Panera because the drive-thru, is expected to increase. Turnover would be less at a given time because vehicles will be able to get in and out of Panera quicker so the amount of total time a single vehicle associated with Panera is in the area would be effectively increased.

MR. WEISS: Dan?

MR. NELSEN: Approaching this from the west again would you say that entrance would be at a 90 degree angle from the road, the existing road?

MR. WELCH: Yes.

MR. NELSEN: 90 degrees.

MR. WELCH: 90 degrees.

MR. NELSEN: And that's about what McDonalds is also isn't it?

MR. WELCH: Correct McDonalds is actually a little worse. If you're coming from the west you almost have to make a U-turn to get to that McDonalds.

MR. NELSEN: Yes it's very difficult. And I think you might have a tendency as the people from McDonalds going into there they have to go wide and I think it would be the same thing with the right turn there you might have to go out into the road a little to the center in order to make that right turn. As you do with McDonalds. Personally I think you ought to reconsider the entrance and go around the building and you'd have a lot more area where you can exit where you're coming in now.

MR. WELCH: If you look at the island that is just to the west where the entrance to the drive-thru is? It has been cut back in order to facilitate that turn in to it into there to make it a little easier. Again this is a 25 foot wide drive aisles there is some room for people to turn in there. And again the drive aisle is about 11 feet wide there is room for a passenger vehicle to turn in, maybe if it was a large SUV they might need a little more room but most vehicles would be able to.

MR. NELSEN: I have a large SUV and I have trouble getting into the McDonalds and I see someone who actually ran over the curb.

MR. WELCH: At the McDonalds?

MR. NELSEN: At the McDonalds yes.

MR. WELCH: Yeah the McDonalds is definitely a much harder turn than

MR. NELSEN: I think just putting them the two of them together at that exact spot might be troublesome.

MR. WEISS: Jim did you have a question?

MR. STASZAK: Have you thought about just reversing flow coming in where you now have the exit and exiting where you now have the entrance to alleviate anything in that intersection?

MR. WELCH: Well if we did that vehicles would be exiting the drive-thru where vehicles are entering to get to the McDonalds. So that would actually be in terms of traffic that would be a worsen case because you have vehicles exiting and you have vehicles coming to the McDonalds. So it creates an additional movement into that intersection.

MR. STASZAK: But you wouldn't have cars queued in the intersection either. If you had a busy day.

MR. WELCH: You're right. Again I don't know how that would work in terms of the actual operations I think they're somewhat constrained in terms of where they can put the facilities to accommodate the drive-thru. I don't know really much about the internal workings but I think the location of the menu window is constrained by the internal operations of the Panera.

MR. CONCIATORI: If I can . . . what I would suggest is I just want to talk to my client and my next witness. Maybe we can take a five minute break if that's okay?

MR. WEISS: Sure that's fine.

(FIVE MINUTE BREAK TAKEN)

MR. WEISS: Paul just looking at the clock what I'd like to do is I'm going to put a little restriction on it. Let's try to wrap up what we're doing whether we carry or finish by 9:25 that gives us about 15 or 20 minutes. If we have to carry that might not be the end of the world.

MR. CONCIATORI: Yeah I think actually I think that's what I was going to suggest is . . . and I have a couple of questions just to get a sense of it. Obviously Panera is someone who is a company that's looking to obviously accomplish something that's very, very important for them as a matter of viability. But of course I've been doing this long enough to know that this is a fluid process and obviously until you show up and start talking and hearing you don't know where things are. Obviously we felt comfortable with some of the parking and we've heard very clearly that that . . . you know of course to say that something is not an issue I'll never do that but obviously that's a lot less importance than some of these other things you're talking about. And quite honestly from our end we were not sure where that was going and so we just weren't sure how to address some of this. So what I would suggest is we heard obviously the comments, it's obviously very clear what the issue is and so what I was going to suggest is we're going to listen to that, go back, there's obviously some issues we have to deal with whether it's landlord issues or others to see if there really is any way to deal with some of this in any way. And at least now that we know that you know maybe it costs us a little more parking or something along those lines that we're comfortable that that might be something more amenable and at least when we come back we can at least tell you look we've tried, here's why this doesn't . . . and so that's what we're suggesting, carry it to next month we can do that kind of analysis and I think that makes sense.

MR. WEISS: Paul I think you're right on when you hear that parking is not a concern there's more parking and I think the Planning Board would much rather see you take away even more parking to make a safer intersection.

MR. CONCIATORI: And one . . . and obviously I'm doing this as a matter of win/win. For us to get something that makes sense and for something that you're comfortable with, and I heard about queuing and the reality is is you know I know lawyers kind of get a bad name but the reality is I've spoke to my client about it in terms of the data and they really don't see more than 8 and I'm not asking for . . . but we're trying to figure out is there a number . . . I mean do we have a sense of if we had a stock of 10 I mean you know I'm just trying to get a sense is there . . .

MR. WEISS: What are you talking about a queuing?

MR. CONCIATORI: Yeah I mean does Mr. Van Ness have a number?

MR. WEISS: I think there needs to be a I'm going to call it a Plan "B". We hear you and no one is going to argue the fact that no one is going to wait in a drive-thru for 45 minutes. So the numbers work but there's no Plan "B". The way you're showing it right now in the worst case scenario it's a problem, it's a major problem. So perhaps come in and show us this is . . . change it slightly to show that in the worst case scenario that this plan can absorb the worst case scenario.

MR. CONCIATORI: Okay. The only reason because 8 is the worst case so that's the thing but we hear you. So look we know what our goal is is to try to get more of a stacking capability inside our drive-thru lane that's obviously what we're talking about. Or somewhere that doesn't seem like at least to this extend in the free flow of traffic and we'll deal with that. I was just trying to get a sense of is there some sort of . . . it's not really a number as opposed to just operationally.

MR. WEISS: That seems to be the biggest problem any kind of overflow goes into the flow of traffic. And that's a problem and there's no other place for it to go the way it's designed right now.

MR. CONCIATORI: Okay so we'll listen to that and see what we can do.

MR. WEISS: Let's take a look at the calendar we'll carry it. Do you have any date? We're really looking at engineering and probably traffic I think.

MR. CONCIATORI: Right. I mean we'll have the planner here so he can answer anything but yeah I think that's what we're looking at.

MR. WEISS: I don't know . . . Chuck do you think it's important to have the planner back here if we were to just redesign the circulation plan?

MR. MCGROARTY: I don't think so.

MR. WEISS: I would say not. And certainly Tony I know you've come a long way I would imagine that you wouldn't need to come back. I know you would but it might not be important.

MR. WEISS: We can go to December 8th.

MR. CONCIATORI: I'm sorry?

MR. WEISS: Gentlemen let's hold on let's try to work up a date.

MS. COFONI: But that would require revised plans if that were to be the case ten days prior to December 8th. I don't know if that's reasonable

MRS. NATAFALUSY: So the 15th.

MR. CONCIATORI: I certainly want to pick a date certain so we don't have to renote and then we can go from there.

MS. COFONI: Right I just want you to take into consideration their ability to revise plans you know and all that stuff.

MR. WEISS: You wouldn't have to renote we'll carry the notice.

MR. CONCIATORI: I understand that.

MR. BUCZYNSKI: And you don't want to put this into next year either with new members.

MR. CONCIATORI: So ten days before the 8th let's see I'm just trying to look at the calendar, so we'd have to have something back to you by the 29th right?

MRS. NATAFALUSY: Yeah you've got to have it in at least by Thanksgiving.

MS. COFONI: So really you'd have to be done with it probably on the 23rd.

MR. BUCZYNSKI: You've got less than 2 weeks.

MR. WEISS: December 8th or the 15th.

MR. FLEISCHNER: For the record I will not be here on the 8th.

MS. COFONI: Catherine how is the agenda on December 15th?

MRS. NATAFALUSY: We have two matters on that night a minor subdivision and the S&S Real Estate was carried to that evening that's Dr. Sandhu's building.

MR. CONCIATORI: December 15th we're talking about?

MRS. NATAFALUSY: Yes.

MR. CONCIATORI: I think that would certainly work.

MRS. NATAFALUSY: We told Dr. Sandhu that he'd be first on the agenda that night so this will be second then?

MR. WEISS: Okay we'll work the schedule. Probably you'll be the second because we're finishing a prior application I don't expect that to very long.

MR. CONCIATORI: Okay that would be great we appreciate that.

MR. WEISS: So we'll carry it to December 15 no further notice necessary. Paul thanks for working that out with us.

MR. CONCIATORI: Thank you.

MR. WEISS: Gentlemen thank you let us move on with our agenda. Does anybody else have any comments? Okay so we're all in agreement on that.

MR. CONCIATORI: Thank you.

APPLICATION #PB 11-22 (AMENDED) – MICHAEL McCORT

MR. WEISS: So our final development matter for the evening is PB 11-22 (Amended) Michael McCort preliminary and final site plan with variance 480 Route 46 Block 8301, Lot 6. Mr. Selvaggi nice to see you.

MR. SELVAGGI: Nice to see you how are you?

MR. WEISS: Mr. Selvaggi is here.

MR. SELVAGGI: Yes we go from breads to sheds.

MR. WEISS: Okay we can get started now.

MR. SELVAGGI: Okay good evening everyone we're here this evening for the Mt. Olive Hardware application as the Chairman correctly pointed out. Your ordinances require a site plan for change in use. This is the Saturn property it's been vacant for some time, there was a lease agreement struck between Mt. Olive Hardware who was going to be displaced by virtue of the CVS which is now being constructed a little further down the road. In the context of filing the application some weeks ago we had a subcommittee meeting with your township officials, things were discussed in the context of that and we've discovered that the variance needed is a bulk variance to allow the accessory sheds and other outbuildings the merchandise to be located on the parking lot and be available for sale. So that's where we're going to look now it's going to be a "c" variance and site plan we will have Michael McCort who is the owner of Mt. Olive Hardware, Jim Glasson who is the applicant's engineer and then we'll conclude with Eric Snyder who's the applicant's professional planner. So without further ado I'd like to have Mr. McCort come on up.

MR. WEISS: Mike you know let me also tell you this. I know the prior application ran long we are going to be out of here at 10:30.

MR. SELVAGGI: I hope to be done before 10:30.

MR. WEISS: Okay so just as a timeframe we're going to wrap up with public comment and maybe some housekeeping by about an hour.

MR. SELVAGGI: Okay that's fine.

(MICHAEL McCORT SWORN IN FOR THE RECORD)

MS. COFONI: I you could just state your full name spelling your last name and giving your business address for the record please.

MR. McCORT: My name is Michael McCort (M-c-C-O-R-T) business address is 480 Route 46.

MR. WEISS: That's Budd Lake correct?

MR. McCORT: That's actually considered Hackettstown isn't it?

MR. SELVAGGI: Yeah.

MR. McCORT: 07840.

MR. SELVAGGI: Mr. McCort just for the record what's your position?

MR. McCORT: I'm the owner.

MR. SELVAGGI: Owner of Mt. Olive Hardware. How long have you been the owner?

MR. McCORT: Four years.

MR. SELVAGGI: Before the owner how long had you been working there?

MR. McCORT: 30 years.

MR. SELVAGGI: 30 years.

MR. McCORT: Yeah.

MR. SELVAGGI: Who did you work for before you became the owner?

MR. McCORT: My mother and my father.

MR. SELVAGGI: Okay so Mt. Olive Hardware has been a family owned business?

MR. McCORT: For 34 years.

MR. SELVAGGI: Where were you previously located what was the address of that?

MR. McCORT: It was 259 Route 46 that was Budd Lake.

MR. SELVAGGI: Okay and you were there on a lease?

MR. McCORT: Yes.

MR. SELVAGGI: And what happened there?

MR. McCORT: Just the lease was ending the landlord you know just ended the lease basically and we had to find somewhere else to move.

MR. SELVAGGI: Okay. Before coming to this piece of property where else had you been looking?

MR. McCORT: We looked at a couple of places. One place we actually were in contract with unfortunately lost a time and money with it but it didn't work out. Then we were considering a couple of other places we were always trying to stay in town but we did consider anywhere we just felt we were running out of time.

MR. SELVAGGI: Now the other piece of property because I was involved in that was the Doug Tack property on Naughtright Road?

MR. McCORT: Yes.

MR. SELVAGGI: And what happened there?

MR. McCORT: We were waiting for some kind of I guess an answer from the State of New Jersey in regards to the land use and it just it didn't work out for us.

MR. SELVAGGI: Okay. When did you actually move from your prior location to Lot 6 where you are now?

MR. McCORT: August.

MR. SELVAGGI: Now mainly you moved there before coming here correct?

MR. McCORT: Correct.

MR. SELVAGGI: And as a practical matter why was that done?

MR. McCORT: Honestly we just, we cannot afford to have kind of down time we just . . . retail is a very tough business and we just honestly just could not afford to have our doors closed. If we had our doors closed for a significant amount of time we wouldn't make it at all.

MR. SELVAGGI: Okay now Mt. Olive Hardware people sometimes will think of that as a hardware store but if anybody has been in there what's there besides the sheds that are on the property.

MR. McCORT: It's a little bit of everything. I would say we've become a home improvement center throughout the years more than just a hardware store. That's how we started our business was a hardware store and just throughout the times things have changed, big box stores have moved into the area, we've diversified many, many times just to you know stay afloat just to keep people employed and just to kind of make it all work.

MR. SELVAGGI: Mr. McGroarty in his November 4 report noted, and I'm going to ask you if he was correct, that you sell indoor furniture, kitchen sets, tables, chairs, hutches, bookcases, bedroom sets and entertainment centers. Is that part of what is available there?

MR. McCORT: Yes.

MR. SELVAGGI: You can also buy a hammer correct?

MR. McCORT: Correct.

MR. SELVAGGI: Nails?

MR. McCORT: Correct.

MR. SELVAGGI: Okay now besides the sheds that are located on the outside Mr. McGroarty also noted that you can get barns, garages, pool houses, pet shelters and play houses and play sets correct?

MR. McCORT: Correct.

MR. SELVAGGI: There's also other material, mailboxes?

MR. McCORT: Yes.

MR. SELVAGGI: Okay and what about signs or . . . you gave me the technical term for that.

MR. McCORT: We call them whirly gigs sometimes they call them spinners they I guess would be almost qualified as a flag I'm not sure how you would classify it. I think everybody has seen them.

MR. SELVAGGI: Okay now sheds which seem to be the predominant merchandise item for you correct?

MR. McCORT: Correct.

MR. SELVAGGI: How many sheds do you sell in a year? Approximately.

MR. McCORT: Well throughout the years actually throughout the last couple of years we've increased our sales which is you know a very good thing for us, but I would say probably on average about 400 a year.

MR. SELVAGGI: Okay when somebody comes in and picks out their shed are you responsible for delivering it and make sure it gets to the property owners?

MR. McCORT: We're responsible for everything.

MR. SELVAGGI: Okay and how does it get transported?

MR. McCORT: We just delivery one shed at a time we actually have two working trucks, two working trailers right now and we have two drivers one primary driver and usually one primary vehicle we like to use.

MR. SELVAGGI: Okay on an average . . . well let me ask you this, what are your hours of operation?

MR. McCORT: Monday through Saturdays 9:00 a.m. to 6:00 p.m. and Sundays 10:00 a.m. to 3:00 p.m.

MR. SELVAGGI: Okay and how many customers approximately do you see on a daily basis?

MR. McCORT: Oh we have about 50 customers a day I would say.

MR. SELVAGGI: Okay how many employees do you have?

MR. McCORT: 6.

MR. SELVAGGI: That's 6 full time or part time?

MR. McCORT: No, no I would say there's only probably 2 full time and then 4 part time.

MR. SELVAGGI: Okay and are you there pretty much 6 days a week?

MR. McCORT: 5 or 6 days a week.

MR. SELVAGGI: Okay now Mr. McGroarty . . . I know I should have followed this up but those whirly gigs or whatever you called them some of those he noted on his site inspection were located in the line of sight. If you were going to pull out of your property and look to the east to your left, any problems with pushing those back and locating them outside the line of sight?

MR. McCORT: No problem at all.

MR. SELVAGGI: Okay. How many sheds or outbuildings do you have out there now?

MR. McCORT: About 100.

MR. SELVAGGI: Is that the maximum now that you can fit out there?

MR. McCORT: We could probably go a little bit more but I truly don't feel like I want to go more than that.

MR. SELVAGGI: Okay. Now as the winter begins to set in will that number decrease?

MR. McCORT: Absolutely.

MR. SELVAGGI: Will it ever be eliminated? Or will you always have some product out there.

MR. McCORT: Oh no we'll always have some product on display.

MR. SELVAGGI: Okay. You also have a large on line sales?

MR. McCORT: Yes.

MR. SELVAGGI: Does that product ever make it onto the property or does that go directly from the manufacturer to the property owner? Or does it come to you first?

MR. McCORT: Well we get a lot of business through our website, we generate a lot of business. Some of the bigger items a lot of that stuff has to always be . . . you can't haul anything that big it's impossible actually. So you actually have to build it on-site and it usually comes knocked down or panelized however you want to say it and you don't even actually notice it because it's broken down and then we drop it off and then we send our crew out to assemble it.

MR. SELVAGGI: Okay. That's all I have for Mr. McCort.

MR. WEISS: Anybody have any questions for Mr. McCort? I have just a couple of questions. I know you talked about the time frame of having your lease expire. When did your lease expire?

MR. McCORT: July 31st.

MR. WEISS: Of this year.

MR. McCORT: Correct.

MR. WEISS: When were you notified? How much time were you given that that lease was going to expire?

MR. McCORT: It was confirmed that spring, I would say May.

MR. WEISS: So in May of 2011 you were notified?

MR. McCORT: Yes.

MR. WEISS: And it was July 31 that the lease terminated and then you moved into the new location on August 1st.

MR. McCORT: Correct.

MR. WEISS: Chuck or Gene do you have any questions?

MR. MCGROARTY: I do Mr. Chairman.

MR. WEISS: Go ahead.

MR. MCGROARTY: Mr. McCort actually these are . . . along the lines of conversation you and I had when I was visiting the site and you gave me a tour, the indoor furniture if you could tell us, if you can tell the Board and put on the record how that's arranged because it's not a very large building and you do have lots of different kinds of products in there. With the variety of furniture that you advertise on your website, I know Mr. Selvaggi just asked you you know if all of it is on site or . . . could you just tell us just real briefly how you accommodate that and why you do that. There are five service bays in the building I believe?

MR. McCORT: I think there's actually six.

MR. MCGROARTY: Okay well whatever numbers of bays there are, and Mr. Glasson's operations description indicates you're going to do a screen repair in one bay, could you verify or clarify whatever the right word is that you're not using the service bays for product storage or if you are could you tell us that please.

MR. McCORT: We are not, absolutely not using the bays for display at all. We have no intentions of it at all as well. The indoor furniture it's actually kind of a new line that we're I would say we introduced at the old location. Truthfully at the old location it was a much smaller building versus this building so we can display it a little bit better it's a much cleaner building to be honest. So we hope to display it a little bit better. We certainly on our website offer so much more than what we actually have product wise in our building. But that's what you know . . .

MR. MCGROARTY: If I may because I know you want to . . . we all want to move through the evening. There won't be any occasion where, and this may sound silly but let me say it anyway, but there won't be an occasion where the kitchen, dinettes or hutches or whatever will be outside the building?

MR. McCORT: No way.

MR. MCGROARTY: In good weather of course?

MR. McCORT: No.

MR. MCGROARTY: So that won't happen.

MR. McCORT: That won't happen.

MR. MCGROARTY: Then if I may Mr. Chairman just a follow up?

MR. WEISS: Go ahead Chuck.

MR. MCGROARTY: The outside, the exterior as again we talked about the barns and all of the larger structures you even advertise up to three bay garages on your website.

MR. McCORT: Yes.

MR. MCGROARTY: As I indicate Mr. Glasson's site plan shows really regimented rows of sheds and so on. Outdoor play sets all of that sort of stuff do you intend to put that on the site? And if you do do you have an idea of where you're going to put it?

MR. McCORT: A three car garage?

MR. MCGROARTY: Or any of the other . . . barns, garages, cabins, pool houses the other things the play sets?

MR. McCORT: No.

MR. MCGROARTY: Okay so and you're . . . and again I'm not trying to trap you if you intend to do it then now is the time to tell everybody.

MR. McCORT: I understand.

MR. MCGROARTY: So if you sell those other kinds of products, play sets for example or a garage a customer will come to you, order it and it will . . .

MR. McCORT: A one car garage you know we actually have one there right now but it's just a shed with a garage door on it. A one car garage at least. A two car garage that would be you know what I was describing before where it has to be a kit because you cannot haul anything like that it's just . . . you just can't. We can sell them and advertise them on our website and have a price structure for them but they always have to be assembled.

MS. COFONI: I'm sorry Chuck if I may just follow up. So will the product be on the site for those bigger items?

MR. McCORT: No.

MS. COFONI: So they'll go straight from a warehouse or wherever you get them and then go straight to the customer.

MR. McCORT: Well they'll come broken down, you'll never even notice them actually they're broken down.

MS. COFONI: Come broken down to your site?

MR. McCORT: Yes they come broken down, they're stacked you don't even notice it really and then it's just like wrapped to protect it basically.

MS. COFONI: Okay so they will come through your site.

MR. McCORT: Everything goes through us yes.

MR. MCGROARTY: But you don't anticipate like a play set for example being even, one play set as a model being placed in the front of the building or in the parking area?

MR. McCORT: We do have two swings sets there right now and I consider that honestly in the line of sheds. That's how I'd like to display it.

MR. MCGROARTY: Okay so you're . . .

MR. SELVAGGI: They're on the westerly border correct? They are in the back if you went back like left.

MR. McCORT: Yes.

MR. MCGROARTY: So anything like that would line up in those rows.

MR. McCORT: Correct.

MR. MCGROARTY: Presumably they would fit and we'll talk with Mr. Glasson gets up about the aisle widths.

MR. McCORT: Okay.

MR. MCGROARTY: The last thing Mr. Chairman if I may, the outdoor furniture which is in front of the building where you propose . . . actually I have one other thing after this, the site plan shows and you have on site I guess samples or representations of that kind of stuff.

MR. McCORT: Correct.

MR. MCGROARTY: Then if the Board were to approve this that's what you get, you're not anticipating suddenly using that as an outside storage area.

MR. McCORT: The front?

MR. MCGROARTY: Correct.

MR. McCORT: No.

MR. MCGROARTY: So where you have I forgot what's out there but the tables and chairs . . .

MR. McCORT: Its pavilions and pergolas out in front with just some tables and chairs and some wishing wells just displayed.

MR. MCGROARTY: But it's not going to be, if you were approved and in the future that's not something that's going to become an area to stack inventory.

MR. McCORT: No sir.

MR. MCGROARTY: Okay and Mr. Chairman and members of the Board the last comment that I had from the report was as I mentioned the spinners or whatever they're known as they're not . . . I don't think they're signs I wasn't trying to attempt to classify them as signs. I don't know if there's any regulation to not permit them to be in the grass area along the front. Mr. Snyder will talk about the sheds as part of his testimony, I just question whether or not they're distracting. Signs cannot be permitted to be moved, to have moveable parts as they're indicated in my report that's the language in the ordinance. And these aren't signs I just wonder if because of the proximity to the highway these kinds of things are distracting. I know they were out in the Ace Hardware site but they're out there now I just raise it as an issue for the Board to possibly consider. Those are my questions.

MR. WEISS: Tiena?

MS. COFONI: Chuck if you had your druthers how far back do you think those spinners should be from the roadway, how far back would you suggest in order to be at least less distracting?

MR. MCGROARTY: I think it's a tough thing to say, I find them to be distracting myself so I wouldn't put them there at all.

MS. COFONI: Okay that was my

MR. MCGROARTY: I just raised that, I mean that's a personal preference.

MS. COFONI: Okay thank you.

MR. MCGROARTY: Or maybe you have one as an example or something.

MS. COFONI: Right okay.

MR. WEISS: Scott do you have an opinion on that?

MR. VAN NESS: I've taken a look at it and I mean does it draw your attention? It does a bit, sure I didn't see it as . . . it's not an intersection thankfully so I actually feel it's less of a problem where it is now than it was when it was at Woodsedge and Route 46. I mean it certainly draws your attention but I've never had an occasion where . . . I never received a complaint on it, never heard anybody saying this is a problem visually or anything like that.

MR. WEISS: Is there a limit? I mean do we have a limit Mr. McCort do you know how many of them you would have?

MR. McCORT: I think on the site plan we actually asked for every 5 feet or something like that.

MR. SELVAGGI: Yeah Jim can testify but if you look on page 3 of 5 that's where you have them delineated.

MR. MCGROARTY: You show about 15 spinners or 15 figurines.

MR. WEISS: Joe?

MR. FLEISCHNER: I don't think it's a case of distraction I think it's a case of marketing. I think it's the same thing as riding in front of Lowe's in the summer and seeing all of the plants lined up on the sidewalk when you drive by. You can say that's just as distracting as anything else but it's not for distracting it's trying to sell a product.

MR. MCGROARTY: Well the only reason I say that Joe is I mean things like this are in the mind of the beholder but the town does not permit . . . the Wigwam, I can never remember it's been there for ages, but that has that moveable sign. Signs cannot be moveable because they are found to be distracting. The spinners I realize they're in a different category but I wouldn't say that, in my view they're not the same as landscaping or plants.

MR. FLEISCHNER: Right.

MR. MCGROARTY: I mean plants don't move.

MR. FLEISCHNER: But the old Wigwam was not selling that sign that was just to get your attention you couldn't buy it. I'm just saying I think it's

MR. MCGROARTY: I understand. I think the characteristics of each are different but that's for the Board to call. Mr. Chairman I did, while Mr. McCort is here, if you would just describe briefly then you also have a propane tank so customers are going to come and be served, fill their tank. That's in the back of the building?

MR. McCORT: Correct.

MR. MCGROARTY: What kind of traffic do you anticipate for that? Because you don't have a lot of parking I mean how is that going to work are people going to pull up right in the back, get out, bring their tank over? How does that work?

MR. McCORT: I'm kind of hoping it works the way it did at the old location where the customers simply brings it to the front door, they leave it there, we pick it up, we fill it, and then we bring it back. That's what my intention is I don't want them to go back there.

MR. MCGROARTY: Well okay. How many parking spaces do you have, customer spaces?

MR. WEISS: Mr. Glasson will probably testify to that Chuck.

MR. MCGROARTY: Well I know but its Mr. McCort's site I mean . . .

MR. McCORT: I truthfully don't know I would have to look here and count.

MR. MCGROARTY: Well I guess my question is you've got a lot of different things going on and people are going to come in and park to look at sheds, they're going to park to go into the store, they're going to park and get propane I just want to get a sense from you that it all works and that people . . . you won't have customers maybe going into the back area unless you want to and park in the back while they're getting

MR. McCORT: No I think when you say the back you're talking the back of the building?

MR. MCGROARTY: The back of the site.

MR. McCORT: I mean I don't want them going back there. I want them just to park their car just like it was.

MR. MCGROARTY: The day I was out there with you someone did go back there right?

MR. McCORT: Yeah which honestly that was more or less to go back where all of the sheds are.

MR. MCGROARTY: Well he was looking for propane.

MR. McCORT: Well he was driving around and he just asked if we had the propane but that is definitely one thing you know even with the sheds, that's one thing I've noticed is people are like driving around back there and that's why I think he proposed to put up a sign.

MR. BUCZYNSKI: But you won't have anybody back there by the propane area a salesman or anybody so if they park there they'd have to still come into your building with the propane tank right?

MR. McCORT: Oh sure, oh yeah.

MR. MCGROARTY: Thank you.

MR. WEISS: Anybody else? We don't have any other questions for Mr. McCort.

MR. SELVAGGI: Okay.

MR. WEISS; Does anybody from the public have any questions for Mr. McCort based on the testimony he delivered this evening? Seeing none I'll close that to the public.

MR. SELVAGGI: Mr. Glasson who is the applicant's engineer is next to testify.

(JAMES GLASSON SWORN IN FOR THE RECORD)

MS. COFONI: State your full name spelling your last name and giving your business address for the record please.

MR. GLASSON: James Glasson (G-L-A-S-S-O-N) Civil Engineering Inc. 1 Cove Street, Budd Lake, New Jersey.

MS. COFONI: Thank you.

MR. SELVAGGI: All right Jim you have prepared the plans it's an existing site so hopefully there's not a lot of engineering issues that present themselves.

MR. GLASSON: All right let me just if I can go over it with you just to give you some logistics of how big the property is. The property is located 250 feet west of the intersection of Harris Lane this being Harris Lane that would be the east side of my plan. The property has 252 feet of frontage on

Route 46 it has a left side line of 310, a right side line of about 433 and a rear property line of 362. I colorized this version it's my sheet 2 of 5 of my plans.

MS. COFONI: Okay can we go ahead and mark that A-1?

MR. GLASSON: With today's date?

MS. COFONI: Yes please and I'm sorry did you say the date of that plan?

MR. GLASSON: Yeah it's sheet 2 of 5 it's dated 6/24/11 last revised 9/9/11 so it's the same copy of the plan that you have in your set sheet 2 of 5.

MS. COFONI: Thank you.

MR. GLASSON: You can see I colorized this just to basically show you the existing, the yellow represents the boundary faded out in some places but the brown represents the wooded tree line that surrounds the property on three sides, the gray represents the area of pavement, the blue represents a detention basin that exists on the property, and the white area represents the building itself. It's located in your C-2 zone and your C-2 zone requires a lot size of 2 acres this property is 3.1 acres. It requires a lot width of 200, a lot depth of 250 which this property exceeds; it requires a front setback in your C-2 of 90 feet, a side setback of 60 and a rear setback of 50. This site as it exists presently has three nonconforming conditions two of them relate to the setbacks of the building. This building as it sits in the front here is a two-story structure it has a footprint of 7,206 square feet, it has a second floor of 1,746 so the total gross floor area of this existing building is 8,952. But the building is only located 37.7 feet off the front setback where you require 90 and it's located only 9.4 off the right side where you require 60. Those are two of the three nonconforming conditions that exist. The rear setback is about 278 and the left side line is setback is 232 so those both comply. You can see by looking at the drawing all of that gray area that's all pavement. The property is paved with an ingress/egress that's located centrally it's paved for a loading area that's located around the back of the building. There are actually five overhead doors, four along this fact of the building and one additional overhead door in the back for the . . . which would be the south corner of the building. Right now the . . . or for the Saturn Dealership the majority of the parking for the customers was out in this area and that would remain the same and I'll show you that on my proposed view on the other side. This was the display area for cars, the pavement that exists out there is 74,254 square feet and that gives you a coverage that exists right now of 64 percent where your zone only allows 60. So before I even tell you what we're doing on our proposed our first thing we agreed to do when we sat down with the subcommittee, with the meeting of the professionals is we are going to eliminate 6,361 square feet of paved area and that's the cross hatched area that shows on your plan and that's the area that I see up in this northerly side in the back parking area. We're going to actually remove that to get us down in conformance with our impervious coverage. Somehow it got to that number 64 percent it wasn't approved at that number but that's what actually exists out there, so we're going to bring that back into conformance. And then if I can just flip to the other side this is my . . .

MR. SELVAGGI: This is A-2.

MR. GLASSON: This will be my A-2 this is my sheet 3 of 5 of my plans same date 6/24/11 last revised 9/9/11.

MR. WEISS: What do you call this? This is the proposed site plan.

MR. GLASSON: This is the proposed site plan correct a colorized version. It basically looks very similar to the other side except for back here you'll see this area of green is larger now because that area is the area that was taken out with the pavement. I'd like to go through with you if I can how we're going to utilize this site. If you look at my upper left hand corner here there's a building floor area detail on it if you want to look at your copy and probably follow with me it will give you a little better idea of what we're using the building for. The left side of this detail shows hardware retail sales area, that area is about 2,349 square feet and behind that there's two additional rooms for retail sales. Moving from a left to right direction then there's a screen repair area in the back side of the building there you see a 10 foot wide garage door so that is a garage door access and that's 372 square feet. Moving further along to the right there's a lunch room of 395 square feet. Now if you move to this back "L" shaped area that would be the additional storage area of 3,720 square feet and that has four overhead doors. Those four overhead doors would be for access that I'll show you what the loading space is going to exist in the rear of the structure. We will contain our garbage and our recyclables internally in one of those garage doors. So there's actually an area that's called out at the first garage door bay. And that really is our

usage for the first floor and that total is 7,206. The second floor view is the second window that you see that sits over in this area it's to the right and when you go upstairs there's a stairway that runs upstairs you have 1,026 square feet three office spaces and you have an additional 720 square feet of storage upstairs. So that's really our use for the internal area of the building and again that total is 8,952 square feet. When you move to the outdoor area the total paved area now goes to 67,894 square feet somewhere in that neighborhood, it was somewhere in the neighborhood of 74,000 square feet. And I want to divide it up for you in different sections just so I can kind of talk about what we're using it for. This area that's in this middle with our ingress/egress off of the road contains 21 parking spaces, the 21 is required by your Code with 4.5 per thousand for an office and one per 150 for retail. So we meet that requirement with the 21 spaces that's shown within this area here and that's 13,350 square feet of the 67,800 square feet. Behind the building is an additional 6,400 square feet of pavement that is going to be blocked off by striping and it's going to be blocked off by signage. Now instead of putting a sign that is a permanent sign on the side we're going to actually have freestanding signs that are like pedestal signs and if you look on the detail sheet I believe it's sheet 5 there's an example of it on the detail sheet. We're going to stick a pedestal sign here basically that says "no cars beyond this point" so we do not anticipate cars going behind the building. We're also doing the same thing to separate the shed area and the maneuvering area which is the back of the building. So we're going to stripe it just like you see on the plan and we're going to put these freestanding signs sitting out in that parking lot to cordon that off so that we don't have the public running into that area behind the building as well as running into the shed area. The area behind the building will have a demarcated loading space it's 12 by 60 shown there I was talking to Mike about what size trucks go in here he really has flat bed trucks to deliver the sheds not a WB-50 size but we've shown that it can be accommodated here a WB-50 size tractor trailer. This would be more anticipated for smaller trucks to deliver his furniture to his bay doors in the back as well as a garbage truck. The only other item that's going to be located behind here is a 1,000 gallon above ground propane tank. That would be locked in a 6 foot high chain link fenced area and it would have bollards I believe there's ten bollards that surround that area so that . . . because that's going to sit actually in the paved parking lot area there's going to be bollards to protect it in case there was any trucks to move in here in I guess an unsafe fashion. But we do have a 12 by 60 loading space shown directly behind the building and there's still a clearance of about 8 feet to that tank area. But it is not anticipated and we do not want the public to be doing anything other than if they were to walk their tank back here there's going to be a sign that literally says "no cars beyond this point" "no public beyond this point". So if they were to walk their empty propane tank which they probably will when they see the propane tank back there, they would park in this parking lot area here, walk their tank over the same you do at Lowe's you walk your tank up to the door they tell you take it back outside and you take it back outside and they switch it out or they fill your tank. So that would be our mechanism for keeping people out from behind the building. We then would have a cross hatched area, a striped island kind of to connect to the existing island that's here, there's an existing paver island and we would connect that with this cross hatched area and four more freestanding signs again to stop the public from pulling their car in and driving past this point. I mean other than doing that, striping it and putting these signs there there's no way to actually stop them unless they want to you know run the signs. But the idea would be then we would have two additional areas an area that would be to the left or southwest corner here for sheds. And we've tried to show a regimented shed display there I have 102 sheds showing 8 by 12, I've lined them up in aisle ways and if you were to look from a left to right direction across the first shed sits 2 feet off the curb, then you have a 12 foot shed, then you have 20 foot aisle. Then you have back to back sheds, another 20 foot aisle, back to back sheds and then a single row of sheds. What we've done is we've encompassed 102 sheds in this area and we're still maintaining parking or driving aisles for trucks if they were going to go in there and pick up a shed to deliver a shed. And also aisles for people who would want to walk over and look at the sheds it's not anticipated . . . we do not want the public to get past this point with their cars but they can still park here to walk over and look at the sheds. These are the smaller 8 by 12's, here we have a single row of eight 12 by 16 sheds. And this entire remaining area here that's striped it's about 15,000 square feet that is a maneuvering area. And if you look at the left side of my drawing, on all your drawings sheet 3 you'll see there's a WB-50 tractor trailer turning movement. We basically layed this out so we can take a delivery truck and if it was as big as a WB-50, and I was asking Mike how big are these trucks? He doesn't really ever receive a delivery on that size truck but it can be accommodated back there. And what he does is he has two pickup trucks with trailers he would park in these parking spaces back here. And if he had a delivery on a larger truck that truck could also park back here but the idea would be, that truck pulls in here, makes it's turn, offloads it's sheds here, the sheds are then taken and stacked where they would go whether they'd be the 8 by 12 or the 12 by 16. As he said the inventory is not . . . I guess his idea is he doesn't reorder sheds he's looking at a maximum of 110 that's what I have shown on the plan and he doesn't reorder the sheds in say from the month of September, October up to November he doesn't keep replenishing them when those sheds go he kind of like lets them go and then in the winter months he's anticipating having 60 to 70 sheds. So his number will be a lot less in the winter because he doesn't reorder in the months as it leads up to the winter season. Right now there's an on lot septic system in the back of the property up

in this area, a primary and reserve disposal bed, continue to use those there's 2,000 gallon septic tanks and a pump tank that pumps up to that area that would not change that's under review I guess by the Health Department to make sure we conform. There's an existing on lot well in the upper right corner the southeast corner adjacent to Route 46. That would be continued to be utilized. The blue area represents the detention basin that's out there. We did a sizing calculation just to make sure that this basin still worked for the additional pavement that was out here that really wasn't supposed to be out here. The basin suffices it's a 13,000 cubic foot basin it outlets to a pipe that crosses the Robbies site next door and goes over to Harris Lane. But that basin is sufficient to handle the site and any increase that was created by that additional pavement.

MR. SELVAGGI: In fact you've had some real life examples during Irene you were out there?

MR. GLASSON: Yes there really was no problem with that basin the whole time. With regard to the rest of the utilities really nothing is changing, the lighting we don't anticipate changing I know Mr. Buczynski brought up the fact that we are going to remove this paved area back here but we do have two existing light stantions back there. They're actually the high overhead lights. We didn't anticipate taking them out, I don't know if the town wants us to take them out we were just going to grass this area and leave those lights but there is lighting throughout the site right now and all of that lighting would remain. We're not anticipating any new lighting, we're not anticipating any new signage all we would like to do would be reface the signs that are out there now. I'm not going to tell you the signs that are out there are conforming because there are two freestanding signs located along Route 46. One is 27 square feet and one is 64 square feet and we're proposing to reface both of those signs and I believe you know by Code we would only be allowed to have one but there were two out there now so we were just going to reface those. Then we have two building mounted signs on what would be the westerly side so if you're traveling in an eastbound direction on Route 46 along this side of the building. That really is the extent of what he's looking to . . . I mean it really hinges on my policing his signage internally because if you look at my sheet 5 you see those freestanding signs and that's all they can really be because it's such a large area if you look at the sign detail if you don't put those signs, those freestanding signs and stripe the parking lot accordingly there's really no way. It's the bottom right hand corner of my sheet 5 if you want to look at it and it says "no cars beyond this point" but there is no real mechanism other than the striping and the signs to keep the public out of those areas. So as long as those signs are kept intact and Mike only moves them when a delivery comes and then places those signs back there it should work correctly. It's really just to cut off this area right here, there's a curbed island up to this area right here. As he had said he has . . . how many people do you have a day? 50 customers maybe in a day?

MR. McCORT: About that.

MR. GLASSON: The 21 spaces I've been across the street from him from his previous location for probably 10 years and I run over there all the time just to grab something and he doesn't have more than 10 cars ever in the parking lot. So I mean we have 21 spaces there. The other thing I'll say is I have to agree with you I pull up to the intersection of Sand Shore every night and when the spinners were across the road I would sit there at the intersection and I would notice them. I don't know that you'll notice them as much when they're . . . we're proposing our spinners and stuff here and you'll be driving parallel to them as opposed to facing them at the intersection. Because when I would sit there at night after working all day I'd sit there and look at the spinners and I'd be like oh are you can put those away tonight or . . . so I did notice them at an intersection I think you notice them a lot more than you do on a straight away like that. The area that Mr. McGroarty was talking about right here with regard to the mailboxes is right now he has some mailboxes that are set up and there's a sight triangle easement in this direction so that anybody pulling out of here is only making a right turn they're looking in that left direction because this is very quick here so he does have to move those mailboxes that are in this sight line out of the way. The front of the building is going to be utilized for the outdoor furniture, the pergolas and the mailbox area and that would only be for the display area and as he said not for a stock of inventory. That really completes the mechanism of what we're trying to do with the site. I know Mr. McGroarty had said the Board may want to entertain striping those aisle ways and really defining where those sheds go. I don't think he's have any problem doing that (inaudible) striped and then we could put actual aisle ways down here and maintain aisle ways and maintain a structured way to keep those sheds so it doesn't look as if there's sheds all over the place out here, there would be these aisle ways in between and we could accommodate that with striping. I don't know if that answers anything to that question.

MR. WEISS: Did you want to talk about that at all?

MR. MCGROARTY: Nothing beyond what Mr. Glasson just said. I suggested I think it would be a good idea I think it would work well for Mr. McCort as well. But I think from a safety standpoint it would be good too to keep the aisles clear.

MR. WEISS: So we can count on that striping done then Jim.

MR. GLASSON: Yeah I'll put it on a revised plan we can put a stripe down each side of these things and just contain that and just you know some kind of notation on it.

MR. WEISS: That wouldn't be for motor vehicle traffic right?

MR. GLASSON: No the anticipation here is just for either a delivery truck pulling in here to pull a shed out. And believe it or not it's not hard to pull one of these sheds out, I'm out here doing the survey work and I don't know how old this kid was he came zipping up in a flatbed by himself and offloaded two of these larger 12 by 16 sheds in about 5 minutes all by himself. I'm watching the kid and I'm saying how is he going to do this and he zipped up with the flatbed, dropped the flatbed, slid the shed off, moved over slid the other shed off so it's pretty easy for them to maneuver these things. So I'm anticipating if they had to they can pull right in here and get a shed in that 20 foot aisle.

MR. MCGROARTY: Another question just about lighting Mr. Chairman? Jim on sheet 4 your notes indicate that the lighting except for security will be off between 8:00 p.m. and 7:00 a.m. and I presumably when Mr. McCort had discussed that and you had agreed to it.

MR. GLASSON: Yes.

MR. MCGROARTY: What kind of security lighting do you anticipate?

MR. GLASSON: What do you like to leave on at night? Just the overhead door lights?

MR. McCORT: Yeah just the overhead door lights.

MR. GLASSON: Yeah just the overhead door lights, none of the parking lot overhead lights right? That's what he would like to do turn off all of those overhead large 18 foot pole lights and just leave on the door lighting, the security lighting at the doors.

MR. WEISS: Jim is there any way to prevent a customer who is going to pull into the parking lot and then say oh let's get in the car and let's drive around and look at all the sheds.

MR. GLASSON: Well if he wants to drive through these . . . I mean those posts are just be sitting there spaced. I mean really the way to do that would be put more of those posts so that there's no area for a car to get through. But I mean . . .

MR. WEISS: Or a chain or something?

MR. GLASSON: Well possibly chain, throw a chain just a loose chain between the posts but I mean if people want to drive past them or knock the post over I don't know that you can do anything. I mean we're going to stripe the ground with a 5 foot wide cross hatch stripe and put these freestanding signs on it that no cars beyond that point, or no public beyond that point. But I don't know . . .

MR. WEISS: Well that sounds kind of secure.

MR. GLASSON: I just don't know that there's any way to do it any more permanent.

MR. WEISS: My only concern, I know that we've talked about these spinners is we're not suggesting it's going to be a problem but if there is does the township have a recourse?

MR. GLASSON: Was there a problem at the other site? Did anybody ever . . .

MR. WEISS: Well here's the concern now you're talking about a distance of what 45 feet worth Jim?

MR. GLASSON: You're talking probably a distance of 100 feet here, 150 feet along this side. There's 15 spinners . . .

MR. WEISS: Of highway frontage that will have a distraction of some kind. Whether we think it's a big distraction or not 150 feet of it could be a distraction. I don't want to take that opportunity away but I want to make sure that we can come back and say this isn't working, this has to go.

MR. GLASSON: I mean the only thing I can say is we could direct, I mean and that's fine to keep that open but we can put the spinners back against the curb line. It would give us the biggest, I'll give you an idea of the distance, A-2 would give us the biggest space in between the curb line and the base of those things. If we did put those spinners right against the curb at least then they would be back from the traveled way by about 19 feet. So from the actual edge of the curbing here to the edge of the curbing that we have on the site is about 19 feet so if we only put the . . . you know didn't put them out closer to the right-of-way and put the spinners actually against the curb line along there it would be 19 feet away from the traveled way. So I mean . . .

MR. WEISS: I guess the concept is that they're going there for a reason and that's to attract, but when you're attracting you're also distracting. And that's a concern I don't know how distracting it is 20 feet off the road . . .

MR. VAN NESS: Yeah honestly I go by it every day, every single day and after the first couple of time I looked at it I don't even look at it anymore, sorry. And it's . . . I truly found this location to be less of a distraction than otherwise. You know what in all honesty what I find the distraction over there is the figurine that you have that's stands near the road. Whatever that is I find that as a distraction and I'd actually like to see you move that one. Do you know what I'm talking about? It's some kind of cut out of a figure.

MR. McCORT: It's the man leaning up against the pole.

MR. VAN NESS: Yeah and like . . . a man lived across the road? It's the ghost of motorcyclist past. So that one I thought was actually more distracting than the spinners.

MR. WEISS: I just want to make sure that the township has some kind of an opportunity.

MR. MCGROARTY: Well you know I mean again and these things are in the eyes of the beholder but there's an aesthetic consideration as well. I mean is that what you want the Highway frontage to look like?

MR. VAN NESS: That's also a concern.

MR. WEISS: But we don't really have any way to control that do we?

MR. MCGROARTY: Well strictly speaking it's in a front yard setback and Mr. Snyder will talk about that with respect to the sheds. But it's in the front yard setback I mean again it's sort of gray area because it's not quite a sign but it's product . . . I mean it's something so it's either a sign or it's a product and you're putting it out in the front yard setback, here your putting it very close within the right-of-way.

MR. STASZAK: Are they really necessary for business?

MR. SELVAGGI: Are they necessary where they're located?

MR. GLASSON: Are they necessary to have them out there? Do they attract people and sell?

MR. WEISS: So the question is are they really necessary for the business?

MR. McCORT: For business?

MR. WEISS: Yeah.

MR. McCORT: I'm just going to be honest with you I can't believe how many we sell of them I really can't. I'm just going to be honest with you I think they're very silly but they sell, we make money off of it, I pay employees I mean I can't get over it I really can't. If it was something that didn't work for us obviously I wouldn't do it.

MR. STASZAK: How many are out there?

MR. McCORT: We try to put about ten out, that's what we try to do right now so . . . which I think this is actually calling for fifteen.

MR. SELVAGGI: We can knock it down to ten and put it to the curb line.

MR. McCORT: That's fine.

MR. SELVAGGI: And actually is you moved it even with the sheds it would almost blend . . . I don't want to say blend in but you know your eye would be drawn to the sheds before those things.

MR. GLASSON: I mean you can do that, you can put them against the curb only in line with where the sheds are because then it would be a background to the sheds instead of being freestanding thing in an aisle where you would be looking at it and spinning. I don't know if it's any less distracting.

MS. COFONI: So just so I understand so you would have ten spinners and they would be . . . because on the plans I see that they . . . oh I see so they wouldn't be in front of like the aisle ways they would only be . . .

MR. GLASSON: Right and it wouldn't be an open area there would be a background behind it if you did it that way.

MS. COFONI: Okay I see what you're saying.

MR. WEISS: Joe I don't disagree I heard the comment about it's not a problem but you know I think we're opening up a door for other things that maybe aren't signs that well if we can do it here why don't we do I don't know Chuck the other day we had a conversation about some kind of electronic moving messenger boards and I understand that that's a sign and that might be different. But I don't know I'm just concerned about the whole . . .

MR. RUSSELL: Those aren't really signs though those are product for sale.

MR. MCGROARTY: Well that's true and you don't typically put your product for sale out by the street. At least the ordinance doesn't anticipate . . .

MR. RUSSELL: He's got the furniture out there.

MRS. NATAFALUSY: Well he's requesting it.

MR. MCGROARTY: He's requesting it.

MRS. NATAFALUSY: It doesn't mean he can do it.

MR. MCGROARTY: I mean look you can make that decision but if it goes here it can go at Village Green or it can go at Riad's Mall or it can go wherever. I mean if these are the sort of things that you're okay with you may see more of them.

MR. FLEISCHNER: And if we did is that the worst thing in the world if we did in reality? Because as you said its perception.

MR. MCGROARTY: Is it the worst thing? It's your call.

MR. FLEISCHNER: Right.

MR. MCGROARTY: I'm just asking you it's an aesthetic question but when it comes up sometimes its okay on one thing, and then it comes up the second time and we're asked how did it happen, why are you guys letting that happen? So we're just saying if you accommodate it here then it will be accommodated elsewhere. I mean you've got to be consistent that's all we're saying. I'm not making that judgment that's for the Board to make.

MR. FLEISCHNER: I understand that.

MR. RUSSELL: You don't sell strobe lights do you?

MR. McCORT: No.

MR. WEISS: Does anybody else have any questions for Jim? Jim you were done I take it?

MR. GLASSON: Yes.

MR. VAN NESS: I do have a couple of questions about trucks. Is that someone else or

MR. GLASSON: I'll try to answer them.

MR. VAN NESS: After hour's deliveries?

MR. McCORT: Never.

MR. VAN NESS: And you understand the concept of backing the trucks out onto the highway.

MR. McCORT: Backing them out?

MR. VAN NESS: Yes.

MR. McCORT: We don't do that.

MR. VAN NESS: That's my point.

MR. McCORT: No.

MR. VAN NESS: Okay that's why that cross is by your mailbox right?

MR. McCORT: I understand that.

MR. VAN NESS: Okay.

MR. McCORT: But we've never done that.

MR. VAN NESS: That was a backing out incident.

MR. McCORT: Yes. But we don't do that.

MR. VAN NESS: Absolutely no backing out.

MR. McCORT: We never have done that.

MR. VAN NESS: It falls upon you to stop them from doing it if it should be an outside delivery.

MR. McCORT: No we don't back out of the parking lot.

MR. VAN NESS: I've never seen your people do it but in case you had an external delivery come in.

MR. McCORT: No they've never done it.

MR. VAN NESS: Thank you.

MR. RUSSELL: Well you've got a turn-around area in the back anyway.

MR. WEISS: All right let's keep on moving. But before you do that is there anybody from the public have any questions for the testimony given by Mr. Glasson? Seeing none I will close it to the public. Jim thank you.

MR. SELVAGGI: The next is Eric Snyder professional planner.

(ERIC SNYDER SWORN IN FOR THE RECORD)

MS. COFONI: If you could state your full name spelling your last name and giving you business address for the record please.

MR. SNYDER: My name is Eric Snyder (S-N-Y-D-E-R) business address is 6 Ashwood Street, Newton.

MS. COFONI: Thank you.

MR. SELVAGGI: Mr. Snyder I don't know if you appeared before this particular Board.

MR. SNYDER: I have.

MR. SELVAGGI: But just let me interrupt you briefly your educational background and your professional experience?

MR. SNYDER: Bachelor of Science from Cornell University, Masters in City Regional Planning from Rutgers, Member of AICP, licensed Professional Planner since 1979, member of the Board of Directors NJPO Jersey Chapter APA, Adjunct Professor of Rutgers. I've testified here and before most Boards in the State.

MR. WEISS: Chuck you know Mr. Snyder don't you?

MR. MCGROARTY: Yes I do.

MR. WEISS: As do I and if anybody has any questions I certainly have no problem accepting Mr. Snyder as a Certified Planner. Good to see you again Mr. Snyder.

MR. SELVAGGI: Eric why don't we for purposes of brevity start right in, you've done a report and you've been out to the property correct?

MR. SNYDER: Yes.

MR. SELVAGGI: What's your professional opinion with respect to the appropriateness of the variance relief being sought?

MR. SNYDER: Well Mr. McGroarty in his report points out that there are two kinds of "c" variances and the Board is all well aware of this. Our approach here is this is a C-2 variance it is a variance where you weigh the benefits to the general public and to the applicant as well as the detriments that would result from a waiver from the terms of the Zoning Code. What we have here is a former car dealership along a strip of highway where there are any number of car dealerships. I took the liberty of taking some pictures because what my client wishes to do is very similar to what the car dealerships are doing, and it's appropriate they do it on a former car dealership site, and that is display his product to people as they drive down the highway. You know the site, you all know the highway I don't need to belabor the point. Car dealerships along the highway the jeep place, the GMC place, the KIA place right across the street, they have their inventory stacked roughly between 10 and 15 feet off of the highway for good reason. As you run down that highway and it's been said that it's pretty quick out there you have what's known as the cone of vision the faster you go the tighter in you have to focus because there's too many other things going on. So the closer merchants want to put their merchandise to the highway so you can see it. That in large part is part of the discussion in regard to the whirly things and so forth as well. As Mr. Glasson pointed out we're not making any adjustments to the site in the front, there is no additional parking, there is no attempt to encroach further towards the highway so what you had was a Saturn Dealership with cars that were presented to the public for sale right up next to the highway. We're substituting sheds and some whirly things and probably not some silhouettes. That said this is the order of business out there, it's the neighborhood character, I think it's very important that Route 46 remain a vibrant piece of the community fabric. When you have abandoned sites and there is another abandoned site across the street and of course there's the old building up on the corner, they detract from the aesthetics, they detract from the economic viability of an area. It's very important that you keep these sites alive and working. What Mr. McCort has done is he has taken a vacant site and dressed it up. One person's sense of aesthetics may be delighted another one may not be so happy but the fact is that it's an active, reasonably attractive presentation of product that people want. It's nice to see business succeeding in an area and it was pointed out earlier this site is a great improvement over the, soon to be CVS site down the road because "A" it's just better suited to this use. That said the benefits issue, and I'm speaking kind of quickly because of your deadline Mr. Chairman, the benefits are those that you find in Section 2 of the Municipal Land Use Law where you talk about

efficient use to the land. Aesthetics I'd like to point out too that because you're in the Highlands and this is in this community, existing community subzone if you will of the Highlands, using these sites to their best advantage is something that Mt. Olive is really going to have to work on. And certainly in Mr. McGroarty's Re-examination Statement he points out that there are going to be some significant changes to your Master Plan reflecting what the Highlands has done. That said this because you're actually reducing paving doesn't run afoul with any of those rules. There are environmental benefits to the roughly 7,000 square feet of additional green space you wind up with greater recharge, you wind up with less storm water runoff, and you run off with a more aesthetically pleasing area along the back of the site. So the benefits are pretty clear you take an area that is showing some signs of wear and tear, Route 46 took a hit when Route 80 went through anyway certainly it takes a little more effort these days than it used to to keep it alive. Mr. McCort's business is doing that so there's a real benefit economically, there's a benefit aesthetically, the site obviously works safely otherwise we would have heard that there were problems. The issues with the whirly gigs you know yes they're designed to attract some level of attention but quite frankly as you go by on the highway and people are doing 55 and plus they really don't draw you too much. It's the expanse of the area that says sheds and other lawn furniture that you pick up as you run through here. So . . .

MR. SELVAGGI: Now if I can because a lot of what you've said is for the C-2 we point out the purposes of the zoning and what under Section 2 what purposes are we advancing here? Because it's my understanding it's not just what's good for Mr. McCort it's really what's good also for the community. I guess it has to be the proverbial win/win.

MR. SNYDER: Well as I pointed out there are, and in my report I say there are five so the development in individual municipalities doesn't conflict with development in the region. This kind of use as the car dealerships are not the kind of uses that fit well in a center. They are really highway oriented uses and so this is an appropriate place for it I point out that's Subsection C. Subsection G also speaks to sufficient space in appropriate locations for a variety of uses including commercial. Subsection I is the visual aesthetic improvements. Subsection J talks about preventing urban sprawl and degradation of the environment. What we're doing here with the removal of the impervious coverage is with just the outburst we are improving the ecological status of the property. And then finally encouraging coordination of various public and private procedures to the end of more efficient use of property. Those are five, the last two were J & M in the subsections of Section 2. So there are a number of real benefits not just to Mr. McCort, it's good that he's in business it's good that he's making money but his activities directly contribute to the well being of the Township. That said I see no detriments I see the reuse of a site as an absolute plus there are no off site affects, there's no additional lighting, there's no additional storm water runoff, there's no additional traffic, his parking is adequate and so on as you've all heard from Mr. Glasson. So my conclusion is that there are no negative impacts let along no substantial negative impact on the neighborhood and the zone plan.

MR. WEISS: Chuck did you want to add to that?

MR. MCGROARTY: I guess the one thing I just want to . . . I'll add to it not to disagree because I do not disagree with Mr. Snyder's analysis. I guess it is not a question of the use though the use is permitted we don't disagree on that. It's just there was some ambiguity about putting the sheds and other material in the front yard setback which is a 90 foot setback and a side yard setback. And if the Board had the chance to see the report I issued I mentioned that this kind of stuff has happened before in town with the Board's approval. So it's not unheard of so I guess Eric your overall analysis that it's revitalizing the site can you speak, and I know we have limited time but why the need to put the sheds or as many sheds as is proposed in both the front and the side yard setback?

MR. SNYDER: Well I'm looking at the sheds as cars without wheels. It's the same kind of product, it's the same kind of approach to a product. Putting them up in a 90 foot setback and quite honestly I don't understand your 90 foot setback on a highway where the speed limit is roughly 50 miles an hour. It strikes me that you're going to wind up with a more dangerous situation where people are going to be looking to see what's back there then if you have the material that's presented for sale up relatively closely to the highway. And I don't know Chuck if you can enlighten me on that but quite honestly just as I was talking earlier about the cone of vision, you're asking people by virtue of that setback to look outside their comfort zone to see product, having said that the business is a business that you want on the highway. You want retail sales, you want car dealerships and presumably this hardware store is a permitted use as you point out but if you were to suggest that the inventory should be stacked 90 feet back that in my opinion would cause a greater hazard than having it up front. And as to the side yard, the western side yard is heavily bermed I would anticipate, and I didn't look at the resolution for the original Saturn dealership but I would expect that the berming and landscaping were in response to that original site plan and protecting that house that's next door.

MR. WEISS: Anything else Chuck?

MR. MCGROARTY: No thank you Mr. Chairman.

MR. WEISS: Anybody on the Board have a question for Mr. Snyder?

MR. SELVAGGI: If I can just one follow up too Eric I mean there is some further Planning principals because we are eliminating by removing that pavement, there are presently three nonconforming conditions and afterwards we'll be down to two?

MR. SNYDER: Yeah a reduction from 64 to 60 percent impervious coverage is a benefit in and of itself.

MR. SELVAGGI: Thank you.

MR. WEISS: Anybody from the public have any questions for Mr. Snyder on the testimony he just delivered? Seeing none we'll close it, Eric thank you very much.

MR. SNYDER: Thank you.

MR. WEISS: Mike.

MR. SELVAGGI: We presented our testimony you know I mean it's a site plan approval with the variance for the displaying of the sheds in the parking lot area. Mr. Snyder capably addressed I hope you agree and I'd like to get a vote on this so we can get this whole thing finally resolved it's been going on for . . . it's been somewhat of a nightmare for Mr. McCort and I'd like to see it put behind him.

MR. WEISS: Does the Planning Board need to have any further conversation about the spinners? The hazard to the road? Do you have any concerns?

MS. COFONI: Well I would like a direction, I don't know what direction the Board wants to go or as is (inaudible) as is on the plans. I mean I just need to know if it needs to be a condition or . . .

MR. RUSSELL: He's agreed to move them back to the curb line I have no problem if he does that.

MR. SELVAGGI: We can move them to the curb line and present them in front I mean rather than being in these aisle areas.

MR. RUSSELL: We can make that a condition of approval.

MR. VAN NESS: Why don't we just say move to the curb line.

MR. SELVAGGI: Okay.

MR. VAN NESS: They're just making it something more than it needs to be.

MRS. NATAFALUSY: So excuse me for the record they're going to be just on that side of the property not on the other side of the property where the gazebos are.

MR. SELVAGGI: Yeah.

MR. VAN NESS: The parking lot side.

MRS. NATAFALUSY: And also the mailboxes are going to be removed from where they are now?

MR. SELVAGGI: Yeah they'll be outside of the sight triangle.

MRS. NATAFALUSY: But they'll still be displayed? Because they're not on the site plan, they're not shown on the site plan.

MR. GLASSON: That's my fault I'll put them on.

MRS. NATAFALUSY: Okay.

MR. WEISS: Where will they be Jim?

MR. GLASSON: I would say they're still going to be to the right but they're going to be outside of the sight triangle so they'll be to the right end before the freestanding sign, that will be on the right end.

MR. WEISS: These are mailboxes?

MR. GLASSON: There's only a couple of them they're just examples of what they have.

MRS. NATAFALUSY: They're wood posts, the mailbox posts there are about five or six of them on site.

MR. NELSEN: You had suggested revisiting if there is a problem? If a problem arises revisiting the spinners?

MR. WEISS: I would be . . . that's a good question how would we legally do that?

MS. COFONI: I started to draft before I thought perhaps we weren't going in that direction.

MR. SELVAGGI: The mailboxes too if it makes better . . . we'd limit them to no more than five. I think there's eight out there now but we would agree to cut them down to five.

MS. COFONI: Okay.

MR. WEISS: I think the Planning Board would like to see some kind of language Tiena that gives the township the ability to ask for the removal of these things if they become a safety issue. I don't know how to ask that question.

MR. MCGROARTY: Mr. Chairman how are you going to do that?

MR. WEISS: I don't know Chuck I don't know if we can.

MR. MCGROARTY: I think the safety issue . . . let me just say I mean if I'm wrong, if it's a safety issue then it's to be discussed now. If it's not an . . . I don't think in terms of enforcement once the Board approves it that the town can go back and tell Mr. McCort to remove them.

MR. WEISS: You know Eric made a very good point about the sheds and I know Chuck's issue about front yard . . . product in a front yard setback and Eric analogy of sheds essentially being automobiles without wheels is fairly . . . makes good sense. That being said I don't know if I'm buying into putting a mailbox along side of the road, the spinner and these things are small 50 miles an hour I just see this being a potential problem that we don't want to be involved with. And granted this might not be a problem at this site but it's opening up a can of worms for us that I don't think we want to go anywhere near. The idea is to sell the sheds and again Eric really put it in perspective and it doesn't fit for the small items. I think we've got to get those small items off the project. Jim?

MR. GLASSON: Can I just give a suggestion? We do have a planting bed directly in front of the building here set back a good distance could we put you know if we limit the number of spinners? Now we're pulling ourselves back almost to the building face so it would be (inaudible) we could put them, we have a landscaped area right here directly between the building face and this area that we're going to have the outdoor furniture and the outdoor . . .

MR. STASZAK: It would be behind the outdoor furniture.

MR. GLASSON: It's behind the outdoor furniture but still in an area as display.

MR. STASZAK: Right.

MR. SELVAGGI: Can I just point out one other thing in terms of distraction I mean I think what we've had is . . . you've always had the sight triangles which are in large part intended to provide access. I mean in terms of distractions I mean candidly you can start from Johnson and drive all the way to Route 80 and there's probably any number of things that could present themselves as distractions as

your there. Again if we pull the spinners back, back into here I don't know but I don't disagree with Mr. McGroarty or Tiena I mean once it's approved it's approved.

MR. WEISS: I think we have to make a compromise. You know putting these sheds in the front yard setback is again I'm going to go back to Eric it makes sense they're automobiles without wheels but I don't know if I'm going to really support putting other small products out.

MS. COFONI: What about the suggestion of putting the spinners in that landscaped area right in front of the building? I mean to me that seems . . .

MR. WEISS: I can live with that.

MR. GLASSON: And the mailboxes.

MR. WEISS: Yeah small items.

MR. GLASSON: Those small items will be back there.

MS. COFONI: What's the other thing? There were spinners and something else over there.

MR. SELVAGGI: Mailboxes.

MRS. NATAFALUSY: Figures.

MS. COFONI: Figures.

MR. GLASSON: Figurines.

MR. McCORT: The silhouettes.

MS. COFONI: No, no not the silhouette but there's other figures I guess? Because you had like 15 of the spinners and 15 figures?

MR. GLASSON: Figurines.

MS. COFONI: Would those also be move to that landscaped area?

MR. McCORT: Those are the silhouettes.

MR. SELVAGGI: Those are silhouettes I think yeah.

MR. McCORT: They're silhouettes that's what the figures must be.

MS. COFONI: The figures are silhouettes? Okay.

MR. SELVAGGI: Yeah those black . . .

MR. McCORT: They look like dog cut outs?

MS. COFONI: Oh, oh, oh okay.

MR. WEISS: I think we just mentioned that those would go back by the building too.

MS. COFONI: Okay.

MR. RUSSELL: On the spinners, automobile dealerships put flags and things out, antennas and . . .

MR. WEISS: That doesn't make it right though.

MR. FLEISCHNER: But what is right?

MR. RUSSELL: That's part of retailing this is a retail establishment.

MR. WEISS: The applicant agreed to move it. Joe?

MR. FLEISCHNER: I just am blown away by this conversation. How many years have those spinners been on that corner on Route 46 and on the side?

MR. McCORT: Probably for about 8 years.

MR. FLEISCHNER: At least 8 years.

MRS. NATAFALUSY: Excuse me, without approval.

MR. FLEISCHNER: Without approval.

MRS. NATAFALUSY: Thank you.

MR. FLEISCHNER: Fine without approval. How many years has Johnson Chrysler had a car sitting on the grass at the corner of Naughtright Road and Route 46? We don't have to answer that question we all know it's been there for years without approval. The town has taken no action. I've lived in this town for 37 years, when Mr. McCort's property was a Krauzer's. I'm asking from the Police Department has any motorist, has there been any accident related to the spinners that have been sitting out there for at least 8 years? I don't know if there is.

MR. VAN NESS: Not that I'm aware of.

MR. FLEISCHNER: And now all of a sudden when we move it to an empty building which doesn't do Mt. Olive any good, now all of a sudden it's a problem. Now I understand the applicant says he's willing to move it but I find that in a way shameful that we actually are discussing this when the man is trying to make a living. We could say hey maybe you shouldn't be there let's leave it as an empty piece of property. Does it help Mt. Olive? No. Does it help the residents? Does it help someone trying to make a living? Does it help someone trying to pay taxes? No. I just find it absolutely ludicrous and if this has been a violation for 8 years then we need to go around the entire town and wherever there is a violation we need to go into every car dealer, we need to go into make sure that Lowe's, we need to make sure that everybody else who's doing a violation we need to do that immediately. And if we're willing to do that then I'm fine with it that's okay. But I just find this whole discussion, and it's nothing personal between you and I you know that, I just find that ridiculous.

MR. WEISS: Joe our job here is to correct and make things right.

MR. FLEISCHNER: Look . . .

MR. WEISS: And so if there's other violations we'll address those at a different time.

MR. RUSSELL: What makes spinners wrong?

MR. WEISS: The product is being sold in the front yard setback. There becomes a point where I said it earlier it is there to attract which I'm concerned that at highway speeds it's a distraction.

MR. FLEISCHNER: So does that mean we never should have approved the car dealerships where they all are? Because the Planning Boards, I'm sorry Mr. Mania is not here this evening because he approved a lot of this knowing that it's in the highway setbacks. But yet the Planning Boards for the last 25 years or 30 years approved all of these things. That's where I have the problem.

MR. WEISS: I think there's a fine line; I think the business is set up to sell. Granted they're selling but they're selling larger items like an automobile dealer is selling automobiles. So when they put other things in the front setback it goes against what is out there in the first place.

MR. RUSSELL: One of the signs shows Amish Mike and the spinners are Amish . . .

MR. McCORT: The spinners are not Amish.

MR. RUSSELL: They're not Amish?

MR. McCORT: No, no it's through a hardware vendor actually.

MR. WEISS: Anybody else?

MR. VAN NESS: I'm just going to throw my hat in the ring why not. I support the . . . I think that the application as it's presented minus the sight triangle items is sufficient. I recognize everybody's concern about the spinners some don't like the look of them some don't like them on the front yard setback, some want them farther from the road, some think they're a safety issue. You know he's compromising willing to reduce them and putting them along the curb I think that he's stepped up to the plate for that. I think we have worse distractions further down the road.

MR. WEISS: Does anybody else have an opinion? All right let's keep it moving at this point with no other further conversation and let me open it to the public if anybody has any conversation, any comment? Seeing none I'll entertain a motion.

MR. STASZAK: I'll make the motion we approve PB 11-22 with conditions.

MS. COFONI: With conditions? Okay and specifically what does your motion include with regard to the spinners?

MR. STASZAK: Bring them back to the curb line and aligning them with the sheds.

MS. COFONI: And reducing them to ten?

MR. STASZAK: No more than ten yes.

MS. COFONI: Okay.

MR. RUSSELL: I'll second that motion.

MR. WEISS: How are we going to address mailboxes?

MS. COFONI: Oh no the mailboxes I have a condition coming out of the site.

MR. STASZAK: Yes out of the sight triangle.

MS. COFONI: Yes.

MR. SELVAGGI: And we'd limit them to five.

MS. COFONI: And limit them to five. Well they're going to go somewhere outside of the sight triangle easement.

MR. GLASSON: Do you want them by the building or do I move them down to the far end? I mean I can move them here outside of the sight triangle or do you want them back by the building?

MR. STASZAK: Back by the building.

MS. COFONI: Okay.

MR. WEISS: So a motion has been made it hasn't been seconded.

MR. FLEISCHNER: Nelson did.

MR. WEISS: I'm sorry. So give Tiena a second and she will go through the conditions. If the motion is to be approved it will include the final following conditions.

MS. COFONI: Okay no use of the service bays for product storage, no indoor furniture to be stored outside. The shed storage area will be striped to delineate the organization of the sheds.

MR. MCGROARTY: The 20 foot aisle width will be delineated.

MS. COFONI: Okay. The lighting will be turned off and I did not catch the hours.

MR. SELVAGGI: Between 8:00 and 7:00.

MS. COFONI: 8:00 p.m. and 7:00 a.m. except security lighting over the doors. Mailboxes will be limited to no more than five and will be removed from within the sight triangle to be adjacent to the building within that landscaped area. The spinners will be reduced to ten and be moved back behind the curb and aligned with the sheds.

MR. GLASSON: To the curb not behind the curb. I can't move them behind it I have to move them facing the curb.

MS. COFONI: Back to the curb okay.

MR. GLASSON: Can I ask you a question before you finish?

MS. COFONI: Yes.

MR. GLASSON: The silhouettes, the same thing with the spinners can I do the same thing move those to the curb and align those also because there's ten of those.

MS. COFONI: Yes.

MR. GLASSON: Okay so we have that in there too.

MS. COFONI: No backing out of trucks onto the highway, I believe that's all of the conditions I have. Oh no the plans show a 35 foot by 135 foot sight easement for right turn only a deed description should be submitted for review and approval per Gene's report.

MR. BUCYNSKI: There was one item too in my report regarding a concern with the existing lighting in the rear actually be within the rear setback. I'm not sure if that's a concern of the Board because that was existing conditions from before and leave it there that's my opinion. Because I think, there's no affect on the adjacent property in the rear.

MR. GLASSON: No it actually goes uphill and there's a roofline there.

MR. BUCZYNSKI: Right so there's no harm no fowl.

MS. COFONI: Okay.

MR. WEISS: Dan?

MR. NELSEN: Clarification Tiena, there's 10 spinners; there's 10 silhouettes that's 20 somethings.

MS. COFONI: Right all to be moved back to the curb and aligned with the sheds.

MR. NELSEN: Right I see one, two, three, four, five, six sheds so you're going to have 20 of these figurines in front of those six sheds and will that suffice?

MR. SELVAGGI: Let's put it this way what we'll do it they'll be six silhouettes in front of the sheds so then what will happen is it will give the silhouette it will almost be like me standing in front of this thing. And then the spinners would be down also in front.

MRS. NATAFALUSY: Right.

MR. SELVAGGI: Because then the silhouettes you'd have a background for each one of them. You might be able to get, because the spinners are smaller, two of them in front of the you know see the way those buildings are aligned, but again no more than 10.

MS. COFONI: Okay.

MR. WEISS: Okay those conditions met your accepted, your motion is acceptable, seconded, any further conversation? Catherine let's take roll call.

MRS. NATAFALUSY: Dan Nelsen - yes
Joe Fleischner - yes
Nelson Russell - yes

Mayor Scapicchio	- yes
Jim Staszak	- yes
Scott Van Ness	- yes
John Ferrante	- yes
Howie Weiss	-

MR. WEISS: Well you know this is the latest we've gone in a long time Mike so we must have wanted to get this one done ourselves but I can tell you that I am going to agree with Joe Fleischner actually. I think Joe makes a very good point I think we and maybe with the new Administration should beef up enforcement and we should go out and find violations whether it be the car dealer that you found, and that being said I don't think we should create new violations. I think protecting those front yard setbacks items that are designed to attract also distract and I think when you're talking about a distraction on a highway its bad. And I don't like it and in this case I don't want to come across as I'm not in favor Joe of bringing new business into town but being that I can get away with this one I'm going to vote no. I don't want to support this type of activity. Congratulations good luck to you.

MR. SELVAGGI: Thank you. Thank you very much for staying late we really do appreciate it. Happy Thanksgiving everyone.

MR. WEISS: Thanks Mike you to. Any other further business? Motion to adjourn?

MR. STASZAK: Motion to adjourn.

MR. WEISS: All in favor?

EVREYONE: Aye.

(MEETING ADJOURNED AT 10:45 P.M.)

Transcribed by:
Lauren Perkins, Secretary
Planning Department