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: Joe Fleischner, Brian Schaechter, Nelson Russell, Henry Fastert, John Mania, Dan Nelson, Kim Mott, John Batsch, Howie Weiss

Members Excused: David Koptyra, Scott Van Ness

Professionals Attending: Chuck McGroarty, Planning Consultant, Scott Eveland, Esq., Catherine Natafalusy, Planning Administrator/Secretary

Professionals Excused: Eugene Buczynski, Township Engineer, Edward Buzak, Esq.

APPROVAL OF MINUTES

MR. WEISS: Thank you, Catherine. I don't believe we have minutes, do we?

MS. NATAFALUSY: No.

COMMITTEE REPORTS

MR. WEISS: We do though; I carried from last week the Community Reports now that everyone is here. Let's start with that. Do we have…

MS. NATAFALUSY: Oh I dropped that off…

MR. WEISS: That's ok; I kept that in the back of my mind. Environmental Commission, anything, Henry?

MR. FASTERT: No, nothing.

MR. WEISS: Open Space, Kim?

MS. MOTT: Yes, we met on Monday and we put together a proposed budget and we talked about putting in a new trail and completing the trail off 206 up to Silver Spring Farm.

MR. WEISS: Ok, Nelson anything from the Mayor?

MR. RUSSELL: Nothing from the Mayor.

MR. FLEISCHNER: John, anything from the Council?

MR. MANIA: Yes, we passed an ordinance at our last meeting about the incinerators any further development will not be allowed to put in incinerators in. Incinerators are garbage disposals.

MR. WEISS: It's tough to enforce thought isn't it?

MR. MANIA: Pardon?

MR. WEISS: Isn't that tough to enforce?

MR. MANIA: They don't seem to think so or our attorney.

MR. WEISS: Ok, thank you for that. Anything, Henry, from the…from the…Joe?

MR. FLEISCHNER: Don't look at me.

MR. WEISS: I'm not going off a script. No, committee, Joe, committee…

MS. NATAFALUSY: Environmental…Ordinance Committee.

MR. WEISS: Ordinance Committee, thank you.

MR. FLEISCHNER: Nothing from the ordinance.

MR. WEISS: Did I miss anyone? Brian, Board of Ed?

MR. SCHAECHTER: School started last week. Everything went off without a hitch. So, we are good to go. We do have the vote coming up on September 27th, full-day kindergarten. I will tell folks, just go out and vote. It's a good thing.

MR. WEISS: Thank you, Brian. I have nothing from Street Naming Committee. Catherine, did I miss anybody?

MS. NATAFALUSY: I don't think so.

MR. WEISS: I am in desperate need of a script for text time.

MS. NATAFALUSY: I don't why I put minutes down and not Committee Reports.

MR. WEISS: That's ok. We do have two resolutions on tonight's agenda.

APPROVAL OF RESOLUTIONS

EXTENSION REQUEST, PB 10-23, BRUNO, BLOCK 1201 LOT 2.02

MR. WEISS: The first on is PB 10-23, Richard and Lidea Bruno, would someone please make a motion on that resolution?

MR. MANIA: I'll make the motion.

MR. NELSON: Second.

MR. WEISS: Thank you, John. And second was…was Dan. Any conversation? Seeing none, roll call please.

ROLL CALL:

Brian Schaechter	- yes
Nelson Russell	- yes
Henry Fastert	- yes
John Mania	- yes
Dan Nelson	- yes
John Batsch	- yes
Howie Weiss	- yes

RESOLUTION 16-15, OLD HICKORY ESTATES, BLOCK 16-15, BLOCK 3107 LOT 10

MR. WEISS: The next one PB 16-15, Old Hickory Estates.

MR. SCHAECHTER: I'll make a motion to move PB 16-15, Old Hickory Estates.

MR. MANIA: Second.

MR. WEISS: Brian, John, thank you very much. Any conversations, questions? Seeing none, Catherine, roll call.

ROLL CALL:

Brian Schaechter	- yes
Nelson Russell	- yes
Henry Fastert	- yes
John Mania	- yes
Dan Nelson	- yes
John Batsch	- yes
Howie Weiss	- yes

MR. WEISS: Catherine, I just gave a sign to Scott.

DEVELOPMENT MATTER – PB 16-20, D'AMICO, BLOCK 3405 LOT 8

MR. WEISS: Which brings up right into the first Developmental Matter of the evening, first one is PB 16-20; hold on before I do that. Let me just make an announcement that on our agenda tonight PB 16-23, Paramount Plaza, LLC property located at 135 Route 46, Block 4100 Lot 62 is not on the agenda. But it will be carried to October 20th and there will be no further hearing…no further notice. So if anybody here tonight is to sit for Paramount Plaza, that will not be heard tonight and it will be carried to October 20th with no further notice. Seeing no one was here for that, we do have our first Developmental Manner PB 16-20, Andrew D'Amico is here for a Variance for the front and side yard setback for his property located at 16 Woodsedge Avenue which is Block 3405 Lot Number 8. Everyone on the Planning Board is eligible to vote. Mr. D'Amico, if you would please, come to the table. Our attorney will swear you in.

(ANDREW D'AMICO IS SWORN IN FOR THE RECORD)

MR. EVELAND: If you could state your full name for the record please.

MR. D'AMICO: Andrew D'Amico, I do.

MR. WEISS: And your address is 16 Woodsedge Avenue?

MR. D'AMICO: Correct.

MR. WEISS: Feel free to sit down and relax. I know Mr. D'Amico. We all have copies of…why you're here. What we need to do tonight is kind of set the record. And I want you to tell the Planning Board what you want to do, why you are here, and kind of just summarize for us what your application…

MR. D'AMICO: Sure, I lived at the home since 2010, comfortably with my wife and child. We had another child recently which was a little surprise but it's all good. I need to add another bedroom. So we want to go up and since the house is a little small, it was a nice little starter home; I wanted to put a cantilever on the front and back of the property. As well as, a like…a front porch so that when my wife is coming home in the rain, she's not rained on with the two children. And the variance, I guess, would be the setback from the front of the property…from the road. At this point, I believe it would be just another two feet, currently. There would be nothing to the left or the right because the one side, I am very, very close to the property line as it is…from previous building.

MR. WEISS: Ok, I see according to the report that you are here for four different variances. Catherine, would you please, why don't you note for the Planning Board what those variances are and state for the record.

MS. NATAFALUSY: Ok, he's encroachment in the side yard setback for the deck in the back of the house.

MR. D'AMICO: That is scratched from the plans.

MS. NATAFALUSY: Ok, so that's…

MR. D'AMICO: I apologize.

MR. SCHAECHTER: You sure you don't want it?

MR. D'AMICO: I mean…

MR. SCHAECHTER: Ask for it now.

MR. D'AMICO: I'm not putting it in now but I mean if…if in the future, I mean, so we'll leave it.

MR. WEISS: Maybe ask, answer Mr. Schaechter's question.

MR. D'AMICO: Yes, sure.

MR. WEISS: its pretty sound advice.

MR. D'AMICO: I appreciate that, Sir, thank you.

MS. NATAFALUSY: He also needs a variance for cantilever over the side of the house. And the question came up when I went out there and I looked. Is…there is already a cantilever, but is this going to…the house is very close to the side lot line.

MR. D'AMICO: Correct.

MS. NATAFALUSY: So, if this cantilever is 3 feet and your house is at 1., 2.3 feet from the side lot line, that means you're going to be…

MR. D'AMICO: There is nothing, there will be nothing that I'd done to the side. It's only the front of the building and back of the building. The hang…

MS. NATAFALUSY: The overhang…

MR. D'AMICO: …the overhang right now is just a roof…

MS. NATAFALUSY: To the second floor.

MR. D'AMICO: Correct, that will be…that will come to the exact point of just…

MS. NATAFALUSY: So it's going to be straight down.

MR. D'AMICO: Exactly, it's just elevated now instead of right where it is. So there will be no further movement.

MS. NATAFALUSY: I'm confused. I thought the plans showed that you were doing that around…

MR. D'AMICO: No, mam', just the front and the rear of the building because of the fact that it is so close there will be no room to bump that out. Yes, mam'.

MS. NATAFALUSY: Straight up. Ok, so then you're going to have to submit revised artichecturals plans. Ok?

MR. D'AMICO: Ok.

MS. NATAFALUSY: So that…

MR. D'AMICO: The plans show a bump there. I'm not…I don't believe so.

MR. WEISS: I think the plan would show that…Page 3 really shows the…there's a deck off the back, that's in the back?

MR. D'AMICO: Currently, Sir? It's just a concrete patio that I would put a deck over.

MR. WEISS: You don't have your plans with you, right?

MR. D'AMICO: I do not.

MR. MCGROARTY: Mr. D'Amico your existing one story residential home, you have a pitch roof…

MR. D'AMICO: Correct.

MR.MCGROARTY: And it extends…we're calling it a cantilever…

MR. D'AMICO: Understand.

MR. MCGROARTY You want to put the second level up? New roof? It's going to look…it's going to extend out no further than it does today?

MR. D'AMICO: That's exactly correct.

MR.MCGROARTY: On the sides?

MR. D'AMICO: Absolutely correct.

MS. NATAFALUSY: Ok, so we're down to a variance for side yard setback for the deck and variance for front yard setback for the porch.

MR. D'AMICO: And there will be a cantilever for the second floor in the front of…according to the plans, I believe its two feet.

MS. NATAFALUSY: Ok, well the porch comes out.

MR. D'AMICO: The porch will be the furthest thing out, yes, mam'.

MS. NATAFALUSY: And then he will be exceeding maximum permitted lot coverage which in the zone district is 30 percent and with the patio and everything else that the deck and everything he is going to be at 35 percent. I did calculations without the addition and without the deck; he would still be over at 33 percent. So he needs a variance regardless for lot coverage.

MR. WEISS: For lot coverage.

MR. D'AMICO: For lot coverage, right.

MR. WEISS: Ok. So let's start addressing these requests. And let's talk about why you need them. You have the obligation and I'll certainly help you through it. With…to explain to the Planning Board why you can't build a property without asking for a variance.

MR. D'AMICO: Ok, the size of the house is quite small. It was just a great way to get my foot in the door to live in Mount Olive and we've outgrown that quite quickly. In order to…you know kind of stretch out a little bit…the variance, I'm sorry the cantilever in the front and back would make my home significantly bigger, much better to live in for long term which is my plan. I mean the school systems here are great, I would like to stay.

MR. WEISS: So, to keep it in…in land use terms, you're basically saying to us that property is underside…a little small…for the home that you need to build to satisfy your needs for your family, you don't have any other option. You can't move it anywhere else…

MR. D'AMICO: That is correct.

MR. WEISS: You couldn't build backwards to…non-encroaching somewhere else. You couldn't move right or left without making it encroach.

MR. D'AMICO: That is correct. Thank you.

MR. WEISS: Ok, so now tell me about your neighborhood, to the right and left of your home. Are there homes?

MR. D'AMICO: Ok, there are.

MR. WEISS: Is there developed land?

MR. D'AMICO: Yes, the home directly to…if you're looking at my home…directly to my right which would be 14 Woodsedge is pretty much the exact same plan that I'm asking for except that he doesn't have the front porch that I'm…

MR. WEISS: You're telling the Planning Board that you don't have an option to purchase property on this side to make it…

MR. D'AMICO: Oh, no not yet, it's…it's built up.

MR. WEISS: Behind you, the same thing?

MR. D'AMICO: Correct, Sir.

MR. WEISS: Ok, so it doesn't sound like you have the ability to…to build anywhere for except for where it is.

MR. D'AMICO: That is correct.

MR. WEISS: Ok. Yes, I just want that on the record. I know the neighborhood.

INAUDIABLE

MR. WEISS: Ok, so the other variance you need is maximum lot coverage. So tell me again, the answer should be similar.

MR. D'AMICO: It is similar and there's not…I can't purchase other land. There's no, I'm not really covering any more land than I currently am. The…everything's covered. The deck would be over a previous poured concrete. So that's already covered. And there's nothing else.

MR. WEISS: Catherine, is it consistent to say that the lot coverage is the same now as it was that's it's going to be? His lot coverage right now.

MS. NATAFALUSY: His lot coverage right now is 33 percent, he's going to 35.

MR. WEISS: Ok. So, it's a slight…2 percent.

MS. NATAFALUSY: Right.

MR. WEISS: And it's for the front porch. And if you were to take away the front porch, and not have a variance would that…

MR. D'AMICO: The aesthetics of the home would…I think…would drop significantly therefore the land value and the…

MR. WEISS: Well, sometimes it makes sense if you were to do that, so if you're tell us that is makes better sense instead…

MR. D'AMICO: Absolutely, 100 percent.

MR. WEISS: That's an acceptable answer. Tell me again, go back to the property, your home, is it similar to the other homes in the neighborhood?

MR. D'AMICO: Yes.

MR. WEISS: And will your addition make your home substantially larger, will it be any kind of deterrent, will it be an eyesore, anything out of the ordinary?

MR. D'AMICO: No, Sir, the 14 Woodsedge directly next to me started as my home and has a second floor. 18 Woodsedge has a second floor and it is setback significantly further in their yard. So my house is kind of the oddball now. There's two big second stories and my little guy in the middle.

MR. WEISS: Ok, so other homes in the neighborhood are also two stories.

MR. D'AMICO: That is correct.

MR. WEISS: Other homes in the neighborhood have similar size property?

MR. D'AMICO: Correct.

MR. WEISS: I think that Mr. D'Amico clearly just demonstrated that there is no negative here. He demonstrated the negative criteria by telling us that there is no detriment to the community and, therefore, it will not impact the zone plan. Would you agree with that?

MR. D'AMICO: I do, Sir.

MR. WEISS: Obviously Mr. D'Amico stated the positive criteria by telling us about the conditions that are there and the hardship that he faces and I think he satisfactorily addressed the positive criteria. I have no further questions. Do you have anything to add?

MR. D'AMICO: No, Sir. Thank you very much.

MR. WEISS: Catherine, do you need to address anything else that was on that report?

MS. NATAFALUSY: No, I think…I think we are good.

MR. WEISS: Ok, any comments or questions from the Planning Board?

MR. MANIA: Just a quick question.

MR. D'AMICO: Yes, Sir.

MR. MANIA: You said the house was small.

MR. D'AMICO: It is.

MR. MANIA: I'm curious, how many square feet?

MR. D'AMICO: I believe it's like 800, at the…

MR. MANIA: That is small.

MR. D'AMICO: It was a tiny starter home, but she grew up very quickly, so…

MR. WEISS: John, Catherine stated 684.

MR. MANIA: 684

MR. D'AMICO: 684, so I was off. And now I have another daughter and…

MR. WEISS: Mr. D'Amico we like consistency and accurate numbers when you speak to the Planning Board. We'll let you know on that one.

LAUGHTER

MR. WEISS: I see nothing else from the Planning Board. Does anybody from the public that has any questions for Mr. D'Amico based on the testimony delivered, I see nothing from the public. So, I'll close to the public. And let me turn to the Planning Board, if anyone would like to entertain a motion, John.

MR. MANIA: I'd like to make a motion to approve PB 16-20, Andrew D'Amico Variances Front and Side Yard Setback.

MR. FASTERT: Second.

MR. WEISS: Henry, John, thank you. Henry on the second. Any other comments from the Planning Board? Looking good. Catherine, roll call please.

MS. NATAFALUSY: Ok, just to confirm that this is going to be the front porch and the deck that's going to be included in the variances. Ok?

MR. WEISS: Yes, it looks like it.

MR. MANIA: Yes.

MS. NATAFALUSY: Ok.

ROLL CALL:

Joe Fleischner	- yes
Brian Schaechter	- yes
Nelson Russell	- yes
Henry Fastert	- yes
John Mania	- yes
Dan Nelson	- yes
Kim Mott	- yes
John Batsch	- yes
Howie Weiss	- yes

MR. WEISS: Mr. D'Amico good luck. What will happen now is that next month we will read the resolution. We will memorialize what we did tonight at that point you can pick up a copy of it. Take it to the building office and start moving forward.

MR. D'AMICO: Excellent, thank you very much. Thank you very much.

MR. MANIA: Mr. Chairman, let the record show I'll be stepping down on the next application.

MR. WEISS: Thank you, John. Would you grab the pictures and bring them to Catherine? Take the long way, thank you very much.

MR. RUSSELL: Have the record show that Nelson is also stepping down.

MR. WEISS: Record will show that John, as the council representative, and Nelson, as the Mayor's Liaison, are stepping down as they have to by law. If you're staying welcome, if not see you soon.

DEVELOPMENT MATTER – PB 16-11, BUDD LAKE THREE INVESTORS, BLOCK 3109 LOT 8

MR. WEISS: I believe we are ready to start PB 16-11, Budd Lake Three Investors, but we are short an attorney. I don't know where Mr. Selvaggi is but we can certainly…fine, thank you. Hello, Michael.

MR. SELVAGGI: Good Evening, how are you?

MR. WEISS: Very good. I just…Mike I just introduced PB 16-11, Budd Lake Three Investors, here for a D Variance Preliminary and Final Site Plan with Waivers, property located at 118 Route 46, Block 3109, Lot 8. And as you're getting…as you're getting ready, what I'll do is let me summarize and then I'll certainly give you the opportunity to confirm or deny or…this is our third application…this is our third hearing on this application. The first one was on June 9th, the second was on July 21st. When we completed the meeting on July 21, we ended with exhibit A5 so if you wanted to introduce anything else, I believe it will be A6 and we ended that night with testimony from your planner, Jessica Caldwell. And at which point I opened it to the public for questioning of Ms. Caldwell which keeps us fairly clean and accurate. Also as we concluded that evening, Mike, you told me that have some plan revisions and Mr. Glasson would come up and well as testimony from a Sound Engineer. I suppose if you have anything else, you'll let me know, otherwise we'll…

MR. SELVAGGI: No, that's…that's accurate. We're going to proceed with the testimony concerning the Sound Expert. That will be our first, so we have Matt here. Again for the record, Michael Selvaggi, on behalf of the applicant and I think we can get right into it, Mr. Chairman. I don't know if you're familiar, you might remember, he was the sound consultant on the Eleventh Hour application a couple years ago.

MR. WEISS: Ok. So when you're ready Mr. Murello.

(MATTHEW MURELLO IS SWORN IN FOR THE RECORD)

MR. EVELAND: If you could state your full name and professional address for the record please.

MR. MURELLO: My name is Matthew Murello (M U R E L L O), I'm with the firm of Lewis, Goodfriend & Associates, 760 Route 10, Whippany, New Jersey.

MR. SELVAGGI: And Matt, what's you educational background, as well as licenses, professional licenses you hold.

MR. MURELLO: I have a Bachelors of Science and Mechanical Engineering with emphasis on acoustics. I am a Licensed Professional Engineer in New Jersey and six other states. I provided expert testimony in the field of acoustics on over 150 applications throughout the State of New Jersey, including this municipality. And I could keep going if you want…

MR. WEISS: We certainly have heard from Mr. Murello before.

MR. MURELLO: Yes, thank you.

MR. WEISS: Does anybody on the Planning Board have any questions for Mr. Murello? I have no problem accepting him as an expert in Sound Engineer.

MR. MURELLO: Thank you, Mr. Chairman.

MR. WEISS: Welcome, again, Mr. Murello.

MR. SELVAGGI: Matt, for what reason or purpose were you retained by the applicant here?

MR. MURELLO: We were asked to look at the potential for sound impact on the adjacent properties to this application due to truck traffic and the proposed HVAC units that have been testified to for this particular application, this 7-Eleven.

MR. SELVAGGI: And you've engaged in that investigation?

MR. MURELLO: Yes, I have.

MR. SELVAGGI: And what was the…what's your opinion as to what impacts if any will be experienced by this adjacent property?

MR. MURELLO: Overall, the only continuous noise that may exist at this particular site would be three roof top units that are proposed to be installed. Those rooftop units would be acoustically screened on all sides that would be exposed to the property line that would be the west, the north, and the south, And those units wouldn't produce any sound levels that would be in excess of the nighttime…excuse me…nighttime noise regulation or the existing sound levels and I'll get into that. As far as the truck traffic or the potential truck traffic on this site we looked at tractor trailer operations during the day time hours. As well as, we looked at small delivery trucks that might occur during the day time or night time hours. And our evaluation with the additional noise control, which I'll discuss tonight is that we don't expect that to exceed the noise regulations appropriate for the municipality in the State of New Jersey or be anything out of character to what exists presently at that property line the dominate noise source would of course be Router 46.

MR. SELVAGGI: Alright, so let's start perhaps, your choice, the HVAC units or the trucks?

MR. MURELLO: Let's start with the base line sound levels. So, Mr. Chairman, you said we are on A5?

MR. SELVAGGI: Yes, we are at A6 now.

MR. WEISS: A6 will be your next one.

MR. MURELLO: So, if I may, I have copies, I have two exhibits.

MR. WEISS: Ok.

MR. MURELLO: And I guess we'll start with A6, which I have blown up here. You guys want me to turn it so you can try to see it too?

MR. WEISS: No, it's going to be difficult to do. What I want you to do, Mr. Murello is just tell us what A6 is.

MS. NATAFALUY: Might be better over here because now the board can't see.

MS. MOTT: Because now everyone can see it.

MR. MURELLO: That makes more sense.

MR. WEISS: Mark it A6 with today's date of September 15th.

MR. MURELLO: So, A6 labeled Figure 1 is a chart of the resulting sound pressure we measured. So as I said, one of the first things we did on this site. We went out on August 23rd, starting about 3 or 4:00 in the afternoon, actually we starting making measures a little after 4 about 4:20. We set a measuring device up along the property line. I lost where I was. On the west property, the residential property line to measure the sound levels continuously over a 24 hour period. The purpose of this was to really establish what the base line sound levels were so that we can answer the potential question of…well even if we have noise that is compliant with the code, is it going to be something that's unacceptable and out of character to the area? So with reference to Exhibit A6, you'll see on here we have time on the bottom they start from about 4:00 pm to 3:00 pm the next day starting on August 23rd. As we go up here we have basically four lines. These four lines are what represent and basically statically lowest sound levels that occurred to the L10 or almost the highest sound level. What I don't put on here are the maximum sound level every hour because that more often than not is due to one vehicle or two vehicles that travel and that really wouldn't be representative of what exists on the property line. But what's important to know is that the…during the day time hours…now in terms of noise, day time is from 7:00 am to 10:00 pm during the day time hours the average sound level which is the red line ranged from 6100 to 6500 DVA. During the night time hours which is 10:00 pm to 7:00 am the sound level averaged from 5400 to 6400 DVA and again that's this red line here. The next thing I want to refer to and I'll leave that up for one moment just so we have a…

MR. MCGROARTY: If I may just…so where do you measure that then, at the highway or in the back of the property or where do you measure it?

MR. MURELLO: So what we did to measure that is we actually measured it at the existing property line and I…this looks like A2 for reference. We measured it along the northwest property line. The existing fence line that's closest to Woodland out, there is an existing fence along there with a residential property line. We actually affixed it to that fence, chained it up, and left it there all day. This is on the north side of the site right along the resident property line. So obviously the dominant noise source that existing over this 24 hours was Route 46 and as I said the sound levels ranged the numbers I already testified to. With respect to the code as this board is well aware of, the State of New Jersey and municipality both have a noise regulation. That regulation limits the continuous noise depending on the land use receiver in this case we are talking about a residential receiver and the time of day. Daytime being 7:00 am to 10:00 pm. Nighttime being 10:00 pm to 7:00 am. During the daytime hours, the regulation or the regulatory limit is 65 decimals on an A rated scale or DBA and at night it's 50 DBA. So that's the existing conditions and the code. What I'd like to talk about next it the rooftop units. I believe there's been testimony already that they are proposing to put three HVAC units on the roof and that the location and type have already been testified to. Is that correct?

MR. SELVAGGI: Yes.

MR. MURELLO: So I won't rehash that. What we did is we used the manufacturers who published just like they do the rest of the data for these units. They also gave us sound level data for these units. We took the manufactures data and we calculated what the overall sound level would be at the north…excuse me…the north residential property line, the southwest residential property line. Going back to A2, what we are talking about are the two residential lots that are adjacent to this, the north residential property line being here, the south residential property line would be this interesting little niche we have here. So the three roof top units are located on what is identified as the addition. They are basically one story up. As I said they'll be screened with acoustical barriers and we've calculated those sound levels will be 46 DBA at the southwest property here and 47 DBA at the north property line here along the other side. Those sound levels again would be below the 50 DBA requirement and also if they were to operate 24 hours a day which is possible, if you look even in the middle of the night, the sound level never goes below 50 DBA at the quietest which is 2:00 to 3:00 in the morning. So the operation of these units A will be compliant with the nighttime limit of the regulation and B will also be not exceeding what the average sound level is out there presently and that's why we

also recommended that additional noise screening on that which it is also shown on the plans. Ok, so, the last piece we were asked to look at was the potential for truck noise. To evaluate this because we weren't able to measure trucks on this particular property what we did is a very similar methodology to the roof top units. Except in this case we don't have manufacturers' data for trucks. We do a fair amount of work where we evaluate truck noise. So we've gone out and actually made measurements of ourselves of large tractor trailers, WB50, 52's, the large…like you see and we've also made measurements of different types of deliveries truck and trash trucks and things like that. So we took that measured data…we did on other sites…and what we did is we calculated the same methodology what the south levels would be with a tractor trailer backing into the loading area on the north side of the site. That includes the backup alarm, includes the truck as it travels backwards, and then we assume that the truck is not going to run anymore. But part of that number is the idling engine as well. So if it were it idle the sound levels wouldn't be any higher. To do this we took the maximum sound level the truck would make over that period which I think we measured for about two minutes from the rear of the truck. So you assume the truck is backing into where the microphone is as the backup alarm it runs its engine and stops. In order to reduce the sound levels from that truck, we've recommended that we put in and install eight foot high wood noise barrier which leads me to the second figure. Would you like Mr. Chairman to label that as A7 or should we…

MR. WEISS: No, please mark that as A7.

MR. MURELLO: Yes, Sir.

MR. FASTERT: Sir, before you talk about your remediation, what was…what are the sound levels?

MR. MURELLO: The sound levels were just over…let's see…it was about…it was just over 65 DBA and most of that, I know the concern with trucks is that they back up is the backup alarm. And that's because it's designed…it's a double edged sword. So the backup alarms is designed to product that very specific tone that is the most audible to the human ear. Right around 1,500 HURTS, and that's why we can all hear it from a distance. However, numerically it really doesn't, if you were just to measure it on a sound level meter isn't that loud per say. So what we did do is we measured…we took that data calculated what it would be. It would have been without an additional barrier just over the 65 DBA requirements the engine and the backup alarm and everything. Now, there was also discussions and I'll get to labeling this A7, about nighttime delivery trucks not tractor trailer but produce trucks, smaller trucks and they would be only limited to the front of the building with or without this noise barrier these delivery trucks would be…excuse me…were calculated to be below 50 DBA because you have a 7-Eleven in between a residential property line and the location of the trucks. Just let me identify this as A7.

MR. SELVAGGI: So it's 50 DBA at the fence.

MR. MURELLO: Yes, when we evaluated it at the property line. Ok, so, both of these residential structures are single story structures. So we didn't evaluate it at a higher height. We looked at five foot high evaluation.

MS. NATAFALUSY: So, what's the title of that?

MR. MURELLO: Hold on one second, this is a Site Plan that was prepared by Civil Engineering, Inc. The only thing I changed to this is I've identified where the proposed eight foot high wooden noise barrier would be located which is identified in a red line. So, I did not prepare this drawing. I only drew a red line on the drawing.

MS. NATAFALUSY: Right, what's the date?

MR. MURELLO: I'm sorry, this is Civil Engineering Landscaping Plan for Lot 8, Block 3109 dated 3/28/16.

MS. NATAFALUSY: Ok, thank you.

MR. MURELLO: Sure. So, getting back, we have the loading area which I've testified to on the north side of the parking lot and we have the area in front of the property which would be on the east side of the building where the nighttime trucks would be. And these are just the deliveries of the smaller trucks. We recommended an eight foot high wooden noise barrier. I have some literature if the board would like to see what we are talking about but it is a board on board solid fence, not a picket fence, not a board…not a fence you can see through. It's designed with acoustics in mind. We recommend it on several occasions. They are located all throughout New Jersey. As a matter of fact,

there is one of these we just did about four years ago at a similar application on Route 18 in New Brunswick. But this type of fence has the design of reducing the noise on the back side of it and it will be very effective at eight feet because we have the tractor trailer which the noise is going to be lower than that and the units in front of the building which also will be lower than that. So with this barrier we calculated a maximum sound level of the truck of just under 65, it would be 62 DBA. And that production from what I testified to already without the barrier is solely due to the location of that barrier. With or without the barrier, we expect the sound levels to be 49 DBA and most of that is the ambient because you can't take away the background sound level. Route 46 is going to go 24 hours a day, seven days a week. We can't make it quieter than that. But what we can do is take the continuous noise or the noise at night and try to get that to be below what the existing sound levels are. And with the addition of this rooftop screen and the barrier, we expect that to happen. Yes, Sir.

MR. NELSON: You testified that it wasn't necessarily the DBA's that are causing disturbance; it was the actual frequency of the back tones that actually caused…

MR. MURELLO: Yes.

MR. NELSON: What is the fence do to the frequency, change it at all?

MR. MURELLO: No, it doesn't change it but what happens is, is that the higher the frequency sound the better a structure like this attenuates noise and we kind of notice intuitively if you've been outside and you can hear the bass from a car going down the road and that's all you hear is the bass. And you think, well that's pretty terrible whatever they are listening to, but all the other high frequency noise are actually intonated by air, the car, the wind, etc., etc., It's only the low frequency. The advantage we have in this case is that backup alarms are always installed on the back of the tractor and low. Which is no higher that two and an half feet off of the wheels. This barrier being eight feet will also intonate those backup alarms just like they would ……..

MR. NELSON: What is the reduction in DBA on the other side of the fence?

MR. MURELLO: The overall reduction not in the tone but in the overall reduction was about five decimals overall and keeping in mind, I'm sorry, Mr. Nelson, just want to finish my thought. When we did this we took the maximum sound level. So when we measure trucks something that doesn't stand still. What we do is stand in one place and we let the truck do a maneuver whether its side, forward, or backwards and we measure over that site usually its 30 seconds to a minute. We take the highest one second sound level, the maximum and we use that sound level to model the rest of the maneuver…as you can imagine…as the truck get further away or pulls away are lower. So what we're giving you here is the worst case truck noise as far as not the average of the maneuver. So I just wanted to get that thought in. So, I'm sorry.

MR. WEISS: Dan, go ahead.

MR. NELSON: So, I know you mentioned that it's a wood barrier. Are there any other materials that are more effective in reducing the backup along…

MR. MURELLO: Well, I mean, sure, anybody who's lived in Jersey for more than a month had driven on the highway and sees the large highway noise barriers that are in place. Those barriers…inaudible…correct, those are concrete post and panel and I would just like to provide this to the board so you have an idea. This product is called Plywall by Hoover Treated Wood Products; you can have this as an exhibit. This particular product is a similar construction so its posts and panels that sit…

MR. WEISS: Hold on, Mr. Murello, we are going to need to mark that, mark that A8.

MS. NATAFALUSY: A8.

MR. MURELLO: And that is for descriptive purposes a brochure from the Hoover Treated Wood Products Plywall. I'll be happy to provide one to the residents if you would like to see it. Is that ok, Mr. Chairman?

MR. WEISS: Yes, please.

MR. MURELLO: So, this is a similar construction so it's a post and panel. You have posts that are dug down, they have channels in them the barrier panels themselves slide in and they create a barrier. There are no seems, there's no gaps. It's a very effect noise barrier. It's about as effective in a situation

like this is you're going to get for these types of…for these types of issues. Could you put something in more massive like concrete or metal? Sure, but my experience is putting concrete on a site like this eight feet or putting a metal barrier with absorptive face ascetically and costly wisely adjustably 7:41:56 just is not a good idea. I have had a lot of success with these on various applications because ascetically they look nice and from an engineering standpoint they do about as good as it's going to get at blocking the sound. So,

MR. NELSON: So there's no better absorbed material?

MR. MURELLO: We could…we could put a metal panel barrier up there that has absorptive face or we could put an absorptive face or a blanket per say.

MR. NELSON: Right.

MR. MURELLO: But those tend to not last very long especially in a situation like this when you're going to have people going in and out of there. You can't like incase it in something unless you put a metal panel fazed to it.

MR. NELSON: I was thinking something else, something that would adhere to the, you know, the side of the fence basically.

MR. MURELLO: Not really, not that it can't be tamper proof. There are things that you can put there can easily be picked off. I try not to do that unless you know there is something, it's in an area where no one is going to be anywhere near it just because it get picked apart and ripped.

MR. NELSON: What would be…if you did do this…what would be the additional…

MR. MURELLO: I don't know. It's wouldn't be that significant to be honest with you in this particular scenario.

MR. SCHAECHTER: I got to be honest with you; in the brochure that you get sent out, it looks like most if not all of these are over eight feet. I mean in the picture…I'm just concerned with this…I mean I'm just looking at the picture and I'm looking at things like the tractors…the cars, the ladders…inaudible…these look like 16 feet tall in the brochure except for maybe one picture…inaudible...probably 10 or 12 feet.

MR. MURELLO: Can I make this an addition to A8, just a supplement to A8?

MR. WEISS: We will call it A9.

MR. MURELLO: Darn, I should have put it in here first. We will call these A9.

MR. WEISS: Why don't you tell us what A9 is.

MR. MURELLO: I will. So, A9 is a series of two photographs I took of this particular barrier being installed in applications in New Jersey. The first of which because I just forgot already which order I gave them to you in. One of them happens to be an eight foot high wall at a convenience store, gas station located on Route 18. The second of which is a nine foot high wall around a cell…cell tower equipment. So, you'll see there's a water tower to the right of the barrier and then you'll see the barrier located there so these barriers are very effective we recommend them anywhere from about six and an half feet to about 25 feet. And you know I have no control over what the manufacturer publishes that just for illustrative purposes you can see that those two photographs. And I did take both those at job sites. One of which is in Hanover, New Jersey, one is one of the Brunswicks.

MR. SCHAECHTER: What would be the effect of putting a tall…

MR. MURELLO: Well you would get a little more intonation you go higher and higher to a limit. I mean generally in an application like this you could probably go 10, 11 feet and anything after that really wouldn't give you any engineering benefit to it. But eight feet I find to be a comfortable amount for a set like this and also it does give us the reduction that we need with a healthy amount of set factor safety as well.

MR. NELSON: Chuck are there other limitations to the height of such a barrier in the town?

MR. McGROARTY: Well we can check but in the scheme of things if it exceeds the height, that would be a variance that would address as part of….Catherine is saying only in the residential zones.

MS. NATAFALUSY: There's a height limit on a fence in a residential zone.

MR. McGROARTY: In this case, the answer would be…there's no limit…I mean…it's a variance…

MR. NELSON: In the picture where you have the convenience store on Route 18.

MR. MURELLO: Yes.

MR. NELSON: How far back is the residence…or what's on the other side?

MR. MURELLO: That application is remarkably similar to this. You actually have on the opposite side of that barrier residential property line with small lot homes, a row of them, I think there was four to five right on the back side of that. The added benefit to this as well it eliminates the headlights from any potential of that leaking off the site in our case to the north and west. I meant that case. And that barrier I believe is says on the bottom was installed in 2012 or 13.

MR. SCHAECHTER: 2005.

MR. MURELLO: Oh, wow, ok. And…didn't have any…anything from it.

MR. SCHAECHTER: So, how far back is the residential property from back into that wall?

MR. MURELLO: Less than, I would say, a foot. If you see the red line on Exhibit A7, the black line that is adjacent to it, or that's parallel to it, on the north side of the site is the property line.

MR. SCHAECHTER: No, no, I'm talking about…

MR. MURELLO: In that?

MR. SCHAECHTER: That.

MR. MURELLO: That's actually almost right on the line, very similar to this.

MR. SCHAECHTER: So the house is right on the line?

MR. MURELLO: Nope, the property line is on the…

MR. SCHAECHTER: No, no, the question was how far was the resident from the wall.

MR. MURELLO: In that case? I think it was further than this house. I don't recall. It's been a while. But I would say it was probably more than 40 feet.

MR. SCHAECHTER: And in this particular application with the house on Route 18, it is a gas station and a convenience store. Does the convenience store take deliveries in the middle of the night?

MR. MURELLO: Yes, it did.

MR. SCHAECHTER: Did or does?

MR. MURELLO: Yes, it does.

MR. SCHAECHTER: And the back up…

MR. MURELLO: I assume so.

MR. SCHAECHTER: You're not sure?

MR. MURELLO: I haven't been to the site since 2005. But when we did the model there were truck maneuvers, they also had fuel delivery, which is not an issue here so we had tractor trailers coming in…

MR. SCHAECHTR: Also Route 18, which is a little busier than Route 46.

MR. MURELLO: In terms of noise? In terms of traffic maybe, but in terms of noise the sound levels we measured here ranging between 60 and 65 DBA, that's pretty typical for any state highway that I've seen.

MS. MOTT: In your industry is it the norm to do just a 24 hour baseline out of the entire week and you picked a Tuesday to Wednesday, is there any significance to that to your study or is it just when you were available?

MR. MURELLO: There was no significance to the day. We did do it because we do not like to do measurements over Holiday periods, weekend periods, and times when it rains. For one reason, it's atypical; the second when it rains it tends to damage equipment and create more noise. During a measurement over 24 hours, I guess it depends who in my industry you ask. That's what is atypical for us. Sometime we will do more limited measurements a short duration during the day, and a short duration during the night for half an hour, hour. But in this case, I felt that doing measurements over a day would give you better representation of what exists out there presently.

MR. SCHAECHTER: You also picked weekday, Tuesday/Wednesday, as opposed to maybe Saturday/Sunday, or Sunday night into Monday. Is there a reason?

MR. MURELLO: Yes, because typically on the weekends, I find that traffic can be not…it can be not regular, sometimes it's higher, and sometimes it's lower. In the summertime you're going to get more traffic in that section. I happen to live around here so I know this area very, very well. And I want to get sometime during the middle of the day, excuse me, middle of the week in the middle of summer, like we had so that I think that will be more representative. Now, if I was to go back out and do it again, maybe they'll be slightly different. But my experience is, it's not going to change over a day.

MR. SCHAECHTER: A couples sleep patterns change over the weekend or on the weekday?

MR. MURELLO: Mine do.

MR. SCHAECHTER: You sleep a lot longer on Sunday than you do…

MR. MURELLO: My kids do but I don't.

MR. SCHAECHTER: Ok, your kids do. So if you were to take the house with the wall that you're going to put in there and sleep with your windows open because you're used to the ambient noise on that route, probably nice falling asleep really quick, you have a backup alarm coming out of you at three in the morning. With this wall, you're not going to hear.

MR. MURELLO: First off, the tractor trailer we testified to…

MR. SCHAECHTER: No, no, no…

MR. MURELLO: Hold on, let me finish. Back up…

MR. SCHAECHTER: I'm not talking about a tractor trailer; I'm talking about the alarm off a truck that coming in off the front for a delivery.

MR. MURELLO: It might be audible but I don't expect it to be, jump out of your bed audible because you have…as long as they stay in front of the building.

MR. SCHAECHTER: I think it will wake the kids.

MR. MURELLO: That's really an impossible question for me to answer. Is it going to wake the kids? I…if a Harley goes by or a tractor trailer downshifts, that might do it too. I can't answer that. It will certainly be below the limit of the code. It will certainly be below the existing average sound able out there and more importantly the noise sources with the exception of the backup alarm really are not going to be any typical than what exists out there now. The typical noise sources are cars. What we've looked at…

MR. SCHAECHTER: Backup alarms aren't

MR. MURELLO: I said with the exception of the backup alarm.

MR. SCHAECHTER: Right.

MR. MURELLO: The backup alarm will be different. However, there are other sites that do have deliveries that have back up alarms. It's not completely atypical.

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MR. MURELLO: Not on this particular site.

MR. SCHAECHTER: For the other 24 hour operations next door, they probably don't take deliveries at 2 or 3:00 in the morning.

MR. MURELLO: Don't know.

MR. SCHAECHTER: I'm sure she'll come up and answer the question when it's her time. I think they were up here before and said they don't take deliveries in the middle of the night.

MR. MURELLO: Ok.

MR. WEISS: Mr. Murello, I have a question for you.

MR. MURELLO: Yes, Sir.

MR. WEISS: Tell me again, because I'm having trouble with this. What is the difference between a wooden fence and a noise reduction wooden fence?

MR. MURELLO: I'll just call it a barrier. A noise reduction wooden fence, a noise barrier really the same difference is one is solid and one you can see through. This particular barrier is solid. It is a four by…if you image a two by four piece of wood on edge, so it's three and a half inches wide.

MR. WEISS: I've looked at the brochure and I'm not a speed reader but I did not see anything under their specs about what they are doing to make that special fence and maybe it's not a special fence. But a fence is a fence. And so my question is, is because it's solid, is that why it is a noise reduction?

MR. MURELLO: Yes.

MR. WEISS: So you can put that in your backyard for example and it will become…?

MR. MURELLO: Sure, it becomes…

MR. WEISS: It's not treated per say for anything other than besides maybe weather but there is nothing special. It's a wooden fence that will reduce the noise.

MR. MURELLO: A solid wooden fence.

MR. WEISS: A solid wooden fence. Ok, so I thought maybe I missed what makes the same noise barrier because it is a wooden fence. You answered the question.

MR. MURELLO: What makes it a noise barrier is the fact that it is solid. It is not a see through board on board anything like that.

MR. WEISS: Ok.

MR. NELSON: I have a couple of questions.

MR. MURELLO: Yes, Mr. Nelson.

MR. NELSON: One, I'm kind of lost. You were at 65 decibel and you suddenly dropped down to 49. I'm not quite sure how that happened.

MR. MURELLO: We were talking about two different trucks. The first question was a tractor trailer in the loading area and that was, as I said after the barrier of 62 decibels, and then question of the delivery truck in front of the building, I expect it to be 49 decibels.

MR. NELSON: So, after the barrier it would go down to 62 decibels?

MR. MURELLO: Yes.

MR. NELSON: Nighttime limit is 50?

MR. MURELLO: There will be no nighttime tractor trailer deliveries.

MR. NELSON: Ok.

MR. SCHAECHTER: Only smaller, they are small trucks.

MR. MURELLO: Which is, yes.

MR. NELSON: Ok. The other…one of the other questions I had was will the eight foot high fence trigger another variance?

MR. MURELLO: No, that's only in the residential zone.

MR. SELVAGGi: Do you know what? I just want to…I mean…be clear, because while we were talking we are looking it up. Section…I don't know, Chuck, do you have the…55…550-82 talks about height and…height and construction requirements for fences and walls subpart A2 it does say, unless it's changed, no fence or walls shall be erected, altered, or construction in any non-residential zone which shall exceed six feet in height above ground. So, we would need a variance.

MS. NATAFALUSY: Yes, sorry. I was looking at…

MR. SELVAGGi: Just for the record. Just so the record is clear.

MR. NELSON: Thank you. And the other question I had was the thickness of this wall are there different variations of the thickness that would do more for the decibels lowering its sound intonation?

MR. MURELLO: No, no, not on these heights, not in this scenario.

MR. NELSON: So, it's one and a half inches thick?

MR. MURELLO: No, three and a half inches. The panels are four inches thick. The posts themselves I don't know what the dimensions will be because it will depend on the wind load calculations which will done by the manufacturer. But they can be anywhere from six to eight to ten inches square.

MR. NELSON: Ok.

MR. MURELLO: But the panels themselves are approximately four inches, three and a half inches thick.

MR. NELSON: Ok, so it's a solid wall…

MR. MURELLO: Yes.

MR. NELSON: …made of wood. And I guess there are other panels you could put in and metal panels would sound intonation inside, perforated metal in the front?

MR. MURELLO: Yes.

MR. NELSON: Ok.

MR. MURELLO: With the…

MR. NELSON: Much difference on that? Is there…

MR. MURELLO: You know I really don't know because I didn't even run the number for what is might be for a metal panel barrier because I've never actually recommended a metal panel for a property line noise barrier. I just don't think it's a realistic thing to do in…on a residential property line. But I don't imagine the metal panel will cost significantly more than the wooden barrier with these dimensions.

MR. NELSON: Would you have a guess at the difference in the sound attenuation?

MR. MURELLO: The sound attenuation?

MR. NELSON: From one to another?

MR. MURELLO: Again, it's just because we have…we are outside and because of the dimensions we have I don't imagine you'll have more than a couple of decibels difference between one versus the other. Meaning if you were to put a absorptive face on the barrier facing the applicants property, you might get a couple of extra decibels of intonation but nothing significant that would warrant one to put a metal barrier.

MR. WEISS: Brian.

MR. SCHAECHTER: When Stew Kimmel was up here, that's what his name was, from 7-Eleven he testified to how exactly the deliveries were made to come off the truck, they get rolled down the metal…the metal ramp, they are on carts, carts are noisy, they bang around. I don't know if you can testify to that part. I am assuming that you because I haven't been there when 7-Eleven gets their deliveries. Could you happen to get some noise measurements off of a similar operation during one of their deliveries?

MR. MURELLO: No.

MR. SCHAECHTER: So, we're not sure exactly what kind of noise that kind of delivery is going to make.

MR. MURELLO: No.

MR. NELSON: In your opinion, do you think it would exceed the decibel levels along the property line?

MR. MURELLO: Not unless…as long as it's done in front of the store. I don't believe so. No.

MR. SCHAECHTER: Ok. We're not sure.

MR. MURELLO: My opinion.

MR. NELSON: In the drawing where you are showing the wall…are those circles planting?

MR. MURELLO: I just took the landscaping plan that was already provided because it was the one with the least amount of stuff on it. So that you can see…and again…this is just a conceptual it can be extended, it can be trump gated. Really all I want…I just want to provide this…to where we can put it.

MR. NELSON: With planting on both sides of the fence further reduce the noise?

MR. MURELLO: No, the only thing it would do would visually…yes it will mask it. But it won't reduce…it won't make it more effective per say.

MR. WEISS: Chuck.

MR. McGROARTY: Yes, just a couple of questions if I may. The…just so I understand again…the roof units, did I get it correct that with the…and does this….the roof units will have a 46 decibels level, DBA?

MR. MURELLO: Yes, Sir.

MR. McGROARTY: 40 and 46 that's close, 40 and 46 right?

MR. MURELLO: 46 and 47, Sir.

MR. McGROARTY: Oh 47. And that's under the nighttime limit. Is that based on the wall being in place, the eight foot wall?

MR. MURELLO: No, actually I didn't take any additional intonation from the wall in that. All I did was and I said, there is a…we are proposing an acoustical barrier, an acoustical screen on the roof along the west and south sides.

MR. McGROARTY: Ok, and so a question then about the screening material on the plan we just have a concept drawing of where that would be. Do you get involved in designing that or if…and if you know can you tell us what kind of material?

MR. MURELLO: I have not but what we would normally recommend would be similar to what we discussed, Sir, would be an acoustical panel minimum of two inches thick with an absorbed face only because it's…and it's going to be higher I believe, one foot, if I remember correctly higher than the unit.

MR. McGROARTY: One foot higher than the unit.

MR. MURELLO: I believe so, yes.

MR. McGROARTY: And we got what was submitted to the board after the initial hearings…or one of the hearings…I got it in July…was something from Heatcraft and it had information on Flexpack Remote Condensing Units. Should we still be looking at that? That had sound data distance in feet and sound pressure in decibel levels which we would need you to help us understand that. But is that something we should still even be looking at?

MR. MURELLO: Yes, I apologize I didn't…didn't get into the make and models but they are proposing to you as one (1) Flexpack Model and then two (2) York Model Condensing Units and the data I think you are referring to does have sound level data on it at distances. And what we are looking at is…if you look at the 15 foot distance of the TPC4 which is the one on the top if I assume we are looking at the same one.

MR. McGROARTY: This is part of our file.

MR. MURELLO: It's part of your file?

MR. McGROARTY: But should we make it an exhibit tonight?

Mr. EVELAND: If we are going to be referring to it and having testimony to it, it might make the record clear and have it marked as an exhibit.

MR. SELVAGGI: So we'll mark it A10?

MR. WEISS: I don't remember seeing that actually.

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MR. MCGROARTY: Well, we got it with this…with an architectural plan by Cores State showing the outline of the…

MS. NATAFALUSY: Well there is a copy…I'm down to one copy of the of the artichecturals plans.

MR. WEISS: Oh, ok, it's on the table. That's fine, as long as it's here. Henry, go ahead.

MR. FASTERT: Directly behind the…

MR. MCGROARTY: Well he's going to answer these questions.

MR. FASTERT: Oh, I'm sorry. Ok.

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MR. WEISS: For the record, what is A10?

MR. MURELLO: Ok, so A10 is manufacturer's published sound level data for the Heatcraft Worldwide Refrigeration Flexpack unit. One of which is proposed for the roof top here. They are proposing to use the Model TPC Number 4 and that data indicates at various distances what the overall sound level or DBA would be and this is unattenuated on a flat surface data.

MR. McGROARTY: So unattenuated meaning no barriers.

MR. MURELLO: Meaning just the unit sitting in the middle nothing around it nothing blocking it no reflections no barrier. If you refer to 15 feet you'll see its 66.3 decibels. I reference 15 feet because 15 feet is the approximate distance to the nearest property line. The barrier that we're recommending, the roof top screening provides that additional attenuation which is what we've calculated when you add up the other units as well. It's down to 47 DBA and that's…effective…that roof top barrier is.

MR. McGROARTY: So, then, as so you've answered that question then this is just the data here is 20 feet this would exceed the nighttime limit without any kind of screening.

MR. MURELLO: Without screening, yes.

MR. McGROARTY: Ok, the height of the unit, I'm not sure I can find it here if you know…your barrier would have to be at least a foot higher than the unit is that correct?

MR. MURELLO: Yes, the units are approximately four feet.

MR. McGROARTY: Ok. So a five foot screen at least?

MR. MURELLO: I believe they are five/five and a half feet. They are shown on the plan. They have relative heights of the section drawing that I believe was provided.

MR. McGROARTY: Well if this were to be approved, we'd need detail of that. I think all we have for the mechanical and screen is the dotting line showing the outline.

MR. MURELLO: Yes, but it does have the height on it.

MR. McGROARTY: Ok.

MR. MURELLO: In your packets of drawings there is a…there is a…there is an identified mechanical equipment. The roof is 11 foot 4 inches. The units are approximately four feet based on the manufacturer's data and mechanical screen is 16 feet so it would be a foot and a half over the top of the units.

MR. McGROARTY: Mr. Chairman, just one or two other questions if I may.

MR. WEISS: Sure.

MR. McGROARTY: Oh, the sound barrier.

MR. MURELLO: Yes, which one?

MR. McGROARTY: Both, while we are at it. The roof top screening and the sound barrier whatever barrier fence, wall, whatever it is that goes in the back if it were approved, what's the maintenance requirement on those sort of things? I mean do they board on board fences over time tend to you know…a board breaks here, breaks there…sort of thing. Are they…how durable are they?

MR. MURELLO: We have, I have personally worked on projects that are 20 years old that has this particular product installed and short of something running into it there really is no maintenance to the barrier itself.

MR. McGROARTY: They don't rot or anything?

MR. MURELLO: They don't. They're actually also used extensively in the south where the south where the highway noise barrier requirements aren't quite as rigid as they are in New Jersey for

highways. I read they don't have the salt issue that we have up here. But they are designed, the manufacture does say 35 years but I've seen them, personally on projects we recommended that have been in existence for just almost 20.

MR. McGROARTY: Last question, Mr. Chairman, for me.

MR. WEISS: Go ahead, Chuck.

MR. McGROARTY: If the barrier goes up the wall in the back…

MR. MURELLO: Yes.

MR. McGROARTY: It's so difficult these days to talk about walls without asking who's paying for them, but…

INAUDIBLE

MR. McGROARTY: So, if this wall goes up and this sounds like, like a leading question or a softball question I don't mean it to be. Does that reduce the noise, the existing noise that would be heard beyond…you know…coming off the highway to those properties in the back?

MR. MURELLO: It will but only in a very narrow area. So where Lot 6 and Lot 7 come together which would be on the extreme west side of this triangle right behind that wall and possibly a little bit in the structure on Lot 7, you will get a reduction but keep in mind Route 46 is what's called the Line Noise Source, so the noise is always coming from every direction. But the direct sound from Route 46 will be attenuated by this barrier directly upon, behind this property on Lot 6 and Lot 7.

MR. WEISS: What kind of level though? Wouldn't the building itself knock down that noise?

MR. MURELLO: The building will but the barrier extends north of the building so you get a bigger, let's call it a shadow area.

MR. WEISS: Henry.

MR. FASTERT: What was the effect, clearly the biggest concern is the backup alarm and the backup loading zone…

MR. MURELLO: Understood.

MR. FASTERT: What would be the effect of a second section of wall, you know, in front of the wall that you've shown. That screens the backup area so essentially there would be two similar sound barriers that sound would go through. Not through the whole length but for…I don't know…for 10 feet behind that.

INAUDIABLE

MR. MURELLO: Like along the north side of the loading area?

MR. FASTERT: No, literally right behind the loading area, that's exactly where…

MR. MURELLO: So, on the west side of the loading area?

MR. FASTERT: Yes, because that's exactly where the backup alarm is going to be.

MR. MURELLO: Well the backup alarm, keep in mind, is on the trailer, not the tractor. So the trailer will be up here because it backs up. The backup alarm on a tractor trailer is actually on the engine, the tractor part, not on…

MR. FASTERT: So, I'm assuming they are going to back into that space or they going to pull into that space?

MR. MURELLO: They are going to back in.

MR. FASTERT: Ok.

MR. MURELLO: So, the tractor is actually up here.

MR. FASTERT: Right.

MR. MURELLO: So if you put a barrier here and just…I apologize…I doing it here to here which doesn't work for the record. But, on the west side of the loading dock...the loading area that's really not going to be effective any more effective than the property line barrier we've discussed tonight in attenuating additional backup alarms.

MR. FASTERT: Is there any place where an additional would do that?

MR. MURELLO: Not really without limiting ingress and egress of the tractor trailer. I mean we could say sure, let's put one right in front of the building and then only open and close it when…but that's just not going to work.

MR. NELSEN: Regarding that rooftop screening, is that also screened on top of the units?

MR. MURELLO: No, Sir.

MR. NELSEN : It's not?

MR. MURELLO: No.

MR. WEISS: Brian.

MR. SCHAECHTER: Chuck, is there an easement that goes through the back yard?

MR. McGROARTY: Yes, they…

MR. SCHAECHTER: How is that effected with a fence.

MR. McGROARTY: They should tell us that…Mr. Glasson has the easement shown on his plans, I don't know where the fence goes.

MR. WEISS: We will wait for Mr. Glasson…

INAUDIABLE

MR. WEISS: Anything else, Chuck, anything else?

MR. McGROARTY: No, thank you.

MR. WEISS: Mr. Murello, you can go on. Anybody else from the Planning Board have a question for Mr. Murello? Let me at this time open it to the public. Mr. Murello just testified...

MR. FASTERT: I do, just one more.

MR. WEISS: Go ahead, Henry.

MR. FASTERT: Aside from…aside from physical barriers…

MR. MURELLO: Yes.

MR. FASTERT: Is there any type of…you know…white noise reducing vise that would reduce the sound?

MR. MURELLO: For which piece are we talking about? The backup alarms?

MR. FASTERT: Specifically the…to further mute the backup alarm.

MR. MURELLO: The technology in backup alarms are moving more towards what's called a dynamic backup alarm so backup alarms basically come in two flavors, loud and really loud. They are called commercial and industrial so on a construction site they are rated at a high decibel level. The

normal all over the road truck uses a quieter one. As you can imagine they don't need to be in as loud of an environment. However, in the last few years they have come…the industry is moving towards what's called a dynamic. Which basically if you think about anyone who has ever had those Bose headsets which has that sound that cancels everything near your ears, it's a very similar technology. It evaluates whether the…a background alarm is loud or not so loud. And it changes the impact of that so it makes it louder or quieter based upon the background. That is not an affixed WA mandated thing yet, but that's where the only thing that you can do.

MR. FASTERT: So, there is no device that can be mounted on the building that would provide some, you know trying to provide some sound cancelling that way?

MR. MURELLO: No.

MR. WEISS: Ok. Thank you. Let's try to keep it moving. The public has been invited. I remind people from the public, if you have a question for Mr. Murello based on the testimony that Mr. Murello delivered tonight, feel free to ask the question. If you come up, please state your name and address for the record. And if the question is not directed for Mr. Murello I am going to stop you. Welcome.

MR. JENKINS: Good evening, Mr. Chairman, members of the board. Reggie Jenkins, Florio, Perrucci, Steinhardt & Fader, Mr. Murello, hello.

MR. MURELLO: Mr. Jenkins, hello.

MR. JENKINS: I've used their firm before so I respect him and I respect his testimony. The board asked excellent questions so I'm not going to rehash anything. I have a couple of very simple questions. Just as I understand it, your testimony speaks to attenuating and reducing the sound…

MR. MURELLO: Yes, Sir.

MR. JENKINS: …that's coming off the site, correct?

MR. MURELLO: Yes, Sir.

MR. JENKINS: It does not completely eliminate the sound, is that correct?

MR. MURELLO: That is correct.

MR. JENKINS: Ok, so again we only speak in terms of reduction, attenuation, not elimination.

MR. MURELLO: Elimination of all sound is…I'll answer your question directly…yes.

MR. JENKINS: Thank you. Did your study…you spoke about delivery truck of different sizes. Did your analysis take in to account garbage trucks?

MR. MURELLO: No. I did not; however, if you look at where the dumpster is located, it's very close to the same area as the tractor trailer. So that the sound levels…and we recommended that barrier continue all the way around there…would be comparable to what we can expect from a tractor trailer business.

MR. JENKINS: It's comparable but it's a different sound.

MR. MURELLO: Well, it is a diesel truck, very similar to a tractor trailer and the only thing that would be different that would be the actual of the movement of the dumpster and that depends on how they decide to do it. So, that's the only thing that's different from what we really evaluated.

MR. JENKINS: Ok. And to that point, the difference there is we are not talking about the truck itself, but there is the dumpster that is adjacent to the property line. Correct?

MR. MURELLO: The dumpster is located along…right up against the…the dumpster enclosure is located along what would be out proposed noise barrier on the northwest corner of the site. Yes.

MR. JENKINS: Ok. But, so, that is…forgive me, I'm going to say it one more time. It is a different type sound that we are talking about. We are talking about in essence the banging around of a

dumpster as opposed to just simply the ingress/egress of the truck itself. Given the boards questions, that's all I'm going to ask for now. Thank you very much.

MR. WEISS: Thank you. Brian, do you have a follow up?

MR. SCHAECHTER: The garbage truck, would they use the loud or the very loud backup…I mean…it could be considered...inaudiable

MR. MURELLO: I don't know. Typically the only thing that…that are rated for the loud are onsite active construction vehicles of which a packer truck/a garbage is not usually rated for that.

MR. SCHAECHTER: Wait, so that's the lower of the two?

MR. MURELLO: The quieter of the two would normally be used in a truck, yes.

MR. SCHAECHTER: So a garbage truck would be…

MR. MURELLO: Yes, we'll keep going down, yes, to answer your question, yes, the quieter of the two.

MR. SCHAECHTER: But you're not sure about that?

MR. MURELLO: I haven't evaluated every tractor truck in New Jersey, but typically the answer is yes, the quieter of the two.

MR. NELSEN: Howie, does anybody recall did we get testimony on garbage pickup hours?

INAUDIABLE

MR. SELVAGGI: It wasn't going to be overnight, that's for sure.

MR. SCHAECHTER: It wasn't overnight but it also wasn't…it was either before 6 am or after their kind of morning rush.

MR. SELVAGGI: Yes, we'd have to contract it. But…

MR. NELSEN: My only concern would be, you know, most of these garbage truck…well they lift the dumpster high in the air, much highest than……

INAUDIABLE

MR. SELVAGGI: I'm sure it's a noise that is not unusual in that area, given the fact that the diner is there, so. The notion that this is going to be an introduction of something that's not there is…

MR. WEISS: Ok. Thank you. Next, Bill.

MR. STERN: Hi, William C. Stern, Jr., 15 Lakeview Avenue, Budd Lake, New Jersey 07828, Appreciate Professional, when we are speaking about noise, it seems we are speaking about single noises. Is there an equation that takes into account that noises are multiplied and also when we are talking about sound barriers are we talking about sound barriers that absorb sound or reflect sound?

MR. MURELLO: Ok, so I'll do the second question first, if that's ok because that's easier. These are reflective barriers. These are barriers that stop sound. So, it…

MR. STERN: But, reflective means that it bounces it off.

MR. MURELLO: It stops sound. So, sound…south will…on any structure that sound hits it's going…some of that sound is going to be absorbed by it, some is going to be reflected, and some is just going to stop. Ok, it's going to be transmitted through. These barriers are designed to be thick enough so there is almost no sound transmitted through the rest of the sound is either stopped or reflected off of it. The next…

MR. STERN: Not absorbed?

MR. MURELLO: Not typically with a wooden barrier. The best thought experiment I can give you is if we turn all the lights off in this room and we put a light bulb on this table and you looked at the light bulb, imagine the light you would see and they I took this book and put it between your eyes and the light bulb, it wouldn't be dark. It would just be less bright.

MR. STERN: I understand.

MR. MURELLO: That's exactly what the principle of this type of a noise barrier does. And as far as your first piece of your question, yes, things are additive. We did add the roof top units all together. We looked at the truck as an individual unit because the backup alarm is atypical. The only thing I didn't do and actually it's really…it's really to the benefit for the applicant if we did do it but I didn't was compare it and add it to the existing ambient. And as I said before, the ambient is already over 50 DBA at night, even at 2:00 in the morning. And it's over 65 DBA. What we've calculated minus…let's say we were to block off traffic on Route 46 around this site. So basically, stop…reduce that sound. We would still have sound levels that meet the limit of the code. The reality is when you add Route 46 into the equation this noise is not really a typical and isn't going to be anything increases of what exists….

MR. STERN: My last question is the dates on your study…

MR. MURELLO: Yes.

MR. STERN: …were between August…

MR. MURELLO: August 23rd to 24th.

MR. STERN: …Ok, are you going to do a study that includes the school bus traffic which is pretty frequent in that area, pretty substantial and it also causes traffic to back up and then if you take it on a Monday, you got to throw in garbage truck and trash. Just a suggestion that you might want to put that in for account because that's…in my mind…my limit of understanding is going to be multiplied.

MR. MURELLO: Ok.

MR. STERN: Ok.

MR. MURELLO: Thank you.

MR. STERN: Thank you.

MR. WEISS: Thank you, Bill. Sir.

MR. PEARSON: Ken Pearson, 9 Netcong Road, Budd Lake, New Jersey 07828. In regards to the houses that are on the other side of the wall, the area is building up. If they put a second level on there how is that going to reduce sound with an eight foot fence and even the barriers on top of the units?

MR. MURELLO: Well, the rooftop units those would still be attenuated to a second story window. But is the existing structure on Lot 7, a second story was put on that building. The rooftop units would still be attenuated but likely the tractor trailer backup alarm and so forth, that eight foot high wall would not attenuate, only the second story window. But it's not presently the case so we didn't evaluate it.

MR. PEARSON: No, it was just something that popped up…

MR. MURELLO: No, it's a good question. I just…that's…that's…that's the answer I have.

MR. PEARSON: Thank you.

MR. MURELLO: Thank you.

MR. WEISS: Thank you.

MR. BRUDER: Adam Bruder, 24 Woodland Avenue, Budd Lake, New Jersey 07…

MR. WEISS: Adam, spell your last name.

MR. BRUDER: B R U D E R, 07828. Just a couple of questions. When you are talking about tractor trailer trucks and the scientific method that you determined that you use as a case line or a base line going forward, does it include refrigeration trucks?

MR. MURELLO: The actual trucks that we use to do this were refrigerator tractor trailers for a supermarket.

MR. BRUDER: Ok, so, before when you were answering a question, I believe, from Mrs. Mott, I'm sorry, about…the trucks coming in and out…alright, forget that. You testified that you were out in the open that was…you said you were out in the open when you did the testing so was the refrigerator truck out in the open?

MR. MURELLO: Oh, yes, the measurements we did were in a large parking lot, then we did control movements so we told the truck drive between these cones at a certain low speed and then back up towards us and drive towards us but don't hit us.

MR. BRUDER: Ok, so, in the existing plan, what is the distance between the fence and the back of the building where the truck will be driving into?

MR. MURELLO: The tractor trailers aren't going to drive into the building per say. They are going to drive into this loading area which is indicated by this hash mark on the north side of the site. So they are not going to be going into the building. It is not a loading dock. It's just a…let's call it a piece of the parking lot. So, I'm not sure exactly what question.

MR. BRUDER: Well, you testified…you're saying that when you do your testing, you are out in the middle of an open area…

MR. MURELLO: Yes.

MR. BRUDER: …and with cones…

MR. MURELLO: Yes.

MR. BRUDER: …what you are talking about in actuality is a truck backing into an enclosed area. So, what's the distance between the building, wall, and the wooden wall, and the barrier that you are talking about?

MR. MURELLO: The distance between the building…the distance between the actual proposed 7-Eleven and the barrier are irrelevant because the truck is not going to be there. It's not going to be between here and here. It's not going to be between the building and the barrier; it's going to the side of the building. The closest the back of the trailer could be…I believe it's something in the order of about seven or eight feet, maybe ten. That's the closest the back of the trailer could be to the barrier.

MR. BRUDER: Ok, I understand that. So, when you take your testing of whatever this method is that you determined…does it include the sound bouncing off the concrete wall?

MR. MURELLO: You mean the building?

MR. BRUDER: Yes.

MR. MURELLO: Yes, it is.

MR. BRUDER: It's a concrete wall, right, block wall, whatever?

MR. MURELLO: You're talking about the 7-Eleven itself?

MR. BRUDER: Correct.

MR. MURELLO: Yes, Sir, it does. We model it…we take…the reason we make the measurement in an open field is because it gets rid of all those variables like bouncing walls and trees and things like that…

MR. BRUDER: Which is fine, except right now you are talking about actually putting something into practice. All I'm asking you is when the truck backs in, does your sound baseline take into account that sound is going to be bouncing off of the side of a concrete building?

MR. MURELLO: Let me finish. Yes, we did do that in our calculations. The fact that it was a reflective surface along the north facade side of this building, and you have the barrier, we did that in our calculations.

MR. BRUDER: Ok, and also earlier you testified about backup alarms being on cabs of trucks?

MR. MURELLO: Trailers.

MR. BRUDER: Trailers. However, if you would actually look that up, backup alarms are on back of the trailer and also the truck. It just depends on how the person puts them in.

MR. MURELLO: It depends how they are put in. But, typically, when these tractor trailers when they are…when they are bringing the trailers in they are most often…unless…especially when they are going to be separated…they are going to be put on the trailer.

MR. BRUDER: And how does 7-Eleven determine then which trucks are not going to have the backup alarms on the very, very back of the trailer verses being on the cab itself?

MR. MURELLO: I don't have an answer for that.

MR. BRUDER: Ok, thank you.

MR. MURELLO: Thank you.

MR. WEISS: Brian, you had a…hold on a second, Henry. Brian.

MR. SCHAECHTER: Mr. Murello, real, real quick. You just…I just want to be clear on this. The wall would have no impact on any second story of a neighboring home?

MR. MURELLO: The specific question is…I don't want to be…

INAUDIABLE

MR. SELVAGGI: Any home or, the one immediately behind it?

MR. SCHAECHTER: Well, we'll talk about…

MR. SELVAGGI: That was your question.

MR. SCHAECHTER: Yes.

MR. SELVAGGI: What home are we talking about or it is any home to the rear of this property?

MR. SCHAECHTER: I'll probably ask him to clarify what he…

MR. MURELLO: I'd be happy to. The specific question that was asked of me is the home on Lot 7, if the second story was put on that building would an eight foot wall attenuate the noise from the trucks and I said not likely. And then I also further said that the rooftop unit's screens would be effective to a second story of either of these along the property.

MR. SCHAECHTER: How far back would you have to go for a second story not to be impacted by the sound wall?

MR. MURELLO: It's really a trade off because the further back you get from the noise source, it naturally gets quieter anyway so because we have this road and then houses on the back side that additional distance is going to attenuate. In other words, the houses to the north really would see no difference in the noise whether this wall was here or not.

MR. SCHAECHTER: Ok, so they would still hear the backup alarm?

MR. MURELLO: I've never said that they weren't going to hear it. No.

MR. SCHAECHTER: I never said that you said…

MR. MURELLO: I know but if we're going back to my testimony…

MR. SCHAECHTER: Right. Right. Well, what I'm trying to do is…alright…if you go across the street and there's second story bedroom on that house across the street, they're going to hear the backup alarm?

MR. MURELLO: Possibly.

MR. WEISS: Henry.

MR. FASTERT: Just want clarification on the pickup. I heard you say it different twice now. The backup alarm is on the tractor?

MR. MURELLO: Yes, Sir.

MR. FASTERT: You said just before it was on the trailer.

MR. MURELLO: More often than not…

MR. FASTERT: It's typically on the tractor…

MR. MURELLO: …my experience that they are typically on the tractor. One of the residents said that he looked it up just now…

MR. FASTERT: …that's what I understood from…

MR. MURELLO: My experience is they are typically on the tractor.

MR. FASTERT: So, the backup alarm is going to be…you know…literally…

MR. MURELLO: Over the rear wheels.

MR. FASTERT: …where the trailer is…away from the homes.

MR. MURELLO: That is my experience, yes.

MR. SCHAECHTER: But is could be on both because if the trailer operates…if the tractor operates without a trailer there has got to be a backup alarm on the tractor. And then if it's with a trailer, the trailer should also have a backup alarm as well.

MR. MURELLO: That's not necessarily…that's not necessarily true.

MR. FASTERT: But not necessarily false either.

MR. MURELLO: Ok, well now…ok…

MR. FASTERT: It's possible…

INAUDIABLE

MR. WEISS: I don't think there's any expert here that can talk to us so it's an opinion and I think we just need to drop it.

MR. FASTERT: My question was what was typical.

MR. WEISS: Typical on the trailer but not impossible to be on the trailer.

MR. FASTERT: Right.

MR. WEISS: That's fair enough testimony.

MR. MURELLO: Thank you, Mr. Chairman.

MR. WEISS: Let's move on. Colleen?

MS. LABOW: Thank you, Mr. Chairman, my name is Colleen Labow (L A B O W), 57 Third Street, Budd Lake, New Jersey 07828. Since we are talking about the trailers, I want to start with that question, you had said that typically when they are separated that the…that the trailer won't have it…you saying…but are they going to drop the trailer off and leave it there?

MR. MURELLO: I don't have an answer to that with 100 percent certainty but typically that's not part of an operation like this.

MS. LABOW: Ok.

MR. MURELLO: I would be happy to confer with my client and get you an absolute answer. But, typically that is not what's being done at a site like this.

MS. LABOW: Now I was…the reason why I'm asking a question is all of a sudden I'm thinking Oh my God in that very limited square foot area you are going to have a truck trailer there all the time too.

MR. MURELLO: We have not provided any testimony that we are going to leave trailers at the site.

MS. LABOW: Ok. My next question is with the fence, it's going to go to the…right to the property line onto Woodland Avenue or is it going to be back 35 feet?

MR. MURELLO: This is just a (indaudible) I'm not sure exactly where…it can also turn towards Route 46 if that hasn't been finalized yet. I just put it there. It can't go right to…the right-of-way…obviously. But whether it's going to turn east along the edge of the pavement or whether it's going to stop there we haven't quite finalized that yet.

MS. LABOW: Yes, because my concern is that that's a very heavy traffic area…

MR. MURELLO: Yes, I mean we would be concerned about safety and sight triangles and things like that…

MS. LABOW: Right, that's exactly…

MR. MURELLO: …but this is a just a illustrative obviously you can't go and you know, you bring up a good point, I have it drawn directly to the edge of the right-of-way.

MS. LABOW: Right.

MR. MURELLO: It's not going to be there.

MS. LABOW: Ok.

MR. MURELLO: But that's just more or less where it's going to be.

MS. LABOW: So, since it won't go directly there, the one house that's directly behind that one spot, they're not going to be shielded from the sound as much because they are right there…35 feet.

MR. MURELLO: What house…are you referring to Lot 7?

MS. LABOW: Yes, the one that's right behind…the one that's on the corner of Netcong and Woodland. And it's directly behind where the fence is now. Yes.

MR. MURELLO: This one, Lot 7?

MS. LABOW: I think…it's the first one…

MS. WEISS: Yes, it's that one there.

MS. LABOW: Yes, it's the only house on the corner he said.

MR. MURELLO: The only corner that may be not as screened would be this very tight corner on the northeast side here along Woodland Avenue, but the structure itself, the main of the property would be. And if we turn it, eastward and get rid of this little piece here and bring it towards Route 46 then that screening problem is abated.

MS. LABOW: Yes, ok. And then I have a question for our panel. The eight foot high fence can they turn that and still be within the zoning?

MR. WEISS: Can they turn what, Colleen?

MS. LABOW: He's talking about possible turning the fence towards Route 46 a little bit for more privacy…sound privacy, can you do that with an eight foot fence…you know…you know coming off…

MR. WEISS: I would imagine absolutely, it's a…inaudible…is it physically possible?

MS. LABOW: No, no, no, I'm just saying because of the road being right there and all the traffic I'm talking about the site. He did say they would check into the site triangle.

MR. McGROARTY: Right, but it's not in the site triangle. It certainly wouldn't extend if they were to do it. They can't extend it up towards the intersection.

MS. LABOW: Ok.

MR. WEISS: And it has to be X amount of feet off…

MR. McGROARTY: That would block their access…

MS. LABOW: And it has to be 35 feet?

MR. McGROARTY: No, the fence doesn't but the height of the fence and such maybe in the front…they'll need a variance for the height of the fence.

MS. LABOW: Ok.

MR. MURELLO: Most likely they'll need a variance for…in the front yard setbacks.

MS. LABOW: Yes, that's what I'm asking I just really...

MR. McGROARTY: It's because it's closed and high.

MS. LABOW: Well I understand the purpose of the fence, is for the sound barrier…but, being I live there and I see all the traffic that goes on, I'm extremely concerned about the site distance for everybody.

MR. MURELLO: As Mr. McGroarty said we…we can't put a barrier in the site triangle of the entrance which is we can't come all the way down here. But we can come if…if needed, we can extend it down past this enclosure and still be well outside of the site triangles for safety issues. And we…as I said…we are going to be seeking a variance for the height of it anyway.

MS. LABOW: Ok, now you said the life expectancy per the manufacturer is 35 years.

MR. MURELLO: Something like that…

MS. LABOW: And is there kind of ongoing maintenance that needs to be done to keep the integrity of the fence?

MR. MURELLO: Not that I'm aware of.

MR. LABOW: And the other thing I want to know was for the…for our area with the salt, and the temperatures, you know, cold, hot, freezing…I mean…they are built to sustain all of those fluctuations?

MR. MURELLO: Yes, they are.

MS. LABOW: And what about snow? When they try to plow the roads, where is the snow going to go?

MR. WEISS: I don't mean to interrupt, but I just have to keep in mind Mr. Murello is a Sound Engineer.

MS. LABOW: Ok, so he's not the…well this is for the fence.

MR. WEISS: I don't think it's appropriate for this board to answer the questions about the durability of the fence. I know you're trying to help. I don't know how you can possibly answer that question and have us believe you. No due respect.

MR. MURELLO: The only way I can answer that would be on my personal experience, I have recommended a barrier in Eatontown, New Jersey in 1997 it was installed. About 2 years ago, I went to go look at it because I was in the area and it's still structurally sound. It's a truck distribution facility. They obviously have snow that they pile up against it. There was no rot or decay on the base of that barrier and that was from 1997.

MS. LABOW: Ok.

MR. MURELLO: That's really the only way…

MS. LABOW: That answers my question.

MR. WEISS: I think you're best protected by obviously no intent to this property maintenance ordinances. Any disrepair of a fence would have to be maintained by the property owner. Any kind of notification to the Zoning Inspector he would probably handle that.

MS. LABOW: He answered all my questions. Except, I just want to make one statement, you said…

MR. WEISS: Nope, questions. If you have a question, feel free. No statement.

MS. LABOW: No statement, it's a question. You said that plantings do not…you know…take down or block the sound…don't really have an effect on the sound coming thru, plantings?

MR. MURELLO: That's correct.

MS. LABOW: Ok. I live on Third Street, Second Street they put in a development of houses, took down trees. I never used to be able to hear Route 46…

MS. WEISS: Is that a statement?

MS. LABOW: …now I can.

MR. SCHAECHTER: What went on, if you plant things in front of a wall, it's not going to have any further effect on the sound…on the wall. That's just for……

MR. MURELLO: That's a much better clarification then my statement is.

MS. LABOW: And when I said…and when I asked that one question now it reminded me of one last question that I have on the top of the HVAC units. You said there's not going to be a covering on top, just a fence around them?

MR. MURELLO: That's correct.

MS. LABOW: And will the sound…echo above?

MR. MURELLO: Echo?

MS. LABOW: Echo and travel above the fenced area when…

MR. MURELLO: Sound will travel in every direction like if you drop a pebble in the lake. The way we design sound barriers is to reduce the direct noise from the source to the receiver and that's how barriers work. Will some sound get over the barrier? Yes, but that amount of sound will be below the code and below the existing sound level as I testified to.

MS. LABOW: But it's going to be sound that isn't there now for residents trying to sleep at night. You'll hear that running machinery all night long.

MR. MURELLO: I disagree with that statement.

MS. LABOW: I've gone through it, so…thank you.

MR. WEISS: Thank you, anybody else from the public have any questions for Mr. Murello? Seeing none from the public, I'm going to close to the public. Matt, thanks very much.

MR. MURELLO: Thank you, Mr. Chairman, as always.

MR. WEISS: Mike, I guess Jim is coming up?

MR. SELVAGGI: Yes, can I have just two minutes?

MR. WEISS: Sure.

MR. NELSON: Mr. Murello, just a question about sound.

OFF THE RECORD

MR. WEISS: Let's take a five minute break. Come back at…keep it 5 minutes.

MR. SELVAGGI: Just for the record and for purposes of clarification, we talked about the trailers. Those trailers, the testimony from the 7-Eleven representatives, they come during business hours which would be after 7:00 am and before 10:00 pm just for…because we go back and forth with trucks.

MR. SCHAECHTER: The trailers coming in

MR. SELVAGGI: The trailers coming in

MR. SCHAECHTER: The commissary gets delivered.

MR. SELVAGGI: The commissary comes in the middle of the night to the front of the building. Now what we are going to do next…we did not revise the plans, we were just going to address a few minor items that pertain to issues that had been discussed previously, one was what we are going to do with the snow, I know that was a question that had been raised. And furtherance of Matt's testimony, the location of that sound barrier in the back, Mr. Glasson who was responsible for directing the plans. Mr. Glasson you continue to consider yourself under oath, correct?

MR. GLASSON: Yes, I do.

MR. SELVAGGI: Let's start with regards to the sound barrier, where would that…where's that supposed to go on that plan. I think you're looking at A…let's check. A-3 I think…A-2…

INAUDIABLE

MR. SELVAGGI: A2.

MR. GLASSON: Alright, if you go out to the site there is an existing metal fence and the metal fence kind of besets this recreational…recreational easement. The recreational easement is if you guys look at your plans, I don't know if you can see them. There is a dash line on this plan that falls somewhat behind where I propose the loading…the loading zone right now. It cuts off this corner. It creates a triangular area, it's about a 5,600 square foot area. It was a recreational easement that was

given to the benefit of Lot 7, Block 3109 which is that residential home behind us. There is an existing fence that is shown on my existing conditions and shown on all plans that runs up this west or northerly property line runs across the easement and it kind of besets the easement and then it crosses actually over on the Lot 6, Block 3109, and terminates over on the diner…diner property to the left. That fence is the same location that we are proposing our fence except for the fact that we would jog the fence around the property as opposed to crossing over on Lot 6 which we do not have the right to do. So that fence is really exactly where that fence is now.

MR. McGROARTY: So, on your plan then, it would be on the north of the westerly side of the easement?

MR. GLASSON: I would be on the north and westerly side of the actual easement lot where the fence is now.

MR. McGROARTY: Ok.

MR. GLASSON: It's not along the easement line. The fence doesn't exist out there now on the easement line. I put the fence exactly where the fence existed.

MR. McGROARTY: Oh this is where you're proposed stockade fence would be.

MR. GLASSON: Correct, exactly in the same location of the existing fence. With the exception of this corner where we can't put the fence across a property that does not belong to us…we jogged around this corner. And that's what we did with our…now we investigated the language in the recreational easement because my big question with the recreational easement was what are our rights to planting we talked about a 30 foot wide buffer at one point. We talked about its…and Mr. Selvaggi you might want to help me here…but there really was no language as to other than the fact it was to benefit the adjacent owner for outdoor recreational purposes. He has a copy of…

MR. SELVAGGI: Yes, I have a copy of the easement and with this barrier proposed we wouldn't on the northerly side put any trees or shrubbery because this way then it preserves the intent of the recreational easement which probably hasn't been used since 1968 when this recreational easement was put into place.

MR. GLASSON: That home on Lot 7 falls as close as nine feet to that rear property line which is the edge of that recreational easement. It's actually 24 feet to the fence line so that fence that's there has created that back yard kind of area that's for the benefit for Lot 7, Block 3109.

MR. WEISS: Have you ever put any thought, Jim, into how the fence is going to come back towards 46 over on Woodland?

MR. GLASSON: No, the only thing that I would say is what we could do is if we needed to, I would return the fence directly behind those two parking spaces that are there that would not…there's actually a site line shown on here but it would not in hinge upon any kind of site…

MR. WEISS: Maybe a better question, you don't have any problem believing that you could design a fence that would conform?

MR. GLASSON: Well, no. A fence will not conform for two reasons, it's going to be an eight foot and it's going to be in the front yard.

MR. WEISS: Well…two variances front yard with that in mind, assume we grant those two variances, you don't see a problem, figuring out a way to put a fence there?

MR. GLASSON: We can put a fence in.

MR. WEISS: I'm not going to hold you to it but your testimony is fine. You can get it done.

MR. McGROARTY: Without, Mr. Chairman, you could put that fence in without obstructing Morris Vision on Woodland or coming in and out of the site.

MR. GLASSON: Correct, but we would not go all the way to the access at all. We would return, there are two spaces there, we would return probably if you look at your site layout plan, there is a B inlet there if I return right to that B inlet, we wouldn't infringe upon our site plan. The other item I was

asked to look at was snow removal at one point there was a question about that. There are two places where we could put snow. Quite frankly, on site other than that snow would have to be taken off site. I'm going to tell you two potential spots would be to depress the curb behind this loading space. We have eight feet to the fence there. And to depress the curb on the left side of the building we have all concrete curb there and a concrete pad there for parking spots. We can depress that curb because we have 12 feet to that property line but other than to those two locations, the snow, because you don't want to put snow out on these medians or in these isles out here because it would infringe on upon your side lines. So other than that, if there was a large snow storm, you might have to truck haul snow.

INAUDIABLE

MR. MCGROARTY : Mr. Chairman,

MR. WEISS: Go ahead.

MR. MCGROARTY: So, Jim, on either side of the building, north and south, I guess, you on either side of that you could…on the other side of that where the loading zone is and on the other side where it is just pavement, you'd put depressed curb there and you'd push it back into the…

MR. GLASSON: Yes, I would still leave it grass and I'd still leave it that way but it would be a mechanism for us to put stuff.

MR. WEISS: But, Michael, you said the applicant is on board to make a condition so he can truck the snow out if it was excessive snow.

MR. SELVAGGI: Capitalism being what it if people can't get in and out of here or can't park somewhere, you're going to have to do something to get rid of the snow.

MR. GLASSON: Snow cannot be put in the parking lot.

MR. WEISS: Sure, the parking spot.

INAUDIABLE

MR. MCGROARTY: There is no fire lane there but…

MR. SCHAECHTER: There's no egress there that says no windows on that side.

MR GLASSON: No.

MR. MCGROARTY: I would think but the Fire Marshall should review the plans. But the loading zone would not be blocked. So you have access to the front and the loading zone from the side.

MR. WEISS: Ok, fair enough. Anything else, Jim?

MR. SELVAGGI: No, that was it.

MR. SCHAECHTER: Jim, the fence that's there now is a stockade 6 foot fence?

MR. GLASSON: When you say stockade it's just a slat fence? It's the…

MR. SELVAGGI: Hurricane.

Mr. GLASSON: Yes, the hurricane fence.

MR. WEISS: It's a metal fence with….

MR. SCHAECHTER: So to have the sound barrier that's going…and that's a six foot fence.

MR. GLASSON: I wouldn't even say a six foot. It's more like four and an half.

MR. SCHAECHTER: If we cramp…into an eight foot fence, it's going to be a little more intrusive for the neighbors' behind now you're going to have an eight foot fence a little thicker, a litter girthier…

MR. GLASSON: Absolutely, I mean on my plan I show planting on that side also. On my plan I show planting on both sides of this fence because we were trying to buffer that. You know we were trying to make it so we put this fence up and if we go eight feet, I wasn't going eight feet, but we went to the eight feet with planting on both sides.

MR. McGROARTY: Sheet 7 shows the landscaping.

MR. WEISS: Ok, anybody else have any questions for Jim Glasson? Chuck?

MR. McGROARTY: I don't, no, thank you.

MR. WEISS: Ok, so at this point, Mr. Glasson gave his testimony. Does anyone from the audience have any questions for Mr. Glasson based on the testimony just delivered tonight feel free to come up and ask a question. Anybody? All right, let me close it to the public. And I'll turn it back…Jim, thanks so much for going over that…Mike, I'll throw it back to you.

MR. SELVAGGI: We are concluded with our direct case.

MR. WEISS: Ok, I'm sure we'll hear from you again. Jim?

MR. GLASSON: Yes, I made a closing statement I don't know what the public's intentions are.

MR. WEISS: Ok, I'll make sure and if I forget, please remind me. Ok, so let me just give some quick instructions. It's been three months and I promised everyone in the audience that I will give you the opportunity to speak and give us any opinion you might have on any subject on any matter and any issue. When you come up at this time, our attorney is going to swear you in because the testimony that you are going to give, the comments that you are going to be making, you will be under oath. Feel free to speak and speak your mind and what's on your mind. But there's going to come a point if it's the same comments are being made time and time again, I'm going to cut it off. So, if somebody right before you has spoken and you have the same exact though, please don't come up and give us the same thing. We understand. The opportunity is there. Mr. Jenkins, if you don't mind I know you had a brief presentation. I'd like the members of the public to get their say in and I know they've been extremely patient since June and if you have no objection, I'll bring you up when the rest of the neighbors have spoken.

MR. JENKINS: I have absolutely no objection to that.

MR. WEISS: I appreciate that. So, at this point you are welcome to come up to the microphone, you'll state your name and address and our attorney will swear you in. If anyone for the public has anything to say.

(KEN PEARSON IS SWORN IN FOR THE RECORD)

MR. EVELAND: If you could state your full name and address for the record please.

MR. PEARSON: Ken Pearson, 90 Netcong Road, Budd Lake, New Jersey 07828. At the last meeting with this it was said that there was a convenience store prior into this and I'm trying to figure out when that was because I worked there before it closed down and there was never a convenience store there. So, I'm just trying to find out where this came from in that aspect and how it's going to be less traffic as well in this area.

MR. McGROARTY: I can try and answer one thing, Mr. Pearson, right? I don't know what anyone else said. I said, I think I said, that my recollection was that when the service station was in place, they got approval from the Zoning Board of Adjustment to sell soda and things of that nature in the bays. So…

MR. PEARSON: Well, I know they had the vending machine and they sold cigarettes.

MR. McGROARTY: No, no, this was cases. And I remember it pretty well; it was in the old building, so we are going back many years.

MR. PEARSON: Well, yes I worked there back in 87

MR. McGROARTY: We're there is a resolution in the file.

MR. PEARSON: Ok.

MR. McGROARTY: So, it wasn't a convenience store. But, there was permission to sell soda and there may have been other things as well in the 2 bays which were no longer being used as I understood for service.

MR. PEARSON: Alright. Thank you.

MR. WEISS: Thank you, Mr. Pearson. Anybody else from the public?

(JOSEPH BARRETT IS SWORN IN FOR THE RECORD)

MR. EVELAND: If you could state your full name and professional address for the record please.

MR. BARRETT: Joseph Barrett, 39 Camelot Drive, Budd Lake. I've got two concerns, I commute every morning out to Elizabeth through that intersection, Woodland Avenue, Route 46. Most mornings I'm backed up may three, four cars down Netcong Road trying to get through there. What are we looking at? Have there been studies, and I apologize I'm coming in I guess stopping into these meetings a little late in the process, have studies been done to show the impact of what that traffic is going to do? You got school buses coming down in the morning, you got people trying to make that left hand turn, you got people making left hand turns off of 46 into that parking lot or trying to or coming into Netcong down onto Woodland down to Netcong Road, you've got head on collisions going on all the time over there. You know, has there been any kind of traffic study or anything like that?

MR. WEISS: Mr. Barrett, I can answer that question for you because Mr., I should know, Mr. Dean gave a very lengthy presentation supporting this lengthy report about traffic studies. That being said and I understand you were not here for that, your personal opinion is what we want to hear.

MR. BARRETT: And that's…I got to commute. We all know Route 80 in the morning is a bear.

MR. WEISS: I'm not going to go ahead and recite any of Gary Dean's testimony,

MR. BARRETT: And that's fine.

MR. WEISS: And that's ok, I don't think that's your point. We want to hear from you.

MR. BARRETT: My concern is you know you get out there you have people trying to get to work every morning, you know, you already got a traffic snarl there to begin with some mornings because of school buses, you know people leaving, coming out to get on to 46, we're putting another housing development down the road, if I'm not mistaken. You know, we've got, basically just a log jam some mornings trying to get out. Sometimes that light's changed 2 or 3 times by the time you get out. You put someone….you put another store or something in there…you know…I'm just looking at…you know…I'm probably going to have to take another route to avoid it.

MR. WEISS: You might want to let us know what that is so maybe follow you.

LAUGHTER

MR. BARRETT: My second…I have two concerns, second concern also…you know Mount Olive is a community of…you know...people…I mean I look what are here are several small business owners, you know…what's it going to do to the small business owner? You know…I look at it…you know…over at the Minute Mart…I'm in there some mornings getting coffee, you got a woman who comes in and she doesn't have enough for a load of bread, Jack gives it to her. You know, the pizzeria, different stores like that. What are we looking at? You know, we are looking at dollars and cents, but what we are looking at, how does it affect our small business owner in the town. I'm a local realtor, I'm a teacher in Elizabeth, I also do real estate in this area. You know one of the things I always promote to the people…you know…Mount Olive tries to promote the small business people. Here, we are bringing in another box.

MR. WEISS: You know it's an interesting concern and I don't want to rebut it with you but the Planning Board has certain obligations that we have to make decisions on. Maybe sympathetically we all agree with you. I don't think it would be legally responsible for the Planning Board to make a decision based on the impact of one business would have on another. That's just not the right…

MR. BARRETT: No, I'm just saying that…you know…again if you're considering everything if there is a mitigating circumstance or something or something else to consider…

MR. WEISS: It's a compassionate statement and I respect it…

MR. BARRETT: And you asked for an opinion.

MR. WEISS: And I did and I'm not going to argue with you. I just want you to understand that that would be inappropriate for the Planning Board to use as a reason to vote for or against the applicant.

MR. BARRETT: Right, I'm not saying the individual businesses; I'm just saying the economy of the town itself.

MR. WEISS: I don't think…in theory that's the right way to do. The Planning Board unfortunately can't…can't judge it based on that. Just want you to understand that.

MR. BARRETT: Like I said, my concern is just really the traffic and also the effect on small business owners.

MR. WEISS: Ok.

MR. BARRETT: Thank you.

MR. WEISS: Thank you, Mr. Barrett. Colleen, we will swear you in.

(COLLEEN LABOW IS SWORN IN FOR THE RECORD)

MR. EVELAND: If you could state your full name and professional address for the record please.

MS. LABOW: Colleen Labow, 57 Third Street, Budd Lake, 07828, I agree with Joe 100 percent. I just recently started going out in the morning during rush hour traffic time to go to my son's house to put my grandson on the bus in Roxbury and I leave the house about a quarter after six, and I have been stunned at how unbelievable the traffic is. I'll sit…I come from Third Street down Woodland so that I'm going to make a little right on Netcong and a left onto Woodland and he was talking about like down Netcong. I'll see the string of cars, five, ten, either way. At night, the other way on Netcong the cars are backed up and they are getting backed up onto Route 46. That is extremely dangerous because when people are coming west on 46 and they are going up that little incline, it's like all of a sudden the cars are there and you're stopped. And I've actually had that happen where is an accident or something and all of a sudden there's cars stopped in front of you. So, the way that they have designed this, and just correct me if I'm wrong. They are planning on not allowing entrance from Route 46 onto the site, they are going to direct people down through Netcong, make a left to get into…

MR. WEISS: No, traffic heading west on 46 can access the site. Traffic heading east…

MS. LABOW: East cannot. So, they have to make the left and then they have to try and…they have to try and make a left thru all the cars to get onto…oh, that's going to be interesting. So, anyway, the traffic part is a really huge concern and I know that they did a traffic study but I've lived in that neighbor since 1980 and since 1980 I have seen a lot of changes, a lot more buildings from the west that were on Karen…inaudible…a lot of houses were built up there…Saunders…there's a lot of cars that will take the back roads instead of 46 and come down Netcong Road and there can be many…actually Mike…if Mike is still here he can testify. He lives right on Netcong Road. They probably are backed up to his house sometimes. And so that's…that's a really large concern there that there's going to be a lot of traffic. I did have an instant one time where somebody was walking on Netcong Road went to cross the street at Woodland to go over to the Minute Mart and somebody who was at the stop sign didn't see the person…and actually hit them and knocked them right into Netcong Road so there are no sidewalks, there is no safety measures for pedestrians which is really a big concern as well. The other thing I wanted to mention, I did a little bit of research as my real estate hat that I wear, and I saw that back in 99, 98 they purchased that property for $575,000 and the assessed value right is $414,300 and it's now zoned for professional…right…professional business, and I don't understand and I know I had asked this question if…if that's what you're zoned for, I don't understand why the property was not…you know redone a little bit to emphasize the fact of what is could be used for instead of all of a sudden now they want a Use Variance change just because they want to put in what they want to put in instead of

designing the area for what it was allowed for that's…I have a big objection to that just because that just doesn't seem fair that because of all the traffic and the neighborhood and everything else a business…an office business like a chiropractor, accountant, lawyer that would be perfect location for any of those types of businesses. Not a busy 7-Eleven where you are going to add more traffic and more congestion to an area that is already way too congested for the way it was designed. It was never designed to take that much traffic. It has been the worse when Mr. Simoff's property gets developed, 284 possible more cars coming thru the area? It's going to be bad. So, that's…that's my opinion. Thank you.

MR. WEISS: Ok, thank you, Colleen. Anybody else from the public have any questions or comments? Just comments, you could ask a question.

(RICHARD STANFORD IS SWORN IN FOR THE RECORD)

MR. EVELAND: If you could state your full name and professional address for the record please.

MR. STANFORD: Richard Stanford, 31 Second Street, I've been here 50 years…so I've been at that intersection many, many times. And I am extremely concerned about the safety which we've talked about because traffic is coming in from 46 to make u-turns around Woodland traffic is coming down Woodland, traffic is coming from Netcong across then all the other houses behind, hundreds of houses, it's extensive and I know because I got hit there a number of years ago by a hit and run driver at the intersection and they fly through there and it cost me my deduction because it cost $495 to fix my six year old car. The deduction was $500.00. So, I know. The other thing too is I believe in that testimony that they stated that they put another lane in on Woodland, a third lane, wasn't that one of the…didn't they testify…about a third lane on…

MR. WEISS: You know that was a previous applicant. That was Mr. Simoff that has agreed to widen the road regardless the road will be made wider, but not by this applicant.

MR. STANFORD: Not by this?

MR. WEISS: That's correct. Jim, am I right on this?

MR. GLASSON: Yes, yes…

MR. WEISS: Mr. Simoff's application, part of his improvements was to make a third lane.

MR. GLASSON: And I showed that on the plan both ways, existing and…

MR. WEISS: You did, ok., so I don't…there are going to be taken advantage of the fact that Mr. Simoff will be making the road wider.

MR. STANFORD: Ok, who pays for that?

MR. WEISS: Mr. Simoff.

MS. NATAFALUSY: Mr. Simoff.

MR. WEISS: Mr. Simoff and his application. Mr. Simoff is building a property down the road over by the old Board of Ed building, the old Budd Lake School.

MR. STANFORD: Ok, I didn't know anything about that.

MR. WEISS: I know, it's got nothing to do with it. But, yes, the question…

MR. STANFORD: Ok, the other thing was I did a little investigation on my own. And the Quick Check out in Mount Arlington off of Route 80, I had to sit there and wait for half an hour to pick up a passenger and I observed a real classic action where they have a…inaudible…around the store. They have 2 entrances in and out, and they have 50 parking spaces. And I said my God; we are talking a postage stamp compared to this. And it's the same type of operation same type of business. So, I was concerned that we're doing a postage stamp thing. The other thing I was concerned about is why this location we have the Budd Lake School that's now for sale, the Trading Post, Buddy's Small Lot…building there and the Village Green Mall and there's also just in the line as you get on Route 80, the old gas

station there, there's room there. Wouldn't there be better sites than a very, very unsafe intersection? So?

MR. WEISS: I'm going to take your question as rhetorical. Point well made.

MR. STANFORD: Ok, anything else?

LAUGHTER

MR. WEISS: Thank you, Mr. Stanford. Anybody else from the public have a comment? I understand, I just want to make sure. Anybody else? Ok, then Mr. Jenkins.

MR. JENKINS: What is your preference…

MR. WEISS: I think if you're going to put up a case, you mind as well sit at the table.

MR. JENKINS: Thank you, and one of the logistical questions, if I may. I know I'm the enemy but may I use your easel, if…do you have one? Inaudible. Thank you very much. Again, Reggie Jenkins, Florio, Perrucci, Steinhardt & Fader, on behalf, I will simplify it, on behalf of the owner of Budd Lake Diner, of the Minute Mart Convenience Store, and of the two properties that are adjacent to this property…the subject site. I asked Mr. Murello whether the sound would be eliminated and he said no it just is going to be reduced. That is important because I think it's a microcosm of what this application is all about and problems with it. He spoke about the sound is going to be in connection with or accordance with applicable regulations. But I would ask that the board consider one thing, those regulations are put in place for uses and activities that are permitted. That if you have a code that says this shouldn't be here at all it doesn't matter what the regs say because you may be attenuating but there is going to be an impact. I want the board to please keep in mind that what is being proposed here is there is going to be an impact on the residents. And this will be important as we go along be because as the board knows that this is a primarily a Use Variance Application to put in a 24 hour 7-Eleven convenience store on a site which is not even half of what's required in size by your code. It's in your professional business district and it sits hard by residential…existing residential uses. Now as the board knows, you…when evaluating a Use Variance you need to look at the positive and negative criteria. And you need to weight whether the positives of what is being proposed out weights any of the substantial detriments that may come from what is being proposed. You also have to look at whether or not there is violation in particular of your Master Plan. In this particular case, the positive come nowhere near outweighing the substantial detriments of what is being proposed. And I say that because first and foremost, if you look at your code, your code incorporates your Master Plan in any re-examination of your Master Plan. The re-examination plan which I pointed out the last time I appeared here makes it…one thing very clear, that not only is strip…strip stores not encouraged, and quite frankly prohibited, but is says also in putting uses there you are to actively seek alternatives that are compatible with the neighboring uses and that minimize the traffic burden in the area. Going to and I have…I made copies of an excerpt of that section if the board would like that unless you want to just state judicial notice of what I'm speaking of but it is the 2010 Periodical Re-Examination Report of the Master Plan Development Regulations of the Township of Mount Olive, June 17, 2010 Amended July 15, 2010. Now incorporating that, your code says that the ordinance further advise that any new uses do not intrude upon established residential uses in intensity of activity and it also requires that what is being proposed impose it better in quotes "a better" traffic alternative then what exists. This application and I'm going to get to this and our testimony will support, this goes against every admonition that the governing body says one with regard to traffic and traffic safety. Now the question was brought up whether or not and studies have been done. Yes, there was a traffic study done by Dolan & Dean who I know very well. I've used them a lot. I respect them just like Mr. Murello. I know them, I use them a lot. I'm usually on the developer side, 99.9 percent of what I do is on the developer side. In this case, they…we don't quibble with the numbers that they're putting out. Quite frankly, it's a good report. What it does not include because that wouldn't be part of their brief because they are asking what is the DOT look it. Interestingly, the DOT doesn't look at safety and follow me on this. What the report doesn't provide and correct me if I'm wrong but I didn't see it…what it doesn't…and that…given analysis of is accidents in the immediate area. What is interesting about this area and I'm not talking about Route 46. I'm talking about the triangle that is the subject of this application. This triangle where this 7-Eleven is going has higher incidents of accidents than all up and down the roadway. And statically, more than what should be in a comparable area. Our Traffic Engineer will speak to that. So, that's a huge substantial detriment. And quite frankly, I would say it's a countervailing, overarching, whatever big triumphant word we are going to put in there, that's it. I…quite frankly I can drop the mic and walk home now because I don't think it is rocket science to say that when we are putting…looking to put in…not we…when they are looking to put in use that is admittedly traffic intensive, that is going to add to or alter or in any way

impact on the existing traffic that is already bad and is already accident prone. You're adding a different and most likely much…an additional hazard to what is already there. And the reports that we are going to submit and speak about was not…and this is significant…this has been a vacant lot for some time and we are sympathetic to that. The accidents occur when there is nothing there. So if you put something else there, something that's not permitted something that is traffic intensive, you are going to get that negative impact. Moving on…

MR. WEISS: Excuse me just a minute, real quick…you said you were going to bring up a traffic expert to backup your comments?

MR. JENKINS: Yes, I am.

MR. WEISS: Ok, so, maybe let's leave that testimony to your traffic expert.

MR. JENKINS: Oh, yes, thank you. I'm just, this is all subject to…this is opening statement. This is not testimony.

MR. WEISS: Ok.

MR. JENKINS: Second, it will intrude on the adjacent residents. Once again, we are talking 24 hours. We are talking about the lighting, we are talking…we've heard a six inch fence, we've heard the possibility of an eight inch...eight foot fence. One of the signs that is illuminated that is being proposed is a…12 feet. There are going to be lights on the property, and I know there's a lighting study but nevertheless, there is going to be a glow from this that is not going to be masked by eight foot or six feet. They spoke about the sound. Once again, the sound is not being eliminated. There's going to be sound that is added to this site which is not going to be eliminated. It's going to be extenuated. It's going to be reduce, it's not going to be eliminated but it is something that is being added that was not there before. Once again, your code says we are looking for uses that do not add to the intensity of the use. And then finally I will move on and this goes more to the positive. But it is something that's important…and one of the objectors who came up eluted as well to this but…this use does not add to anything or fill a need that does not already exist…that is already not satisfied. There are 24 hour places all along this area within a fairly close proximity. So this is not putting a food store in a food desert. This is simply adding another 24 food convenience store that already exists. With that, it's…once again this is in short, ten pounds of groceries not a five pound bag, this is ten pounds of groceries in a two pound bag with all the palatable horribles that follow from that. That is the overarching view and impact of what is being proposed this evening. I have four witnesses, one is Mr. Samir Patel, who is the owner of the Minute Mart. I have Fay Jelis who owns the Budd Lake Diner as well as the properties behind the adjacent property. I have Joseph Fishinger, who is our Traffic Engineer who will speak to the points I was making and finally to wrap everything up and put it in a nice bow is John Leoncavallo who is our Planner. Unless there is any question of me, Mr. Chairman, I'd like to bring out my first witness.

MR. WEISS: Please do, Mr. Jenkins.

MR. JENKINS: Thank you. Mr. Patel and if I may before I do that I would like to pre-mark…

MR. WEISS: Mr. Patel, you come to the table, please. Ok, so we are going to mark that OB1. OB1 with the date, please, the 15th. OB1…explain if you can please what OB1 is.

MR. JENKINS: OB1 and our planner who took it will explain to it more but basically what is being displayed is OB1 is simply an aerial of the one subject site and the areas around it with the zones marked on them as well as at least some of the adjacent property identification.

MR. WEISS: Perfect. Ok, Mr. Patel our attorney is going to swear you in.

(SAMIR PATEL IS SWORN IN FOR THE RECORD)

MR. EVELAND: If you could state your name and for the record please.

MR. PATEL: Samir Patel.

MR. JENKINS: Thank you. Mr. Patel what is your relation to the site…in terms of…how do you come here tonight? I described you as the owner of the Minute Market is that correct?

MR. PATEL: Yes.

MR. JENKINS: How long has…how long have you been in business at that location?

MR. PATEL: So, we are there since December 2012. So, it's 3 years and 9 months.

MR. JENKINS: Ok, and if you could I've put an aerial over there, could you just go to there and just identify where you're property is in relation to this site.

MR. PATEL: It is right here. I have a direct access for view to this property in this area.

MR. JENKINS: Ok, and…no you can…and having occupied that location, are you familiar generally with…one, your site? Are you familiar with your site, correct?

MR. PATEL: Yes.

MR. JENKINS: Are you familiar with the site that is the subject of this application?

MR. PATEL: Yes.

MR. JENKINS: And are you familiar with the general surrounding areas of the site?

MR. PATEL: Yes, very well.

MR. JENKINS: I want to ask you….specific questions, but if you could the overall question I will ask you is can you describe for the board what your concerns are with regard to this proposed 7-Eleven facility?

MR. PATEL: Sure, I have a number of concerns and I'll start with the overall concern is in my opinion this is too large of a project for such a small lot. I know a lot of community members they come to the store, they are in, they are out. I know a lot of residents many come walking, many take cars. I see firsthand in the morning and in the evening, even to the evening before I came here, there are cars which backup all the way on both sides and it's really congested area even widening which is what proposed by another developer may not solve it and adding more cars will create more issue. The other main concern I have is the safety. So I have witnessed accidents there and I believe there was a fatality I had heard that had occurred and maybe somebody else…Traffic Engineering will speak more about it. So, I'm more worried about the community, my customers, people I daily work with or daily come in. Check with the impact it will have on their day to day living in the area by this proposal.

MR. JENKINS: Ok, just…we will more on in a minute but again you say that…fatality you were talking about that you have witnessed and know of first hand accidents that have occurred in this immediate area.

MR. PATEL: Yes.

MR. JENKINS: Ok, the board had raised this previously but is snow removal a concern for you that you believe in this area and specifically with regard to this site?

MR. PATEL: Yes, so as board members know this area gets more snow than others nearby area and what happens when snow storm hits? Even in our sides where the snow is good, it takes a few parking spots. There's not enough spaces so wherever it is kind of stacked up. It takes up parking spots. So, I'm really concerned in such a small lot and if they want to preserve their parking spots there is very limited area which I know it was shown that there will be two places but I don't know even a snow storm hits with like 12 to 15 inches of snow, you bring in a truck and take out where's there's a lot of snow already it seems to me like rather impossible…

MR. WEISS: Mr. Patel, I just want to jump in here. I understand your concerns, but the applicant clearly said that they are not taking up spots, that they are going to put the snow there and identified two locations and if those locations can't handle the snow then they are going to truck it out. To me that removes any concern. I'm not sure what your concern is at this point. You might have had that concern prior to the testimony but it was clear by Mr. Glasson that they have a plant to remove the snow. It was my concern too, but Mr. Glasson clearly spelled out a plan on how to get rid of the snow so, I don't understand how that's a concern of yours, you are entitled to the concern, but you have to also take into fact the facts that we heard today. So, if you're going to sit here and tell us something that doesn't exist it's kind of affect the rest of your testimony. So, I just want to be careful what you are

telling us because Mr. Glasson could not have been more clear about how that's going to be resolved. So, that should have come off your list. Unless I've missed something…I just want to let you know.

MR. JENKINS: But…fair enough, that was a concern…first of all, I asked the question, so any heat that is directed to him on that, please direct that first to me because I did ask that question but it was something…

MR. WEISS: Ok.

MR. JENKINS: …that he was still concerned about even though it had been addressed it was still a concern. If it's remedied, that's what the board will take into account. But, if I…with respect…knowing the area, as you do, he has seen firsthand that there had been issues with regard to snow and that's all that he is voicing. If that's what the applicant is proposing remedies it fully, then you are correct. It is not a concern. But for the record, it has been a previous concern and for that reason he is stating that. But your point is very well taken.

MR. WEISS: Chuck, go ahead.

MR. McGROARTY: Mr. Jenkins, if I may, to your client, what does he care if there is a snow problem on the adjacent lot? Does it affect the Mini Mart?

MR. JENKINS: It was just previously with regard to whether or not any of it is going out into the roadway. Again this is from his observation. But, I don't think we need to…talk…forgive me, I don't think we need to talk about it any further given the Chairman's very valid point. It was simply raised as a concern previously but again, the applicant has addressed it.

MR. McGROARTY: Ok.

MR. SCHAECHTER: If anything, it's poorly plowed then it benefits him.

INAUDIABLE

MR. JENKINS: But again these are just observed…observations that…

MR. WEISS: Mr. Jenkins, let's move on.

MR. JENKINS: Thank you. Just finally you heard it in my opening that there are other stores that are within the area. Do you have any opinion on that?

MR. PATEL: Yes, so…

MR. JENKINS: Or knowledge of that rather.

MR. PATEL: There are five convenience store type locations which are open 24 hours and if I add during daytime there are other 224 locations. So, the need of the customers and need of the people living in the area is already served by the existing businesses. So this business in my opinion is not bringing in any other need that is required to be met.

MR. JENKINS: Thank you very much. Mr. Chairman, I have no further questions of this witness.

MR. WEISS: Anybody on the Planning Board have any questions for Mr. Patel? This is the public forum; could we turn it to the applicant if they have any questions?

MR. EVELAND: Yes, he's a witness, he's been sworn in. They do have the right cross him on anything.

MR. WEISS: I just want to make sure. Michael, do you have…

MR. SELVAGGI: Yes, Mr. Patel…

MR. WEISS: Hold on one second, Mike. Let's make sure we can pick you up. Catherine, are you hearing Mike?

MS. NATAFALUSY: Yes, he will be picked up over here.

MR. SELVAGGI: Mr. Patel, would 7-Eleven be a competitor with you? Be in competition with your business?

MR. PATEL: Sure, it could be, yes.

MR. SELVAGGI: That's all.

MR. WEISS: Thanks, Mike. Thank you, Mr. Patel.

MR. PATEL: Thank you all.

MR. JENKINS: Want me to re-direct Mr. Patel?

MR. WEISS: Hold on one second, Mr. Jenkins.

MR. FLEISCHNER: The snow thing kind of came up, can I backtrack and ask a question…

MR. WEISS: Sure, I suppose.

MR. FLEISCHNER: When they plow 46, where does the snow go with regard to this property?

MR. GLASSON: It would go into the parking lot. It would go into those islands that I have between 46 and…

MR. FLEISCHNER: So when the people come to…I'm just trying to get this clear…so when the people come to move the snow away, they are going to have to find their way into the property to get that snow. Right?

MR. GLASSON: As with any site, I mean you can't…that's…that's a tap dance…you know…I'm on 46…

MR. FLEISCHNER: I know. I know where you are.

MR. GLASSON: What do I do? I'm the same way…I mean…you have to plow to get in and then you have to plow. I mean that's the way it works.

MR. FLEISCHNER: Ok, I just want to make sure. Thank you.

MR. WEISS: Mr. Jenkins, go ahead.

MR. JENKINS: Yes, just one re-direct. Mr. Patel, you heard the question of counsel, is competition…practically competition from 7-Eleven, your primary concern for testifying this evening?

MR. PATEL: No, what I'm concerned is about my customers, the community, the people I know, and their concerns. A matter of fact, I have signatures of about 160 people who have signed with their addresses living in the nearby area who are opposing to 7-Eleven. And if the board wants I can…

MR. WEISS: I'm not going to accept it anyway.

MR. JENKINS: Ok, and is one of the other concern, your concern? Do you drive this area?

MR. PATEL: Yes, I drive and I go home and come. Yes, definitely. So my concerns are not only because of the competition but the impact it will bring to the community.

MR. JENKINS: Thank you.

MR. WEISS: I was just explaining to Mr. Fleischner 'm not going to accept that because those folks are not here. I don't know anything about the signatures. I don't know anything about those people and there would be no way…I'm just going back to the petition. I think…

MR. FLEISCHNER: The only reason I question that is when people sign a petition within the township to throw a mayor out of office, It was accepted by the…

MR. SCHAECHTER: It wasn't accepted if it's not a notarized statement…

INAUDIABLE

MR. WEISS: In the case of this hearing, the applicant should have the right to go back and question. What questions were they asked, what was the situation, we don't have that…

MR. FLEISCHNER: I'm just asking a question. Take a deep breath.

MR. JENKINS: And, Mr. Chairman, just for the record, I thank Mr. Patel for raising that but that was not being offered. No, what I'm saying is that was not part of this and we were not offering to have it marked or anything like that.

MR. WEISS: Thank you.

MR. JENKINS: He had it but…

MR. WEISS: I don't want to see it or talk about it.

MR. JENKINS: Thank you.

MR. WEISS: Mr. Jenkins, could you move the Bible a little closer.

(FAY JELIS IS SWORN IN FOR THE RECORD)

MR. EVELAND: If you could state your name and address for the record please.

MS. JELIS: Fay Jelis, 3 Sunset Drive, in Budd Lake, New Jersey.

MR. WEISS: Fay, spell your last name for us.

MS. JELIS: J E L I S

MR. WEISS: Thanks.

MR. JENKINS: Thank you. Can you describe for the board your relation with regard to this site specifically, you know, what property you have an interest in what you own.

MS. JELIS: Right, we own the diner. We also own the house behind…directly behind the site and the one right next to it, 14 and 18 Netcong Road. My concern…

MR. JENKINS: I'm sorry just one other thing. With regard, to the diner how long have you…

MS. JELIS: Thirty years.

MR. JENKINS: Thirty years.

MS. JELIS: Long years.

MR. JENKINS: With regard to the properties behind the site.

MS. JELIS: The 14 Netcong Road it's been at least 18 years we have it and 18 Netcong Road we just got it this…beginning of the year.

MR. JENKINS: Ok, and in…in your ownership capacity you are familiar with this general area?

MS. JELIS: Oh, yes.

MR. JENKINS: And you're familiar with the property that is the subject.

MS. JELIS: Yes.

MR. JENKINS: Thank you. You heard, we won't dwell on this snow issue, but you heard Mr. Patel's testimony generally, correct?

MS. JELIS: Yes.

MR. JENKINS: Do you agree with that of what he had stated?

MS. JELIS: Yes.

MR. JENKINS: And generally you heard my opening to the extent that it was, you have no objection with what I stated in my opening…subject to the expert testimony that was being stated. Can you briefly describe to the board, briefly and not to…repeat anything Mr. Patel said…but is there anything you want to add to that testimony first, any concerns you might want to raise?

MS. JELIS: I have a lot of concerns about my tenants especially on 18 Netcong Road there are small children and 14 Netcong Road is right behind it, the noise, the safety, the traffic, the traffic and safety.

MR. JENKINS: Thank you. Did I cut you off?

MS. JELIS: Nope.

MR. JENKINS: Ok. Now at some point and time were you present…with regard…at any Mayor and Council Meetings?

MS. JELIS: Yes, I was. I used to be here frequently years ago we try many times to enlarge the diner and we were turned down. And I was in a lot of meetings. And then I don't know…something…I don't know what happened I don't attend the meetings.

MR. JENKINS: Well, were you specifically at a…attended any meetings with regard to the adoption of the ordinance on the PB Zone.

MS. JELIS: Oh, yes. Yes, I was in the same room quite a few years ago when they changed the ordinance from Woodland to the lake only specifically the west side by where the diner is…that side, not across the street, nobody asked the question why not be across the street. They changed to a professional use and that because of the traffic and they specifically said no…no fast food, no gas stations, no repair stores and I remember somebody as what can they put there and they said a doctor's office, a nail salon, and all because of the traffic and the safety.

MR. JENKINS: So, those…

MS. JELIS: Those were the exact words. I didn't speak at that meeting. I was in the same room and that's what was said.

MR. JENKINS: Ok, so from your understanding, knowing that you are not a professional, but in your understanding, is this the type of use…the 7-Eleven…is this the type of use that the Mayor and Council, the governing body, was looking not to have?

MS. JELIS: Yes, not to have nothing that attracts a lot of traffic that's the exact words.

MR. JENKINS: Ok, thank you very much.

MR. WEISS: Anybody from the Planning Board have any questions for Ms. Jelis? Chuck.

MR. McGROARTY: Ms. Jelis, is the diner open 24 hours?

MS. JELIS: Yes, it is.

MR. McGROARTY: Do you have HVAC equipment on your roof?

MS. JELIS: We have…we have 3 air conditions…and a vent…nothing else…

MR. McGROARTY: And to the best of your knowledge in the 30 years you have been here operating, have you ever had complaints from residents.

MS. JELIS: A couple years ago when the units were older, yes we had…they would bring…they would put…the Health Department would come by the garbage and put something to adhere how…you know…the noise. And but recently we changed all our air conditions and the fan and it worked very good. We never had any complaints lately.

MR. McGROARTY: Do you have, if I may just 2 more questions, do you have roof screening on the diner?

MS. JELIS: No, I don't think so unless the new air conditions have them.

MR. McGROARTY: So, you fixed the problem. No more complaints about noise.

MS. JELIS: Yes, but we sit very far back from…

MR. WEISS: Ok.

MS. MOTT: It seems you own the diner and then the property behind it. Did you ever try to purchase the property of the gas station?

MS. JELIS: Yes, we did. And my husband…

MR. SCHAECHTER: Recently?

MS. JELIS: …quite a few years and recently we make him an offer. We made him an offer and he turned it down. And years ago he only want me to say the asking price.

MR. WEISS: Your show.

MS. JELIS: Alright. He would never talk to us. He would send us a flyer that said he wanted $779,000 cash in parenthesis and all the variances at the owner's expense. And then…you know…my husband made him an offer of $595,000 a few years ago. He turned it down and he wanted $800,000 and it was on the greedy side. And we…stopped it at that. Now we got older…

MR. SCHAECHTER: How many years ago was that?

MS. JELIS: At one point, I want to say 10 years ago and lately another time without ex-partner we tried to do something. But he was never…he never interested to sell.

MR. SCHAECHTER: Lately, give me a time…5 years, 10 years, 3 years?

MS. JELIS: Two years ago. The second time. We tried a few times.

MR. WEISS: Ok, thank you. Ok, anybody else? Planning Board? Chuck?

MR. McGROARTY: No, thank you.

MR. WEISS: Michael?

MR. SELVAGGI: No.

MR. WEISS: Thank you, Fay.

MR. JENKINS: At this point, I'd like to bring out Mr. Fishinger who is our traffic expert.

(JOSEPH FISHINGER IS SWORN IN FOR THE RECORD)

MR. EVELAND: If you could state your name and address for the record please.

MR. FISHINGER: Joseph Fishinger (F I S H I N G E R), I'm a Supervising Engineer with the RBA Group, 7 Campus Drive, Parsippany, I'll go through my qualifications real quickly. I have a Civil Engineering Degree from Rutgers University. I'm a Licensed Professional Engineer in New Jersey, as well as, several other states. I'm also a Certified Professional Traffic Operations Engineer and have been

doing traffic engineering work in the public and private sectors for almost 20 years. I can keep going if you like.

MR. WEISS: You've appeared in front of Municipal Planning Boards previously?

MR. FISHINGER: Yes, and represent a number of Municipal Boards as well.

MR. WEISS: Throw out some names.

MR. FISHINGER: Montgomery Township, Burlington Township, Florham Park,…

MR. WEISS: Ok, anybody from the Planning Board have any questions for Mr. Fishinger? None. Thank you. The Planning Board will certainly accept Mr. Fishinger as your expert in traffic.

MR. JENKINS: Thank you very much. And I'm just going to…you know…wind you up and let you go. Can you describe for the board what you have reviewed and what your conclusions are with respect to the instant 7-Eleven Application?

MR. FISHINGER: First I reviewed the Site Plan submission and Mr. Dean's Traffic Report. And as far as the Traffic Report, and the numbers in it, I'm in agreement. There…the trip generation follows are standard procedure so does the analysis. The numbers in it are receptacle to me. What I want to talk about more tonight is not the traffic number but safety from a previous testimony you can probably guess. The…is a little bit of background similar to the Highway Capacity Manual that I'm sure every traffic engineer that comes in from of you talks about delays and level of service. That's all calculated by the Highway Capacity Manual. Federal Highway has a…we'll call it a companion document called the Highway Safety Manual. And it does pretty much the same thing. It's a series of equations and calculations to try to quantify safety so you feed in various technical information on an intersection or segment of road and it will give you an anticipated number of crashes. That saying with all the factors and their models, a typical intersection with this lane configuration, these types of turns, gives you a certain number of crashes. For 46 and Woodland where we are talking about that number is 3.5. We've done that analysis; the models expect you to get three and an half crashes per year on average. And then what I did was look at the actual crash history in the area and I looked at five years of crashed 2011 to 2015, it's the latest date that's available from mile post 28.26 to 28.34 on Route 46. To give you an idea, Woodland is 28.31. So I'm looking at a couple of hundred feet on either side of the intersection. That number and I will be able to provide copies of that…that summary report is 55 crashes including one fatality. Obviously do the math that comes out to 11 crashes a year as opposed…compared to the three and a half that are expected. And that's, again, without anything on this site. For the last 5 years there hasn't been a use on the site. That's the quantify, that's how many crashed there are.

MR. JENKINS: Mr. Chairman, forgive me we are relying on that. Would you like that marked as OB…

MR. WEISS: We'll mark that OB2.

MR. JENKINS: 2.

MR. WEISS: With today's date of 9/15, and again that is the data Mr. Fishinger, that's the data..

MR. FISHINGER: Yes, I believe…look over his shoulder…it's titled "Crashes on US Route 46 Mile Post 28.26 to 28.34 2011 to 2015". And this information comes from the system called Planned for Safety. It's basically the readily available version of the state's crash data based. It's managed by Rutgers and you can get most consultant can get an account to pull up some information; we can't see every detail of the crash. I mean we can't see driver's license number and things like that but we can give you…give us number of crashes, types of crashes, and this is an excerpt from that database. There is some information that's in there that I did not provide just keep the spreadsheet at somewhat of a readable level. So, as I said we have…in reality we have 11 crashed per year at this intersection without everything…anything on it. And remember Mr. Dean's report had 144 trips in the morning peak hour and 112 in the evening peak hour. Now granted, most of those trips are passed by traffic. It's cars that are already on Route 46 but it's now it's going to be those cars who are making turning movements at this intersection. So we are not talking about the impact to an intersection half a mile away. We are talking right in…at the intersection and those couple 100 feet on either side of the signal. Compare that to a typical…you know… an approved use, a small medical office or a hair salon. Those are more in the range of ten peak hour trip as opposed to 144. Now obviously ten trips whether they are passed by or

new is kind of irrelevant. So really we're taking…we're look at approving…if approved this would be taking an intersection that's already over three times the crash rate it should be and adding even more traffic to it. The other point I wanted to make with that is these are only crashes on Route 46. This does not include Woodland, this is…this is just to Route 46 and the improvements as I understand that are proposed by another application are to widen the side street. They are not to widen Route 46. So the crashes that are on 46 will still be on Route 46 when that widening occurs. The only other thing I wanted to bring up was when I reviewed the Site Plans the truck turning templates provided in the site plan assume that the widening is in place and the truck needs both of the left turn lakes to make a turn without crossing the double yellow. And when I reviewed it the site place without that widening in place that truck needs to go into oncoming traffic to swing the turn. So I'm not going to say what the timing of the two projects is or what happens with one if that development doesn't take place but just point out to you without that improvement in there, a truck coming into this site would need to go across the double yellow and into oncoming traffic to complete their turn.

MR. JENKINS: Thank you very much. Mr. Chairman, I have no further question for Mr. Fishinger.

MR. WEISS: Joe.

MR. FLEISCHNER: Could you with your expertise comment on the safety of school buses making a right out of Woodland and a left and the reason why I raise that is because this morning I was there and a school bus was actually making a left turn, I'm not sure why…

MR. SCHAECHTER: Why are you looking at me for?

MR. FLEISCHNER: Because he's on the school board.

MR. SCHAECHTER: Well they are supposed to turn left and right. It's part of the steering.

MR. FLEISCHNER: I know. And that concerned me…and the reason why I'm raising…what concerned me is the light changed in the middle of the school bus making the left and the only…and I'm looking and saying…I'm actually closing my eyes, I'd don't want to give testimony because I hear a screech of a car that obviously did not…thought they could keep going. Is there anything that could be done at that intersection to prevent a possible…I mean we know there are a lot of accidents there. And I'm concerned about school buses since I have little ones on the school buses.

MR. FISHINGER: I didn't look at the timing of that light specifically as far as how long the yellow is how long the red is. My recommendation would be for the…if there's a concern for the town to contact NJDOT directly and request they review it and see if that more yellow or red time can be added to that phase of the signal to improve a situation like that.

MR. FLEISCHNER: Ok, thank you.

MR. WEISS: Anybody else from the Planning Board have any questions for Mr. Fishinger?

MR. McGROARTY: I do.

MR. WEISS: Go ahead, Chuck.

MR. McGROARTY: One. Mr. Fishinger, given the data although we really haven't had a chance to look at it very closely yet, are you suggesting that any use on this property would exasperate the problems there?

MR. FISHINGER: Since there's no use on there at all, any use that generates traffic on a regular basis, yes, would make the crash history worse. It's just an incremental amount on how worse. Crash rates in general increase at the same when you have more traffic. The more cars you have on the road as you can imagine intuitively crash rates go up. So, yes, even (inaudible) eliminating that it could increase the crash rate in some amount.

MR. McGROARTY: So, Mr. Dean's testimony, I don't know if you were here for that, but if I recall the testimony correctly. He said it's not going to generate…this is not a destination type of facility…it will draw from the regular traffic that's already in place. I don't know exactly…excuse me?

MR. SCHAECHTER: It's not going to augment the traffic.

MR. McGROARTY: Right, it's not going to increase the traffic. It's not going to draw particular traffic to this site that would otherwise not be on the highway if I understood it correctly, inaudible…testimony. So the question that is…so I guess the question is, if that traffic is already on the highway…I try to understand…what kind of use would be safe for this property or is it really a larger question that the DOT needs to deal with since it's a state highway and maybe there's…maybe there's elements on the highway that are contributing to this problem and I would ask you as an expert to maybe if you want to comment on…

MR. FISHINGER: Well, the…first of all being the…and I can't speak for Mr. Dean's testimony, but in my professional opinion, the majority of the traffic with the convenience store would be…would be considered past by, there is still going to be some people that are going to get just a pack of cigarettes or quart of milk. There is going to be employees on site. So it's…I don't believe it's accurate to say all of the traffic is already on the road. The majority of the traffic is already on the road so even a site like this will add some additional cars to the site. The other thing is I mentioned earlier is…right now those cars are driving straight through the intersection. Once you add in this use, they are going to be making turns. And those turns add an additional conflicts and make the vehicles more likely to get into a crash and you can look at the table and just hand down it and see how many of them are right at angle crashes presumably cars trying to turn left into or out of a site, driveway, or the intersection and that's where they are making…getting into the crash. As far as the currently condition of the roadway, the second part of your question, yes there are issues…geometrical issues…on Route 46 that should be addressed by NJDOT. They are there now, absent of this application, they are still there…know the curvature of the road, the lack of dedicated left turn lanes on Route 46. Those are all issues that if something was done…if engineering issues were implemented, could reduce that crash rate.

MR. McGROARTY: So, Mr. Chairman, last question if I may. Daycare centers, under the municipal land use law are permitted as a right in all non-residential zones. This is an undersized lot but if someone came in for a day care center it would be…it would be variances…but presumably not a use variance. Well not presumably, it would not be a use variance. What would your thought be there especially given that kind of attraction…traffic that would be generated in the morning? It would be adding to an unsafe condition and I guess your prediction would be more accidents. Is that fair to say?

MR. FISHINGER: If there were no improvements associated with the project, then that's correct. But, just like any other application they should be required to mitigate their impacts if it's a day care center or…

MR. McGROARTY: Is there anything that we're missing that this site could do to make it safe?

MR. FISHINGER: I'm sure there is. I did not do a specific analysis to determine what improvements would be necessary to offset their safety impact.

MR. McGROARTY: So, you're saying…I don't mean to…I just want to understand this though. If I understand what you're saying…you're saying that this use is unsafe or will contribute to an unsafe condition. But, yet you really haven't looked at it to see…as I understand it…you're not critiquing the particular site plan to say there's flaws in it and offering suggestions to make it better. I think you're saying it's just not going to be a safe type of use to be here. And if that's a function of the amount of traffic it draws then what I'm asking about is what are other kinds of uses such as the one like the day care center that is permitted.

MR. FISHINGER: Well, I'm looking at it…the application…as proposed. And as proposed it does not make any changes to mainline Route 46. It does not add a left turn lane; it doesn't address any of curvature of the road.

MR. McGROARTY: Ok, thank you.

MR. FISHINGER: I did not look at it specifically to say what that improvement would be.

MR. NELSON: And if I may, I'm sorry not to cut you off, but just one point to direct on that, did you not say that with regard in relation to the uses that are permitted this has…the 7-Eleven…has a higher traffic…car rate than what is otherwise permitted there.

MR. FISHINGER: That is correct.

MR. McGROARTY: That would be true of a day care center?

MR. FISHINGER: A day care…my testimony was such as a medical office or hair salon. I did not specifically state a day care center.

MR. McGROARTY: But a day care center is…you agree…a day care center is permitted as a right as per the Municipal Land Use Law…

MR. FISHINGER: Yes, I agree that's the case.

MR. McGROARTY: Thank you.

MR. SCHAECHTER: But if we look at a day care center in that being it's such a small…small parcel…the amount of children that could you put on that would be minimal maybe 50 children.

MR. McGROARTY: It's a function of what's the state permits per…

MR. SCHAECHTER: Per square foot. So, whatever…I'm pulling a number out of my head, I know it probably wouldn't be 144 in that space. So, if we look at what…what you had said and the traffic expert said, there is 144 maneuvers per hour, people coming in and out. We certainly wouldn't be near the 144 with a day care center. With that being said, it would still add to it, just wouldn't add 144 maneuvers, it could add 20, it could add 40, but it's not going to be anywhere near what their traffic expert said. So, it's going to be a little bit of a problem.

INAUDIABLE

MR. FISHINGER: Yes, it less…it will still be…

MR. SCHAECHTER: Less is better.

MR. McGROARTY: It will unsafe but perhaps not as unsafe according to this testimony.

MR. SCHAECHTER: Correct.

MR. McGROARTY: So that's comforting.

MR. WEISS: Anybody else from the Planning Board? Michael?

MR. SELVAGGI: Can I just…do you have any idea or to calculate how much additional traffic…it's beyond the passerby traffic…that this site would generate?

MR. FISHINGER: You're saying of the say 144 trips, how many of them are new trips? Is that what you're asking?

MR. SELVAGGI: Yes.

MR. FISHINGER: I don't have my reference manuals in front of me, but I assume that number is somewhere in the 20 percent range.

MR. SELVAGGI: And if you had the…day care center situation would that be passerby traffic or would that be new traffic?

MR. FISHINGER: Well there maybe some passerby traffic with day care, typically the analysis assumes that it's all new trips.

MR. SELVAGGI: So, it's all destination traffic.

MR. FISHINGER: Never met anyone who picked up their kid on the way…well some people may pick up their child on their way home. But, normally they go out of their way…for daycare.

MR. SELVAGGI: If the DOT application is submitted, what would the DOT do to improve…the DOT application was submitted for this proposal, what would the DOT do to help improve the situation on Route 46, if you know?

MR. FISHINGER: I don't want to speculate what the DOT requirements are. They would be required to comply with the access code.

MR. SELVAGGI: Ok, and was there anything in the report that Mr. Dean prepared that would suggest to you that they…the applicant would not comply with the DOT standards?

MR. FISHINGER: No, there was nothing in the…his report…that would make me believe that the state would not grant a new permit.

MR. WEISS: Ok, Joe?

MR. FLEISCHNER: Maybe you can refresh my memory. Mr. Dean and his report, we discussed the fact that the Simoff property is going to generate over 200 something homes and since there is no left turn on 46 into the property, those people will be turning home and it could be two cars per home would have to come around…

MR. GLASSON: Can I stop you there? We didn't testify you could make the left.

MR. FLEISCHNER; No, no…

MR. GLASSON: You can make a left at the light.

MR. FLEISCHNER: No, and Mr. Simoff…Mr. Simoff's property, Mr. Simoff's property, you cannot make a left…you have to make the jug handle. And it could be as much as two cars per home coming home at night. And just for obituary sake 50 percent of the people are going to make that turn. Now the property allows people to come out to…whatever this…Woodland...Woodland so people have to come out to Woodland, what would you guess if there were 240 homes, how many people would have to make a jug handle? Not guess, but could you make an estimate because the…previous I didn't think the number was presented properly, personally. Would you have an opinion?

MR. FISHINGER: Unfortunately, I want to speculate because I have not reviewed the traffic study for that housing development specifically. I believe Mr. Dean's report did take into account those numbers but I don't recall them offset nor do I want to testify to something in someone else's report.

MR. JENKINS: I want to move on. There is only one think I have to ask in response to re-direct to council's question with regard to the DOT, I stated it in the opening do you agree that the DOT application and review is not taking into account and is not reviewing the accident rates along this strip of roadway.

MR. FISHINGER: That's correct. There is no requirement in the DOT Access Code with regard to crash rates.

MR. JENKINS: Thank you.

MR. SELVAGGI: May I ask…

MR. WEISS: Go ahead, Michael.

MR. SELVAGGI: What could any development on this property what…any applicant who is going to develop this property, what could they be required to do to address this alleged crash problem?

MR. FISHINGER: I think…I believe I already answered that but it would be some sort of mitigation to offset the additional impacts. Possible a left turn lane on Route 46, possibly signal modifications.

MR. SELVAGGI: Left turn lane on Route 46, wouldn't the DOT have to approve that?

MR. FISHINGER: They would have to approve any modifications to their highway; it's their road, yes.

MR. SELVAGGI: Alright, that's all I got.

MR. WEISS: Ok, thank you. I'm just going to jump in real quick with a comment. Mr. Selvaggi knows I'm not a big fan of going past 10:00, my feeling remains, but we've been doing this a long time. At 10:30, I'm going home.

MR. JENKINS: At 10:30, I'm going home with you. Well, not with you but…

LAUGHTER

MR. WEISS: And therefore, I would like to remind you that it's 10:00. I would urge you to speed it up, slow it down, but, we are going to shut this down at 20 after.

MR. JENKINS: Well the urging goes to my planner who is coming up right now.

MR. WEISS: I don't want to put any pressure on your planner but…

MR. JENKINS: You just did.

MR. WEISS: No, I gave you the option to slow down, but if we do, we're going to carry it.

MR. JENKINS: Thank you. Well, I'm hoping we can get through at 10:30.

(JOHN LEONCAVALLO IS SWORN IN FOR THE RECORD)

MR. EVELAND: If you could state your name and address for the record please.

MR. LEONCAVALLO: John Leoncavallo (L E O N C A V A L L O), my office is at 388 Washington Road, Suite E, Sayerville, New Jesey.

MR. JENKINS: Could you provide the board with your professional credentials, please.

MR. LEONCAVALLO: I'm a licensed professional Planner in the State of New Jersey, have over 25, 28 years experience as a Professional Planner/Landscape Architect. I've testified before over 250 Zoning Boards and Planning Boards in the State of New Jersey and in Superior Court, New Jersey Superior Court as a Planning Community Planning Expert.

MR. WEISS: Can I ask you one question.

MR. LEONCAVALLO: Sure.

MR. WEISS: Last name, is that one name?

MR. LEONCAVALLO: It's all one name.

MR. WEISS: No, middle name thrown in there?

MR. LEONCAVALLO: No, well…

MR. WEISS: I might call you call you John is that's ok.

MR. LEONCAVALLO: A lot of people have called me Leon but its John.

MR. WEISS: Anybody have any concerns or questions? Chuck, are you familiar? Ok, we are certainly going to accept Mr. Leoncavallo as our expert planner, your expert planner.

MR. JENKINS: Thank you. Mr. Leoncavallo could you…as quickly but thoroughly as possible for the board, could you describe for the board what you have reviewed and what your professional conclusions are in the realm of planning with regard to this application.

MR. LEONCAVALLO: I think I can try to expedite that as quickly as I can in about 15 minutes and it will give me the amount of time…

MR. JENKINS: See extra points for us.

MR. LEONCAVALLO: Ok. I think everybody's familiar where what we are talking about. There is a number of variances here, bulk variances, and there's a use variance. You know where the property is situated, the surrounding development panels to the north which is towards the jug handle is commercial, to the east is commercial, to the south is commercial and residential, and to the west is

residential. I reviewed your Master Plan, the 2010 Re-examination Report, and quickly it talks about a commercial objective in there to discourage additional strip retail development along the township major arterials on Route 46 and explore alternative land uses for these areas that are more compatible with the neighboring land uses and minimize the traffic burden. I think this application does not do a lot of these restrictions. Back in 2010 this was in the Re-examination Report which then was implemented in the…I believe…the 2014 Zoning Ordinance or with the implementation of the Professional Planning…Professional Business Zone along Route 46 which went from the property in question down in a southerly direction, I guess to where Budd Lakes comes out almost to Route 46. It was only one…the zone was one lot deep. It was very irregular because there are a number of residential homes there and a number of small properties with not a lot of lot depth. This property had a pervious non-conforming use on it a gas station, I believe, it was testified to and is, my understanding, it was a Shell Gas Station an old time service station which was empty and vacated for a very long time. But, and in looking at your Master Plan, the Zoning ordinance, the Land Use Plan, and being somewhat familiar with the township and getting me familiar with it…in the past few years…I can see where I counted from coming off Route 80 along 46 to the property in question. And then past there along Budd Lake…the boundary where Budd Lake kind of infringes on almost 46 at least nine or ten convenience store type operations of about which four or five as way testified before are 24 hour, 7 days a week. The other ones are obviously are not. This includes strip centers that you have along Route 46 where naturally you would have a convenience store. But there are many convenience stores which…you know…an extraordinary large amount for a large area. Why is that? Because of the…I think because of the recreational aspects of the township, the influent of Budd Lake, summer population, summer recreation uses, there are a whole bunch of reasons. I also think that at some point in the past, especially in 2010 and sometime before that, the Master Plan was look at and it was asked that that be reviewed in terms of the implementation of something that was more compatible than what you had before. Which I believe was a C-Zone…or something like that…Commercial Zone…or something and the problem was, as I see it, R-4 Zoning behind the residential zoning behind these properties were being impact and the solution was to become more compatible in the particular new zone adjacent to the highway that would have less of an impact on the residents and the properties along the R-4 residential zone. And I think that was spelled out in the implementation ordinance very specifically in 2014 there were issues that were talked about what should be put there…the property. It should have medical uses; it should have a number of other uses that were less intensive than what you have there before. A gas station was obviously non-conforming in this particular zone. And I believe it was non-conforming in the commercial zone. And again, yes, gas stations now are a different animal that they were back in the 60's. The other zoning in the permitted uses in this particular professional business zone are offices for professional, scientific, and technology services, medical offices, you could have a small dentist office here. There are field offices for dentist that like to cover a certain area that would be something you could have here, barbershops, hair salons, nail salons, as mentioned by your planner before child care is a required in some areas and that was required here. Public uses as defined in your ordinance and also wireless telecommunications services. So there are a number of uses that could be less involved and less intensive than this particular use in my estimation. As with the use variance, there is positive criteria and negative criteria that has to be addressed. The application, I think, under case law should address or carry the full burden of proof with both those criteria, the positive and negative. There has to be no impact really or very little impact or explain the impact under the positive criteria of adjacent properties. The application should also talk about the conformance of purchasing property or trying to sell the property that was done in a questionable way. Maybe by miscommunication but nonetheless, it was not accepted. And there was not any property that they determined they wanted to buy that is compliance with some of the setbacks but not all of the setbacks. Does it meet the plan…the zone plan intentions based on what has been accepted in the 2010 Master Plan? It does not. It's not compatible with the adjacent residential uses in the R-4 Zone because it's more intensive. There are requirements in terms of control of the landscaping buffers. Buffers are not able to be put here to the degree that they should be and there are ascetic improvement that can be made and other media gating measures but they don't come up to the standard. For instance, in my mind, that the standard that the township would like the wall that we were talking about before with the noise attenuation engineer. That's a reasonable thing except when you look at a ten foot wall in a small area it has a visual impact that is not always positive. And you as a board then might have to decide whether the 10 foot wall is acceptable or a visual wall of less feet is acceptable…and the attenuation of different noise issues needs to be changes or it doesn't need to be changed.

MR. WEISS: I think it was an eight foot wall, by the way.

MR. LEONVAVALLO: Ok. An eight foot wall but I believe he said if…if…single family homes were put up or one was…or two story home, the eight foot wall would not work.

MR. WEISS Alright.

MR. LEONVAVALLO: So, special reasons I think were important but I don't think they have, in my opinion, they haven't provided sufficient space and appropriate location for a variety of commercial uses. There are other uses that can be put here besides the ones we are talking about. I think the application talked about one of the uses were desirable, visual environment. I think on a small lot there are issues with lighting and impervious coverage. This for instance has impervious coverage the standard is 40 percent in the zone. The applicant, I believe, said he was reducing the impervious coverage but it was only being reduced from 76 percent to maybe 74 percent. So, with a minimal amount of reduction in the impervious coverage given what the compatibility would be for the zone standard of 40 percent. You also looked at….I also looked at the…the lot size of course. There is only about one third of what it should be. It's very small its 16,000 square feet. The deficiency of the lot width on two frontages is there on both the frontages on the corners of the lots. The maximum coverage I said…as I said is almost two times the maximum allowed. In my opinion, I believe there are traffic issues. I'm not a Traffic Engineer but I have seen a number of applications in my history and in my professional career. That is an issue. Snow removal could be an issue in terms of implementation that has been addressed we have to see how that goes at the time if the application is approved. The buffer I believe in your ordinance is an important situation so are sight triangle issues for safety. A lot of those…don't…aren't promoted by this application. Therefore, I don't believe the public good and general welfare is being promoted entirely as best as it could be in terms of this application. There are visual impacts, there are trespass issues, and potential events that could happen and it there could be safety issues with vehicles and emergency equipment. In conclusion, it's my opinion this does not make use of more compatible elements with the neighborhood in terms of traffic, visual impact, and it's not promoting the best alternatives for the site, given that we have an implementation ordinance and a zone plan that calls for something that really is 180 degree difference or change from what is proposed right now with this d-1 Use Variance. It does not…it does have a substantial impact…substantial impact on the neighborhood. As I said in terms of the general welfare and therefore I don't think it meets the negative criteria in the application that is submitted should be reconsidered by you and I would say that the addition of…in your planner…your staff planner or your consultant planner has mentioned it under the case law in Medici that is does not seem to allow for an enhanced quality of proof which I also concur with in terms of the proof that there is an enhanced quality of proof and a clear and specific finding by the board that the variance so it is not inconsistent with the intent and purpose of the zone plan and the zoning ordinance. I think obviously there is a contradiction here and the…prohibition of this use by the governing body is really incompatible with the grant of the variance and for these reasons, I don't think the negative criteria has been addressed adequately and the enhanced quality of proof is also lacking and has not been proved by the applicant as it stand presently before you and I would submit that you reconsider it and take into consideration the neighborhood and the number of people that have been objecting to it and give it your full reconsideration at another time.

MR. JENKINS: Is there any positive consideration here to your mind that would outweigh any potential substantial negative traffic impact?

MR. LEONVAVALLE: No, the negative…the traffic impact is what it is. In terms of the traffic, it is what it is. In terms of the uses, as mentioned before by your planner, Mr. McGroarty, you could have a daycare facility there…

MR. JENKINS: In your mind, does the traffic safety trump any good positive that is being offered in this application?

MR. LEONVAVALLE: Yes, it does.

MR. JENKINS: Thank you.

MR. WEISS: Chuck, you have a question?

MR. McGROARTY: I have a number of things but the hour is late. But, I will say two things just for the record. First on the enhanced quality of proof, just so it's clear, I did identify it. It is part of the Medici test. I didn't take a position on it because I didn't prejudge their testimony. So, on Page 4 of my report…

MR. LEONVAVALLE: I'm sorry. I didn't imply you did.

MR. McGROARTY: Oh, I thought you did.

MR. leonvavalle: No, I…

MR. McGROARTY: …you agreed with me that they didn't meet it. Perhaps, I misunderstood. The other thing I think would be important to understand is you're citing the 2010 Re-exam Report, you have the wrong zone. You have the wrong zone. That 2010 Re-Exam Report which I authored with the board was for the Professional Commercial Number 2 zone district down by Mine Hill. So if you are relying on just…

MR. LEONLAVALLE: Well I might have…

MR. McGROARTY: I don't think you'll finish tonight but just so you are aware, the PB Zone on 46 has been in place since 1990.

MS. NATAFALUSY: 2000.

MR. McGROARTY: 2000. The Professional Commercial Zone that you are referring to in the 2010 Re-Exam Report that was implemented later that year in an ordinance dealt with property down by Hackettstown. So…

MR. LEONLAVALLE: I read that. I read that…that..Re-Examination Report.

MR. McGROARTY: Ok, well, then you probably was to reconsider using testimony saying that this use is incompatible with the recommendations of the 2010 Re-Exam Report because it had nothing to do with this site. The Re-Exam Report looked at three parcels in town recommending re-zoning.

MR. leonvavalle: Right, I saw that.

MR. McGROARTY: Having nothing to do with this zone. It's confusing because it's similar zone, a similar name, but it's not the same.

MR. WEISS: Ok, thank you, Chuck. Anybody from the Planning Board have any questions?

MR. McGROARTY: I do have other comments; I think I'll probably wait. I think we are going to carry this or it seems like it will or maybe not, I don't know.

MR. WEISS: Ok.

INAUDIABLE

MR. WEISS: Michael?

MR. SELVAGGI: We won't finish tonight. I can tell you that.

MR. WEISS: I can feel it too.

MR. SELVAGGI: We plan on bringing back potentially Mr. Dean and our planner on the rebuttal so I don't and in fairness my biggest complaint and I defer to the board attorney is unfortunately you guys were under the gun. I think there was a lot of net opinion here. I saw well there's going to be a visual impact, going to be a trespass impact; I don't even know…I don't even know what he means by that. So, I'm just, I want to be fair. You're not going to finish tonight and…I don't care. I'll start. And we will come back at another time.

MR. WEISS: Thank you for that, Mike, if you wanted to bring up Mr. Dean and your planner.

MR. SELVAGGI: And it's only for…it's really maybe…you know on some of this because I think Mr. Jenkins might agree that he was rushed. I mean, I'm not trying to be magnanimous here I'm just trying to be practical because we're not going to finish.

MR. WEISS: Fair enough. Chuck, did you want to add anything then?

MR. McGROARTY: No, I just think…the comment about the Master Plan, I think for what it's worth take it under advisement and you may want to go back and…and do some research on the original zone and see if you're testimony would change or perhaps not. But I don't think you would want to cite the 2010 Re-Exam Report as a basis for inconsistency with the Master Plan.

MR. WEISS: Go ahead, Joe.

MR. FLEISCHNER: I have a question. Mr. Selvaggi maybe you can answer. In the previous meeting, your applicant said you never got any offers on this property. We hear tonight that there were two offers. Can you clarify that for me?

MR. SCHAECHTER: There were three.

MR. FLEISCHNER: Three. Is that true or did he not tell the truth? I just want to know.

MR. SELVAGGI: Well, I think right now it's…it's out of line. Second of all because it's not our direct case and the testimony was that they did not come to a meeting of minds. I don't think there was any suggest…

INAUDIABLE

MR. WEISS: Ok. Mike while Mr. Leoncavallo is here, did you want to ask any other questions of what…

MR. SELVAGGI: I think he's coming back. I mean that's my sense and I just prefer not to…you know.

MR. WEISS: Ok. Well, let's take a look at our schedule, Catherine.

MS. NATAFALUSY: Ok, October 13th we have Eye Spy. And there's an extension request for Road Ranger that night. October 20th we put Paramount Plaza first on the agenda and we don't have anything else. We are supposed to get another application that we were going to schedule. I don't know if you want to put it on.

MR. WEISS: Let's do this on October 20th.

MR. SELVAGGI: I have an application…inaudible…of this application and interestingly enough I know Ms. Caldwell…Ms. Caldwell will…is also kind of expected to be there that night. Now again…

MS. NATAFALUSY: On the 20th?

INAUDIABLE

MR. WEISS: Catherine, are we meeting on the 17th ?

MS. NATAFALUSY: No, because of the League of Municipalities. So the 10th is the only meeting we have that month.

INAUDIABLE

MS. NATAFALUSY: Well we've got other…

MR. NELSON: What's on October 13th?

MR. WEISS: Joe won't be here.

MS. NATAFALUSY: Eye Spy.

MR. SCHAECHTER: That's November 10th.

INAUDIABLE

MS. NATAFALUSY: November 10th? I know but that's the only night we have available at this point.

MR. NELSON: No what was the 13th?

MS. NATAFALUSY: October we have Eye Spy media which is a billboard and it's an Use Variance.

MR. FLEISCHNER: Can we have a special meeting?

MR. WEISS: October 13th is Eye Spy.

MS. NATAFALUSY: Yes.

MR. WEISS: That's going to go long.

INAUDIABLE

MS. NATAFALUSY: It's up to you. I can put it on that night.

INAUDIABLE

MR. WEISS: December 8th?

MS. NATAFALUSY: 8TH or the 15th?

MR. WEISS: Well we will throughout December 8th , how does that look or November 10th? Does November 10th work for everybody else?

MR. SELVAGGI: It's fine for us.

MR. JENKINS: Works for me.

MR. WEISS: December 8th.

INAUDIABLE

MR. WEISS: Ok. We are still in session. We are going to carry this meeting to December 8th at 7:00 pm. Catherine, nothing else on the agenda?

MS. NATAFALUSY: Not right now.

MR. WEISS: This will be the first application 7:00 on December 8th. No further notice. We will resume this application right where we left off. This concludes tonight's enjoyment.

MR. FASTERT: Motion to adjourn.

MR.WEISS: Henry, good idea. Second?

MR. WEISS: Anybody second that adjournment?

MS. MOTT: I'll second it.

MR. WEISS: Thank you, Kim. All in favor

ALL: Aye

(MEETING ADJOURNED AT 10:25:40 PM)

Transcribed by:
Mary Strain, Secretary
Planning Department