

TOWNSHIP OF HOWELL
PLANNING BOARD MEETING
MONMOUTH COUNTY, NEW JERSEY

IN THE MATTER OF:)
)
) TRANSCRIPT
) OF
) MEETING
AAVRHW PROPERTY, LLC)
Case Number SP-1105)

Place: Howell Township
Municipal Building
4567 Route 9 North
2nd Floor
Howell, NJ 07731

Date: May 4, 2023

PLANNING BOARD MEMBERS PRESENT:

PAUL BOISVERT, Chairman
NICHOLAS HUSZAR, Vice Chairman
JOHN LEGGIO, Class I
BRIAN GREENFIELD, Class II
JOSEPH CRISTIANO
ROBERT SEAMAN
MEGAN TALENTE
BRIAN TANNENHAUS
CHRISTOPHER MERCER

BOARD PROFESSIONALS PRESENT:

ANNE MARIE RIZZUTO, ESQ., Weiner Law Group, LLP
LAURA NEUMANN, PE, PP, Engineer, CME Associates
JENNIFER BEAHM, PP, AICP, Planner - Leon S. Avakian, Inc.
SHARI SPERO, LTE, Certified Tree Expert - CME Associates

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For the Applicant:

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 SEAN NAEGER, Project Manager (Mitchell and Hugeback
 Architects)
 TUNG-TO LAM, P.E., Bohler Engineering, Engineer
 KERRY PEHNKE, (Langan Engineering & Environmental
 Services), Traffic Expert
 RONALD GASIOROWSKI, ESQ.
 Attorney for Stavola Realty, Property Owner

For the Objector:

STUART LIEBERMAN, ESQ. (Lieberman Blecher & Sinkevich,
 P.C.)
 ZOE N. FERGUSON, ESQ. (Lieberman Blecher & Sinkevich,
 P.C)
 Attorneys for the Objectors

A D D E N D U M

Individuals identified within the text of the following transcript do not represent necessarily all of the individuals in attendance at this meeting. Their presence, speaker identification and other information regarding title page and appearance, along with various words, proper nouns and other spellings found within this transcript were able to have been extrapolated from minutes of the meeting and discussions with the Board Secretary and, of course, that which is evident and that which can be concluded by way of the tape recording itself, which is of fair quality.

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1 MS. RUBANO: Planning Board meeting,
2 Thursday, May 4, 2023. I hereby declare this meeting
3 of the Howell Township Planning Board to be open.
4 Adequate notice having been given pursuant to the New
5 Jersey Open Public Meeting Act in the following
6 manner:
7 First, on January 6th, 2023, a copy of said
8 notice was mailed to the Asbury Park Press and the
9 Star Ledger. Second, on January 6th, 2023, a copy of
10 said notice was hand delivered to the Clerk of the
11 Township of Howell. Third, on January 6th, 2023, said
12 notice was posted in the Office of the Planning Board
13 and on the bulletin board in the Howell Township
14 Municipal Building, 4567 Route 9, Howell Township, New
15 Jersey.
16 Members of the Public will have a chance to
17 ask questions and comment on applications once the
18 Chairman opens the hearing up to members of the Public.
19 If you wish to ask questions or comment on an
20 application, you will need to use the "raise your hand"
21 feature and we will bring you into the meeting one at a
22 time. You will need to have audio and video
23 capability. You will be sworn in and press Star 9 to
24 raise or lower your hand and Star 6 to mute or unmute
25 yourself.

1 This meeting is being videotaped for
2 possible future broadcast on Howell Township TV77.
3 Thank you.

4 CHAIRMAN BOISVERT: Can we have roll call?

5 MS. RUBANO: Mr. Cristiano.

6 MR. CRISTIANO: Present.

7 MS. RUBANO: Mr. Greenfield.

8 MR. GREENFIELD: Here.

9 MS. RUBANO: Mr. Huszer is going to be late.
10 Mr. Leggio.

11 MR. LEGGIO: Here.

12 MS. RUBANO: Mr. Seaman. I have not heard
13 from and I don't see him in the audience. Ms. Talente.

14 MS. TALENTE: Here.

15 MS. RUBANO: Mr. Tannenhaus.

16 MR. TANNENHAUS: Here.

17 MS. RUBANO: Councilman Gasior is excused
18 because he had to recuse himself. Mr. Kyle is excused.
19 Mr. Mercer.

20 MR. MERCER: Here.

21 MS. BEAHM: Eileen, Rob Simon has his hand up
22 in the audience.

23 MS. RUBANO: Thank you. Give me one second.
24 And Chairman Boisvert.

25 CHAIRMAN BOISVERT: Here.

1 MS. RUBANO: You have a quorum and I have Rob
2 Seaman is now here; so, I marked him present.

3 CHAIRMAN BOISVERT: All rightie.

4 (Unrelated Board business handled)

5 CHAIRMAN BOISVERT: All right. So, next up
6 then is Case Number SP-1105, AAVRHW Property, LLC.

7 MR. GREENFIELD: Mr. Chairman, I will -- I
8 will be recusing myself. Is there any reason to come
9 back for Master Plan update or Executive Session?

10 CHAIRMAN BOISVERT: No, no. We'll see you
11 next week, my man.

12 MR. GREENFIELD: Okay. Everyone have a good
13 night.

14 MS. RUBANO: Thank you, Brian.

15 MR. GREENFIELD: Good night.

16 MS. RUBANO: Just give me a minute to get a
17 few people in here.

18 CHAIRMAN BOISVERT: Yep.

19 (Pause)

20 MS. RUBANO: Mr. Simon, who do you need
21 brought in? I have Jeremy. I have --

22 MR. SIMON: Right.

23 MS. RUBANO: -- Rich Maser. I have Tung-To
24 Lam. I thought I had Kerry Pehnke.
25

1 MR. SIMON: Yep, we need Kerry for sure. So,
2 it should be Sean Naeger. We have Sean.
3 MS. RUBANO: Okay.
4 MR. SIMON: Chris -- Christine Cofone.
5 MS. RUBANO: I don't see Christine on here.
6 MR. SIMON: Christine -- oh, she -- maybe --
7 she may be a couple minutes late. Christine is at the
8 phone.
9 MS. RUBANO: Okay.
10 MR. SIMON: Yeah. Michael Morris, is he on?
11 MS. RUBANO: Yes.
12 MR. SIMON: Let's see, Jeremy Lang. Ron
13 Gasiorowski.
14 MS. RUBANO: I brought Ron in.
15 MR. SIMON: Okay.
16 MS. RUBANO: I also brought in Ms. Ferguson
17 and Mr. Lieberman.
18 MR. SIMON: Yep, I see them, good. I think
19 other than Ms. Cofone, and I see our court reporter is
20 here which is good.
21 MS. RUBANO: Uh-huh.
22 MR. SIMON: So, I think --
23 MS. RUBANO: Okay.
24 MR. SIMON: -- yeah, other than -- and --
25 and, so, I think we can -- I know my recollection is

1 that Ms. Cofone's daughter may have had a prom tonight;
2 so, she may be a little late for good reason, pictures,
3 et cetera.
4 MS. RUBANO: Uh-huh.
5 MR. SIMON: So, I -- but, I think we can get
6 started certainly without her and, then, she can --
7 but, if you see her, you know, log on, Eileen, please
8 bring her in.
9 MS. RUBANO: I will bring her in.
10 MR. SIMON: Thank you. Appreciate that.
11 MS. RUBANO: You're welcome.
12 MR. SIMON: So, are we ready to go or should
13 I --
14 CHAIRMAN BOISVERT: No, you --
15 MR. SIMON: So, --
16 CHAIRMAN BOISVERT: -- the floor is yours.
17 MR. SIMON: -- right. So, thank you, members
18 of the Board. Good evening. Rob Simon from Harrold
19 Law here on behalf of the applicant.
20 Just to remind everyone, because it's been a
21 few weeks, this application is seeking preliminary and
22 final major site plan approval to construct a -- a
23 warehouse/office building approximately 200,000 square
24 feet, loading docks, trailer parking spaces and
25 passenger vehicle parking spaces. The property is

1 19.91 acres in size, located in the SED, Special
2 Economic Development, Zone along Victory Road.

3 As you may recall at the last hearing when we
4 were together, I reminded you all that there was
5 recently a prior application for a -- a ground mount
6 solar panel installation on this property, inherently
7 beneficial use. That was statutorily denied by the --
8 by the Board of Adjustment. So, here we are.

9 Access to the site, as you recall, will be
10 provided via two new driveways along Victory Road with
11 a -- approximately 30 foot circulation aisle provided
12 around the eastern southern and western sides of the
13 building. We testified and stated that the proposed
14 development fully complies with the use and bulk
15 standard applicable to the SED Zone.

16 We talked about the one design waiver
17 exception that may be required under Section 188-195(a)
18 of the Ordinance regarding replacement trees and
19 requiring a waiver to make a contribution, a financial
20 contribution, to be deposited in the Township Tree Fund
21 due to the limited available planting area. And, of
22 course, as always, we request any and all relief that
23 may be required by this Board or other deemed
24 necessary.

25 So, where we left off last time is that we

1 presented a bunch of witnesses, Jeremy Lang, the
2 Director of Development for Active Acquisitions,
3 Tung-To Lam of Bohler Engineering, the engineer for the
4 project; Sean Naeger, from M and H Architects, the
5 architect on the project; Kerry Pehnke, from Langan
6 Engineering, our traffic and circulation consultant;
7 Michael Morris, who discussed the environmental
8 condition of the property and Christine Cofone, our
9 professional planner on the project. There were
10 certainly questions from the Board Members and the
11 Board Professionals and we had not gotten to questions
12 from members of the Public, including counsel, Stuart
13 Lieberman.

14 But, before we do that, what I would
15 respectfully ask is that we represent Ms. Pehnke,
16 Kerry Pehnke, who is going to be providing some
17 additional traffic and circulation testimony in support
18 of the application and, particularly, in response to
19 some of the questions that were raised by the Board
20 Members and Board Professionals. So, the way we --

21 MS. RIZZUTO: Okay, Mr. Simon, --

22 MR. SIMON: Yes.

23 MS. RIZZUTO: -- take a breath, please.

24 MR. SIMON: I always do.

25 MS. RIZZUTO: Mr. Chair, if I might address

1 some -- some housekeeping. This is Anne Marie Rizzuto
2 from Ron Cucchiaro's office.

3 CHAIRMAN BOISVERT: Yep.

4 MS. RIZZUTO: So, -- so, Mr. Simon, I didn't
5 mean to interrupt you, but I think you were about
6 finished. So, if we could please ask Mr. Lieberman and
7 his associate to put their appearances on the record,
8 along with the names of their clients, that's the first
9 thing.

10 MR. LIEBERMAN: Okay. Sorry. It always
11 takes me a little bit to unmute than I anticipate. I
12 submitted a list of my clients. I'll repeat them into
13 the record; but, that's already been provided to you
14 during the last meeting. So, my clients are Mirjana
15 Scarcelli, Chris Bates, Justin Gumley, Diane Lindstrom,
16 Frances Santore (phonetic), Ben Velez, Edwin Roolie
17 (phonetic), Marie Roolie, Marianne and Robert Wagner.
18 And the addresses were provided by email dated April
19 14th, 2023.

20 MS. RIZZUTO: Okay. So, those -- the -- have
21 the name -- has the list of names been submitted to Mr.
22 Simon and Mr. Gasioroski?

23 MS. FERGUSON: Yes. My -- this is Zoe
24 Ferguson. I also represent the objectors. When I sent
25 that email, I believe it was sent to Mr. Simon, Mr.

1 Gasiorowski, Mr. Cucchiaro and I think there was one
2 other person, sorry.

3 MS. RIZZUTO: All right. So, Zoe, I know you
4 have my email address. If you could please send that
5 to me so we have it --

6 MS. FERGUSON: Yes.

7 MS. RIZZUTO: -- in our file. One last, so,
8 Mr. Gasiorowski, could you please put your appearance
9 on the record, sir?

10 MR. GASIOROWSKI: (No audible response).

11 MS. RIZZUTO: We can't hear you.

12 MS. RUBANO: You're muted, Ron, or something.

13 MS. RIZZUTO: All right. He -- he's muted.

14 Rob --

15 MS. RUBANO: Ron, we can't hear you.

16 MS. RIZZUTO: Rob Simon, who does he
17 represent?

18 MR. SIMON: Rob Simon represents the
19 applicant.

20 MS. RIZZUTO: No, not you. Who does Ron
21 Gasiorowski represent? What's the name of the owner?

22 MR. SIMON: Oh, --

23 MR. LIEBERMAN: Stavola.

24 MS. RUBANO: Stavola Realty, I believe.

25 MR. SIMON: It's Stavola, but I don't know

1 which Stavola entity. But, I can get that for you.

2 MS. BEAHM: He represents the property owner.

3 MS. RIZZUTO: Yeah, the --

4 MS. RUBANO: Right.

5 MS. RIZZUTO: -- property owner. Okay. So,
6 that's -- I think that's it. I think the order will be
7 you're going to continue your direct case. You --
8 you're asking for the traffic engineer to be
9 resubmitted for direct testimony?

10 MR. SIMON: Yes, Anne Marie. What I would
11 suggest is -- is as follows: We're going to continue
12 with direct testimony from Kerry Pehnke, our traffic
13 and circulation engineer and, then after that, we would
14 open up for questions of each one of these witnesses
15 from, you know, first, Mr. Lieberman, Ms. Ferguson,
16 members of the Public. The only thing I would ask, Ms.
17 Rizzuto, is that because of some scheduling and -- and
18 related actual health issues, that maybe if we can have
19 maybe Ms. Pehnke be cross-examined first and then
20 followed by Mr. Naeger and, then, we can just, you
21 know, go from there.

22 MS. RIZZUTO: You're representing Mr. Naeger
23 for direct testimony?

24 MR. SIMON: No, no, for cross, --

25 MS. RIZZUTO: Okay.

1 MR. SIMON: -- I'm saying for purposes of
2 cross-examination.

3 MS. RIZZUTO: So, Mr. Chair, please interrupt
4 me if I have any additional --

5 CHAIRMAN BOISVERT: Yes. So, --

6 MS. RIZZUTO: -- go ahead.

7 CHAIRMAN BOISVERT: -- I have one question.
8 So, Mr. Lieberman, do you have witnesses also? Do you
9 have any professionals that are testifying?

10 MR. LIEBERMAN: Two.

11 CHAIRMAN BOISVERT: Okay. So, the way I
12 would want to do it is we'll allow them to finish their
13 testimony. Whatever questions the Boards have -- the
14 Board has; then, I would have Mr. Lieberman cross-
15 examine and then present his witnesses to give, you
16 know, Mr. Simon and whomever an opportunity to do and,
17 then, we'll go to the Public.

18 MS. RIZZUTO: So, Mr. Simon, you understand
19 that the members of the Public are going to have an
20 opportunity to question all of your witnesses, as well
21 as Mr. Lieberman's witnesses, after everyone else is
22 done? We're not --

23 MR. SIMON: Yeah.

24 MS. RIZZUTO: -- we're not --

25 MR. SIMON: Yeah, the -- the -- right. And,

1 so, Ms. Rizzuto -- and the Chairman, if I can
 2 respectfully just request that, you know, given, as I
 3 said, we have some -- some scheduling issues with --
 4 with some wit -- with our witnesses and they have
 5 provided direct already and, you know, of course,
 6 they're going to all be subject to cross-examination.
 7 I would ask that certainly at least for the first two
 8 witnesses, if not all the witnesses, we would ask that
 9 not only Mr. Lieberman or Ms. Ferguson cross, but also
 10 have all the members of the Public to the extent
 11 they're interested in -- in asking questions of those
 12 witnesses, ask -- ask the questions so that we don't
 13 have to bring back certainly the first two witnesses,
 14 Ms. Pehnke and Mr. Naeger again on a -- on a future
 15 date, if -- if possible.

16 MS. RIZZUTO: I understand your request.
 17 But, it's my understanding that as was announced at the
 18 last meeting, we're going to need your witnesses to
 19 come through til the end. The members of the Public
 20 are going to be given an opportunity to question your
 21 witnesses and Mr. Lieberman's witnesses separate from
 22 the Board Members and, then, they're going to be given
 23 an opportunity to make statements or give testimony on
 24 their own.

25 So, while I appreciate your issue of your

1 witnesses aren't available or you don't want to, I'll
 2 defer to the Chair about that.

3 MR. SEAMAN: Well, if I may jump in, Mr.
 4 Chair and anybody else, Mr. Simon, the members of the
 5 Board here are volunteers. We are not paid to be here.
 6 If you cannot make your people available that are being
 7 paid, you've got to figure that out. That is not an
 8 issue we have to address. We -- we make ourselves
 9 available way more often than we should to be perfectly
 10 honest.

11 MR. SIMON: Mr. Seaman, I completely agree,
 12 of course, and I serve as a board attorney in a number
 13 of communities myself. The only -- I -- one of my
 14 witnesses has a health issue, not affecting for
 15 tonight. But, I just, you know, would like, you know,
 16 we can maybe address it separately; that's all.

17 MS. BEAHM: Honestly, I -- I'm just going to
 18 jump in.

19 MR. SEAMAN: Yeah.

20 MS. BEAHM: She's not going to be released
 21 tonight. So, --

22 MR. SIMON: Oh, no, of course not.

23 MS. BEAHM: -- I mean, I'm telling you right
 24 now, --

25 MR. SIMON: I'm not suggesting that.

1 MS. BEAHM: -- like, she's not going to be --
2 honestly, she's not going to be done with cross-
3 examination and cross-examination from the Public given
4 the -- the way that the Board has laid this out.
5 You're going to -- your witnesses are going to be
6 cross-examined by Mr. Lieberman and, then, his
7 witnesses are going to present their testimony and the
8 Public is going to be on the end. So, she's going to
9 have to come back.

10 MR. SIMON: Okay.

11 MS. BEAHM: I understand.

12 MR. SIMON: I didn't -- I didn't --

13 CHAIRMAN BOISVERT: Yeah.

14 MR. SIMON: -- I just wanted -- I just --

15 CHAIRMAN BOISVERT: I mean, the reason --

16 MR. SIMON: -- wanted to present it to the
17 Board, that's all. That's fine.

18 CHAIRMAN BOISVERT: And -- and, again, --

19 MS. BEAHM: And --

20 CHAIRMAN BOISVERT: -- and respectfully, I
21 understand. The reason I'm doing it the way I'm doing
22 it is I want to make sure that, again, we just follow
23 in an orderly manner. It's the least confusing and,
24 you know, the Board Members will get all the
25 information they need to get, you know. And, also, the

1 Public, so they can hear all the testimony, 'cause I
2 don't want to jump from this then to this, then to
3 this, then to this because then there is -- you know,
4 it -- it just -- it's just better if it's in an orderly
5 fashion. And like I said, --

6 MR. SIMON: I understand.

7 CHAIRMAN BOISVERT: -- I respect where you're
8 coming from. I do. But, this is just the way I prefer
9 to run the meeting. So, --

10 MR. SIMON: Yeah, that's -- that's completely
11 fine. I just wanted to make that --

12 CHAIRMAN BOISVERT: And -- and I --

13 MR. SIMON: -- known to the Board.

14 CHAIRMAN BOISVERT: -- and I understand where
15 you're coming from; I do. So, --

16 MR. SIMON: Right.

17 CHAIRMAN BOISVERT: -- I mean, with that --
18 if that's -- if everything like that, it gets out of
19 the way, --

20 MR. SEAMAN: Yep.

21 CHAIRMAN BOISVERT: -- you can, you know,
22 start and, you know, start with your presentation.

23 MR. SIMON: Okay. Very good.

24 MS. RUBANO: Well, --

25 MR. SIMON: So, --

1 MS. RIZZUTO: One more thing, Eileen --
2 MR. SIMON: Yeah, I'm sorry, Anne Marie.
3 MS. RIZZUTO: -- Mr. Gasiorowski says it's
4 not a problem on his end. Do we have him muted?
5 MS. BEAHM: His hand is back raised; so, I'm
6 not sure what that's about.
7 MS. RUBANO: I don't show him with his hand
8 raised.
9 MS. RIZZUTO: Oh, yeah, I see it, Ron
10 Gasiorowski, hand raised.
11 CHAIRMAN BOISVERT: Yeah. It's on his
12 picture.
13 MS. BEAHM: He can't be heard.
14 MR. LIEBERMAN: Excuse me, might he be able
15 to call in and be heard that way?
16 MR. SIMON: Yeah, I mean, or sometimes he --
17 he can lock --
18 MS. BEAHM: I'm not sure where he is on the
19 screen anymore, honestly.
20 MR. SIMON: Maybe he logs out.
21 MS. BEAHM: Apparently, -- apparently, he's
22 having somebody help him with his technological issues.
23 MR. SEAMAN: Yeah.
24 MS. BEAHM: But, Ron, like, we're not going
25 to hold up the meeting while you resolve this issue.

1 MS. RIZZUTO: Yeah, I suggest he --
2 MS. RUBANO: Ron, you might try --
3 MS. RIZZUTO: -- go off and come back on.
4 MS. RUBANO: Yeah, log off, Ron, and log back
5 in and I'll bring you back in. See if that fixes it.
6 CHAIRMAN BOISVERT: Okay. So, while he works
7 on that, --
8 MR. SEAMAN: Yep.
9 CHAIRMAN BOISVERT: -- Mr. Seaman -- Mr.
10 Simon, please proceed.
11 MR. SIMON: Okay. Thank you. So, we'd like
12 to call Kerry Pehnke, please.
13 MS. PEHNKE: Hi, good evening. Can you all
14 hear me?
15 MS. RUBANO: Yes.
16 MR. SIMON: Yes, you're good.
17 MS. PEHNKE: Wonderful.
18 MR. SIMON: Okay.
19 MS. RIZZUTO: You were --
20 MS. PEHNKE: So, --
21 MS. RIZZUTO: -- sworn previously?
22 MS. PEHNKE: I was, yes.
23 MR. SIMON: Yeah, so -- so, Ms. Pehnke, you
24 understand that you're still under oath, correct?
25 MS. PEHNKE: Correct.

1 EXAMINATION BY MR. SIMON:

2 Q Okay. And you were present and provided
3 testimony at the last hearing of the Board on this
4 application, correct?

5 A Correct.

6 Q And there were some issues that were raised
7 by Board Members, Board Professionals with regard to
8 certain aspects of -- of your testimony that you would
9 like to address via continuation of your direct
10 examination?

11 A Yes, I would.

12 Q Okay. So, why don't you proceed?

13 A Wonderful. Thank you. Can we bring up Exhibit
14 A-40 to start? So, there's two items specifically from
15 the last hearing that, you know, we wanted to readdress
16 at the start through some more direct testimony. The
17 first is the questions that came up with the existing
18 S-curve along Victory Road.

19 So, after the last hearing, we actually went out
20 and we met with some Township Professionals to -- to
21 look at the -- the curve and the conditions along the
22 road and we came up with some engineering design
23 solutions to really improve the conditions along the
24 road following MUTCD, the Manual on Uniform Traffic
25 Control Devices, following that manual for design

1 standards.

2 So, we've prepared this exhibit to share with you
3 tonight. The -- the first part of the exhibit I'd like
4 to point out is the shaded area that you can see. So,
5 that we've established as the widening area for the
6 pavement. You know, we ran truck templates along this
7 curve at the -- the speed limit that I'll talk about
8 with you that we're proposing. We feel the widening
9 here will better accommodate not just trucks, but all
10 vehicles along the curve to improve those conditions.

11 Additionally, what you'll also see on here is that
12 we're calling out to replace signage. You'll see it at
13 the beginning of the curve in both the eastbound and
14 westbound direction. So, the first sign is we're going
15 to replace those existing signs. They -- they kind of
16 look like they're sharp curve straight. We want to
17 replace those with MUTCDS curve signs, the W15R sign.
18 And what's different today as we've done some further
19 study that you'll see on this concept is we're actually
20 going to propose a uniform speed for all vehicles of 25
21 miles per hour for this curve. So, that you'll see
22 under the -- the truck sign, that W113, that 25. We're
23 actually going to replace that 35 with that 25. We
24 feel that better fits the conditions along this curve.

25 Additionally, we also want to address trucks in

1 the area. As we know, you know, that was a concern
2 by the Board, and added some additional signage
3 specifically that at W113, that truck rollover sign,
4 as it's called, with an additional speed advisory sign
5 to -- to really get the message across about that
6 proposed speed for the curve.

7 What you'll also see there are those W18L and W18R
8 signs. So, those are chevron signs which would be
9 located on the outside of the curves in both
10 directions. So, those chevron signs will just allow
11 better warnings for the curves driving along it. We're
12 also proposing to install raised pavement markers.
13 You'll see on the concept those are called out as a "W"
14 with a circle and a "BA" with a circle. So, the BA
15 ones are going to be amber and they would be along the
16 center line. And the -- the W circles are going to be
17 white RPMs that would be along the shoulders.

18 Also, as part of what we were proposing to improve
19 these conditions is restriping along the S-curve, as
20 well as some mill -- mill and overlay to improve the
21 conditions where we've designated it on the exhibit.
22 So, that's that hatch -- hatch mark area, that single
23 line hatch mark. And we feel, you know, in our opinion
24 that these additions are really going to improve the
25 conditions along the curve and really give drivers a

1 good warning about what's coming up approaching the
2 curve, as well as driving through it.

3 Q Very good. So, with these improvements that
4 are being proposed, do you believe that as a result of
5 them, that there will be a -- a safe condition along
6 that portion of Victory Road?

7 A Yes.

8 Q And that to be clear, with those proposed
9 improvements, that trucks can safely pass each other --

10 A Yes.

11 Q -- in that area? And --

12 A Correct.

13 Q -- cars can also safely pass each other,
14 right?

15 A At -- at the proposed advisory speed of 25 miles
16 per hour, yes.

17 Q Thank you.

18 A Thank you.

19 Q And -- and -- and the -- with regard to any
20 of your testimony from the last hearing, other -- other
21 than what you just testified to, is there anything else
22 that you want to add with regard to what was previously
23 testified to?

24 A Not at this time. I feel a lot of that covers
25 what was previously brought up.

1 MR. SIMON: Okay. I have no further
2 questions for -- for this witness on direct.

3 MS. PEHNKE: So, I do want to bring up the
4 second --

5 MR. SIMON: Oh, okay; with regard to --

6 MS. PEHNKE: -- question that was brought up.

7 MR. SIMON: Right. Okay. The site
8 intersection. So, the second question that had come up
9 that we had said we would look at is going to Exhibit
10 43. So, that's going to be the Victory Road and that
11 Lakewood-Farmingdale Road intersection, that eastbound
12 right turn. Questions had come up about that.

13 So, we actually ran turning templates for
14 multiple vehicles to show you tonight on this exhibit.
15 We looked at vans, single unit trucks, the SU-30s. We
16 also looked at school buses, which currently are
17 making the turn. We also then looked at SU-40s, the
18 single-unit 40s, as well as the Title 39 template for
19 the WB-67.

20 So, as you can see, that Title 39 template
21 does encroach over the center line -- center lines
22 which would similar to any truck making that right
23 turn movement today. Given the intersection is under
24 stop-control, a truck would easily be able to wait to
25 make the right turn at a time when -- when there's no

1 oncoming traffic in either direction. The NJDOT, the
2 New Jersey Department of Transportation, in their
3 Roadway Design Manual actually would allow for center
4 line encroachments at intersections where there are
5 infrequent turns by large vehicles, which is definitely
6 the case at this intersection where we would expect
7 little if any trucks from our proposed warehouse to
8 make that turn. If there's any trucks really expected,
9 it's going to be closer in line with the single-unit
10 trucks, those SU-30s and 40s, --

11 Q You're -- you're --

12 A -- which makes the movement --

13 Q -- Kerry, you're talk -- you're talking about
14 that right-hand turn?

15 A Correct, that right turn from Victory Road to
16 southbound Lakewood. So, we'd see more --

17 MS. BEAHM: But, can I just ask you, again,
18 still don't have a tenant, right? So, like, you cannot
19 state with any certainty what kind of truck is going to
20 move and the frequency with which that movement is
21 going to happen. So, that -- that tractor trailer
22 movement which goes into the opposing lane of traffic
23 is not ideal at all.

24 MS. PEHNKE: But, it is -- if we look at DOT
25 Design Standards, the majority of movements at this

1 vehicle are -- this movement are done by passenger
2 cars. So, that encroachment over the center line is
3 allowed because it won't --
4 MS. BEAHM: Does a passenger car go into --
5 MS. PEHNKE: -- significantly impact other
6 vehicles.
7 MS. BEAHM: -- go into the opposing lane of
8 traffic?
9 MR. SIMON: Wait, can -- Ms. -- wait.
10 MS. PEHNKE: Passenger cars would not --
11 CHAIRMAN BOISVERT: Wait, wait, wait. Ms. --
12 Ms. Beahm, can you let Ms. Pehnke, please, finish her
13 answer?
14 MS. BEAHM: I mean, yeah. I --
15 MS. PEHNKE: So, --
16 MS. BEAHM: -- I just -- I -- I feel like
17 she's not listening to the question and she's --
18 MS. PEHNKE: I -- I certainly am listening
19 and I'm -- I'm trying to answer it.
20 CHAIRMAN BOISVERT: Wait, wait. This --
21 let's just --
22 MS. BEAHM: Go ahead.
23 CHAIRMAN BOISVERT: Let's --
24 MS. BEAHM: No.
25 CHAIRMAN BOISVERT: -- let's just reel it --

1 MS. BEAHM: Go ahead.
2 CHAIRMAN BOISVERT: -- reel it back.
3 MR. SIMON: So, Ms. Pehnke, can you answer
4 Ms. Beahm's first -- first question, please?
5 MS. PEHNKE: So, we've looked at this
6 intersection as it is per different design standards,
7 specifically --
8 MS. BEAHM: That was not my question. But,
9 okay.
10 MS. PEHNKE: I --
11 MS. BEAHM: Okay. Keep going.
12 MR. SIMON: Okay. So, wait, wait, wait. So,
13 why don't we do this? I think --
14 MS. BEAHM: My question was, do you have
15 tenants, yes or no?
16 MS. PEHNKE: No, we don't have a specific
17 tenant --
18 MS. BEAHM: Okay.
19 MS. PEHNKE: -- at this time.
20 MS. BEAHM: So, you have no idea what kind of
21 vehicles are going to be traversing in and out of this
22 site, correct?
23 MS. PEHNKE: Correct.
24 MS. BEAHM: So, when you make a statement
25 that says this movement is highly unlikely, you cannot

1 state that with a certainty because you have no idea
2 who's going to use this building, correct?

3 MS. PEHNKE: I can state with a certainty of
4 what I know in my professional opinion is likely --

5 MS. BEAHM: That --

6 MS. PEHNKE: -- to occur --

7 MS. BEAHM: -- again, that's not answering my
8 question.

9 MR. SIMON: Well, no, wait, wait.

10 MS. PEHNKE: You -- you're asking for my
11 professional opinion and --

12 MS. BEAHM: Yeah, okay, whatever.

13 MS. PEHNKE: -- and I'm trying to provide it.

14 MS. BEAHM: That's fine.

15 MS. PEHNKE: Because of the --

16 MS. BEAHM: I'm sorry. That's fine.

17 MS. PEHNKE: -- population locations down
18 there, the Lakewood, it is unlikely a truck from this
19 warehouse is going to be going to that location. What
20 I was trying to get to is that any vehicle we would
21 expect delivery-wise to go there would be closer to the
22 single-unit vehicle size, which would be more trucks
23 that would do more local deliveries, which is what to
24 the south is, would be more local area deliveries.

25 MS. BEAHM: But, again, you don't have a

1 tenant, so you can't say that with certainty. So,
2 look, I can tell you that I've seen Dominos in a 2500
3 square foot space show up with a tractor trailer. So,
4 without a tenant, you -- you cannot state with any
5 certainty the type of truck that it's going to be in or
6 out of the space and you also cannot state with any
7 certainty that that -- that movement will not likely
8 happen which is what I stated at the last meeting and
9 the situation has not changed. So, I -- it is what it
10 is. The Board is going to assess your testimony with
11 my questioning and that's fine. But, I'm here to tell
12 you without a tenant, without understanding who's going
13 in and out of the space, to say that that movement with
14 a tractor trailer is not going to be made, you cannot
15 make with any certainty, correct?

16 MS. PEHNKE: I cannot make any -- I can only
17 give you my professional opinion.

18 MS. BEAHM: I understand that.

19 MS. PEHNKE: The only other --

20 MS. BEAHM: But, it's a yes or no question.

21 MS. PEHNKE: -- thing I can state is --

22 MS. BEAHM: It's a yes or no question.

23 MS. PEHNKE: It's --

24 MS. BEAHM: With any certainty, you cannot
25 say 100 percent that that movement is not going to be

1 made by a tractor trailer, yes or no?

2 MS. PEHNKE: That's correct.

3 MR. SIMON: Well, --

4 MS. PEHNKE: I'm giving you -- not correct.
5 I'm giving you my professional opinion.

6 MS. BEAHM: That's fine.

7 MS. PEHNKE: And the infrequency of trucks
8 that are going to do that, it's in line with NJDOT
9 standards that allows encroachment. Which one thing I
10 do want to point out is school buses that do make that
11 right turn today, I've seen it, I've observed it, also
12 encroach on that center line, similar to the single-
13 unit trucks and the WC-67 trucks. So, I think that's
14 important to state too is it's a condition that happens
15 out there with school buses too. But, it's a minor
16 encroachment and it doesn't significantly impact the
17 traffic along the road. So, for NJDOT standards, it's
18 acceptable for this type of intersection given the
19 predominance of passenger cars at this location.

20 MS. BEAHM: I understand.

21 MR. SIMON: And Ms. Pehnke, with regard to --

22 MS. PEHNKE: And without issue, buses are
23 making that movement today --

24 MR. SIMON: Ms. Pehnke.

25 MS. PEHNKE: -- and with encroachment.

1 BY MR. SIMON:

2 Q Ms. Pehnke, --

3 A Yes.

4 Q -- with regard to the location of Route 195
5 in relation to this particular intersection and how to
6 get to Route 195 and the -- your experience in terms of
7 tractor trailers seeking to access state highways, do
8 you have an opinion, based on your experience, as to
9 the frequency of tractor trailers making a left-hand
10 turn here to go to Route 9 -- 195 as opposed to going
11 to downtown Lakewood?

12 A Yes, and as I had, you know, testified previously,
13 that's the regional roadway network and that's where
14 trucks are going to be oriented to and from for this
15 site. That's, you know, in my professional opinion,
16 you know, as I would expect at any site is they're
17 heading towards the regional roadway network, which is
18 going to be a left turn off Victory Road and a right
19 turn onto Victory Road to and from that interchange.

20 Q And -- and you've worked on other warehouse
21 projects with this type of situation where the truck
22 would approach an -- an intersection and one way would
23 go to the downtown and the one way would go to a state
24 highway, correct?

25 A Correct.

1 Q Right? And in those instances, based on your
2 professional experience and observing those types of
3 movements, do you have an opin -- a professional
4 opinion as to the likelihood of a tractor trailer
5 making that right-hand turn, going to a downtown as
6 opposed to going towards the state highway, of making
7 the left?

8 A It would be infrequent.

9 MS. BEAHM: So, I would ask and how many of
10 those experiences have to do with an environment close
11 to Lakewood which is a booming economy and has a very
12 different distribution of traffic uses, et cetera? So,
13 how many of these -- how much of this experience do you
14 have in this exact environment?

15 MS. PEHNKE: I mean, this exact town and this
16 location, this is --

17 MS. BEAHM: Yeah.

18 MS. PEHNKE: -- this project, I -- there's
19 been other projects that I've worked on, areas in New
20 Jersey, that have had similar situations. I had one
21 in --

22 MS. BEAHM: And, so, no, --

23 MS. PEHNKE: -- West --

24 MS. BEAHM: So, no, no.

25 MS. PEHNKE: -- Deptford where --

1 MR. SIMON: Wait, wait. Ms. -- Ms. Beahm,
2 with all due respect, --

3 MS. BEAHM: No.

4 MR. SIMON: -- you can please let her
5 answer --

6 MS. BEAHM: Respectfully, I asked a question
7 and I want the question asked -- that I asked actually
8 answered instead of dancing around the question. I
9 asked a question, how much of your experience has been
10 in areas proximate to Lakewood.

11 MS. PEHNKE: I -- I can't --

12 MS. BEAHM: West Dept --

13 MS. PEHNKE: -- specifically --

14 MS. BEAHM: -- Deptford --

15 MS. PEHNKE: -- I've worked on --

16 MS. BEAHM: -- is not proximate to Lakewood.

17 MS. PEHNKE: -- hundreds of projects. I
18 can't specifically pull out of my head projects I've
19 worked around Lakewood. I'm sorry.

20 MS. BEAHM: So, if you worked on --

21 MS. PEHNKE: I've worked on similar --

22 MS. BEAHM: -- projects, you can't --

23 MS. PEHNKE: -- projects in similar areas --

24 MS. BEAHM: -- find one?

25 MS. PEHNKE: -- where trucks have been

1 oriented to and from the regional roadway network.

2 MS. BEAHM: I understand that and I
3 understand your answer. My answer -- my question was
4 given the unique dynamic of where this is proximate to
5 Lakewood, how much of your experience is in this
6 particular area? And your answer was your -- your
7 nearest area is West Deptford?

8 MS. PEHNKE: I was giving an example of a
9 project that had a similar situation where there was a
10 downtown area to one way, and an interchange hundreds
11 of feet to the other way and all the trucks are
12 oriented to and from the interchange. That's how I was
13 trying to answer your question.

14 MS. BEAHM: Understand. So, --

15 MS. PEHNKE: Trucks of this --

16 MS. BEAHM: -- my question is --

17 MS. PEHNKE: -- trucks of this size would not
18 be frequented -- frequent to and from the downtown area
19 like Lakewood, which is why --

20 MS. BEAHM: Do you have experience --

21 MS. PEHNKE: -- in our professional
22 opinion --

23 MS. BEAHM: -- with downtown Lakewood?

24 MR. SIMON: Wait, wait, wait.

25 MS. PEHNKE: Downtown areas, I have

1 experience with throughout --

2 MS. BEAHM: Okay.

3 MS. PEHNKE: -- the State of New Jersey.

4 MS. BEAHM: But, I'm asking about downtown
5 Lakewood.

6 MR. SIMON: Can I interrupt for just one
7 second? We have a court reporter here that is trying
8 very hard to take down all the questions and all the
9 answers. It is impossible for her to do so if two
10 people are talking over each other. So, I would
11 respectfully ask that once a question is asked that a
12 question is answered before there's a followup question
13 so you're not talking over each other.

14 MS. BEAHM: I agree, but I would respectfully
15 ask that the question I ask if answered instead of
16 dancing around it and not answering my question.

17 MS. PEHNKE: I respectfully disagree. I'm
18 not trying to dance around anything. I'm trying to
19 give my professional opinion, and we've worked near
20 areas of downtown natures similar to Lakewood.

21 MS. BEAHM: I have to -- I have to disagree.
22 I -- like, honestly, --

23 MR. SIMON: Look, --

24 MS. BEAHM: -- like Lakewood is -- and I'm
25 not try to disparage it or what have you, but the area

1 around Lakewood is unique in its experience, its
2 traffic distribution, its economy, et cetera than other
3 downtown areas throughout the State. So, the question
4 becomes, thank you, -- and -- and I respectfully asked
5 it multiple times and I guess the answer is there
6 hasn't been.

7 But, at the end of the day, to say because
8 you've worked in other downtown areas that trucks are
9 not going to go into Lakewood without having the
10 experience of understanding that Lakewood economy is
11 something the Board is going to have to consider and
12 we're going to move on from there. We're not -- we're
13 going to agree to disagree on this issue. But, I
14 just wanted to put it out there for the record. At the
15 end of the day, I think those trucks are going to turn
16 in -- some of the trucks are going to turn and go into
17 Lakewood and that's going to become problematic.
18 That's my professional --

19 MS. PEHNKE: So, if I may --

20 MS. BEAHM: -- that's my professional
21 opinion.

22 MR. SIMON: Well, --

23 MR. BEAHM: So, we're going to agree to
24 disagree and we're --

25 MS. PEHNKE: Well, --

1 MS. BEAHM: -- going to move from there.

2 MS. PEHNKE: -- can I make one final
3 statement?

4 MS. BEAHM: Sure.

5 MS. PEHNKE: Just -- just to kind of correct
6 the record, I -- I didn't state no trucks, I said it
7 would be infrequent that this size truck would go into
8 downtown Lakewood. And I had also said that we could
9 expect that single-unit trucks, like the SU-30s and
10 SU-40s that we ran templates for could be a possibility
11 go in there, which is why we showed that template
12 versus an existing vehicle, like the bus that's already
13 making that movement, as the comparison.

14 MS. BEAHM: I understand. I understand.

15 MS. PEHNKE: It was in respect to the
16 questions about center line encroachments and all that
17 and.

18 MS. BEAHM: I understand your testimony.
19 Thank you.

20 MR. LEGGIO: Ms. Beahm, can I add a few
21 things, please, because I brought this up at the --

22 MS. BEAHM: Sure.

23 MR. LEGGIO: -- at the last meeting. I did
24 my due diligence, Mrs. Pehnke, the last couple of weeks
25 and I went to the site where you guys are proposing the

1 warehouse, the S-curve and back at 547, okay? I parked
2 my truck at the intersection at -- at Atlantic Auto
3 Body, okay? That is right at the corner of this
4 intersection. It's a working auto body shop.

5 In your plans here, with these turns, you
6 know, they're just drawings, they're not live, like,
7 you know, stuff that happens every day, okay? I ran a
8 business in this town for 26 years and I used to come
9 down Victory Road on a regular basis with a -- an F450
10 dump truck and a 22 foot trailer and I can tell you
11 with certainty in my professional opinion you need to
12 get into the left-hand lane of Victory Road approaching
13 if you're going to make the right onto 547 and you 100
14 percent absolutely cross the double-line to get onto
15 the road.

16 There's two telephone poles at -- at the
17 intersection and there's a low grade on the right-hand
18 side and there's a low grade on the left-hand side.
19 You said you guys were going to address the left-hand
20 side, which I can see on here, it's shaded, you know,
21 for trucks coming in from 195. Okay? I sat there and
22 I -- and I watched Amazon trucks, UPS trucks, buses,
23 small single axle trucks, not even tractor trailers,
24 make the right-hand turn, okay? Not one of them didn't
25 cross the double-line a little bit, whether there's no

1 traffic or some traffic, okay? That's why --

2 MR. SIMON: Is -- is -- I just --

3 MS. PEHNKE: I don't disagree.

4 MR. LEGGIO: -- I asked you that.

5 MR. SIMON: -- I just want to know is
6 there -- is there a question for Ms. Pehnke because
7 she'd be happy to answer it, I'm sure.

8 MR. LEGGIO: Well, her question -- the
9 question is the same as Mrs. Beahm asked. There's no
10 certainty of what trucks are going to be coming down
11 this road, number one. Okay? We don't even know who
12 the tenants are. So, that's all out the window for as
13 far as that.

14 Number two, okay, that the intersection is
15 not going to handle, the way it is right now, this kind
16 of movement from whatever tenant you get, whether it's
17 going to be the -- the smaller tractor trailers or the
18 bigger tractor trailers, okay? The movement on the
19 road right now --

20 MR. SIMON: Well, sir, again, I -- with all
21 due respect, this is for questions of -- of the
22 witness. If there's a question for the witness, the
23 witness would be happy to answer the question.

24 MR. LEGGIO: Well, the witness -- listen,
25 the --

1 MR. SIMON: But, --

2 MR. LEGGIO: -- witness is either talking in
3 circles with us or it's word salad as -- as far as I --
4 I hear it every time.

5 MR. SIMON: Well, I would disagree.

6 MR. LEGGIO: We can't -- we can't guarantee
7 what trucks are going to turn or not turn. And her --
8 her opinion or professional opinion about trucks not
9 making that right-hand turn is absolutely ridiculous.
10 You don't know where the movement's going to be. And
11 you know what? The whole concept of every time we have
12 a warehouse application that the trucks are only going
13 to go to 195.

14 CHAIRMAN BOISVERT: Hang on. Hang on.

15 MR. LEGGIO: Yes, Mr. B.

16 CHAIRMAN BOISVERT: Okay. Guys, listen, let
17 her finish her testimony.

18 MR. LEGGIO: All right.

19 CHAIRMAN BOISVERT: And then we will ask her
20 questions. You know, we'll have -- you know, we'll
21 have our -- our own opportunity. We've got to just
22 kind of not veer off here. I gotta -- I know where --

23 MR. LEGGIO: Yeah, I just --

24 CHAIRMAN BOISVERT: -- you're coming from.
25 No, I know where you're coming from. I respect --

1 MR. LEGGIO: I sat there.

2 CHAIRMAN BOISVERT: -- this --

3 MR. LEGGIO: I sat there, Mr. Boisvert.

4 CHAIRMAN BOISVERT: I know. Listen. You
5 know what? There's not one person -- I'm going to tell
6 you, there's not one of us on the Board that after this
7 hearing didn't go take a ride on that road and look at
8 things. So, your -- I'm sure your concerns are similar
9 to -- to all of us. So, let's just let the witness
10 finish her testimony and, then, we'll -- we'll begin
11 questioning everybody before --

12 MR. LEGGIO: No problem.

13 CHAIRMAN BOISVERT: -- this gets way off --

14 MR. SIMON: Yeah.

15 CHAIRMAN BOISVERT: -- off --

16 MR. LEGGIO: No problem, sir.

17 CHAIRMAN BOISVERT: Okay. Awesome, thank
18 you.

19 MR. SIMON: Yeah, I -- thank -- thank you,
20 Mr. Chairman, and -- and certainly, to the extent that,
21 you know, any of the Board Members or Professionals
22 have questions of -- of any of our witnesses, we're
23 happy to answer them, but they -- they should be
24 questions and certainly we'll take, you know, the
25 questions into consideration in providing the answers.

1 So, is there --

2 CHAIRMAN BOISVERT: Okay. So, --

3 MR. SIMON: I mean, are there any other --
4 I'm sorry, Mr. Chairman, go ahead.

5 CHAIRMAN BOISVERT: I -- okay. I mean, is
6 she finished with her testimony?

7 MR. SIMON: Well, I -- Ms. Pehnke, are you --
8 first of all, I don't think there's an outstanding
9 question right now, correct, --

10 CHAIRMAN BOISVERT: Okay.

11 MR. SIMON: -- for purposes of the record, --

12 CHAIRMAN BOISVERT: Okay.

13 MR. SIMON: -- right?

14 CHAIRMAN BOISVERT: And, then, --

15 MR. SIMON: So, -- wait.

16 BY MR. SIMON:

17 Q So, -- so, Ms. Pehnke, the -- the county --
18 the Victory Road is a local municipal roadway, correct?

19 A Correct.

20 Q Right? And Lakewood-Farmingdale Road is a
21 county roadway, correct?

22 A Correct.

23 Q And is it your understanding that this
24 application made an -- this applicant, excuse me, made
25 an application to Monmouth County Planning Board for --

1 for approval in connection with this application
2 because of Lakewood-Farmingdale Road?

3 A Yes.

4 Q Okay. And did the applicant receive any
5 action as to that County application?

6 A It was my understanding that they had received
7 approval through the County application.

8 Q Right. And, in fact, they received final
9 approval from -- from the County on or about March 31st
10 of -- I'm sorry, on April 25th of 2022; does that
11 refresh your recollection?

12 A Yes.

13 MR. SIMON: Thank you. I have no further
14 questions at this time for Ms. Pehnke.

15 CHAIRMAN BOISVERT: Okay. So, if we can take
16 down the -- the display. Mr. Chen, do you have
17 something to say?

18 MR. CHEN: Yes, I have a few questions for
19 Ms. Pehnke with regard to her -- with regard to the
20 Truck Turn and Concept Plan.

21
22 When you came up with the Truck Turn and
23 Concept Plan, were you aware of the telephone poles on
24 the corners of Victory Road when you created this plan?

25 MS. PEHNKE: Yes, the utility poles are on

1 our plans.

2 MR. CHEN: Okay. And my other question is
3 when you -- when you reviewed the Victory Road S-curve,
4 did you actually drive down Victory Road at the -- at
5 the advisory speed you were trying to aim for before
6 coming to your decision on the advi -- advisory speed
7 for this -- for this curve?

8 MS. PEHNKE: Yes.

9 MR. CHEN: All right. And, then, 'cause I
10 saw this -- I saw this early this week. I didn't have
11 a chance to issue a memo, but I guess my question is
12 for the sign legend on your proposed Victory Road
13 Concept Plan, if one looks at the sign legend box, it
14 looks like the sign side -- the signs of the truck roll
15 over sign, the W13-1, and the S-curve Ahead sign, it
16 looks like they appear to be different. Do you know --
17 do you happen to know if those are going to be the same
18 size along Victory Road or not?

19 MS. PEHNKE: I'd have to look up the
20 dimensions; but, I believe the warning signs are the
21 same. But, we can work with you. They'll be done per
22 MUTCD standard of course.

23 MR. CHEN: I don't have any further questions
24 at this time, Mr. Chairman.

25 CHAIRMAN BOISVERT: Okay. Thank you.

1 MR. CHEN: Where's my lower hand. There it
2 is.

3 CHAIRMAN BOISVERT: Okay. So, any of the
4 Board Members have any -- I mean, any questions for any
5 of the witnesses? You -- you've completed testimony,
6 right, Mr. Simon?

7 MR. SIMON: Yeah. Ms. Pehnke has completed
8 her testimony and, --

9 CHAIRMAN BOISVERT: Okay.

10 MR. SIMON: -- at this time, we don't have
11 any further witnesses, of course, subject to the right
12 to bring in any or all of our witnesses for any --

13 CHAIRMAN BOISVERT: Of course.

14 MR. SIMON: -- either redirect, rebuttal as
15 we see fit.

16 CHAIRMAN BOISVERT: Okay. Of course. Okay.
17 So, do any of the Board Members have any questions of
18 any of the Professionals from the application?

19 MS. McGRATH: I do. I have a quick question
20 for Ms. Pehnke.

21 On the --

22 MR. SIMON: Megan, just one second. Yeah,
23 let's let her get back to us. Go ahead.

24 MS. McGRATH: Oh, I'm sorry.

25 MR. SIMON: No, that's okay. I just wanted

1 her to get back on the screen. Thank you.

2 MS. McGRATH: On the rendering that you put
3 up, is -- and forgive me, I am not an expert at this,
4 but you put up, is -- is there a change in that S-turn,
5 or was it not the whole S-turn that you put up in the
6 rendering?

7 MS. PEHNKE: So, there's a -- it -- there's a
8 match line in it. So, there's the -- the bottom part
9 and the top part. So, we are showing that whole S-
10 curve starting from its like western extent to its
11 eastern extent.

12 MS. McGRATH: Oh, I got you.

13 MS. PEHNKE: We just wanted to put it on one
14 concept so we thought the match line would be better
15 instead of two pages.

16 MS. McGRATH: Okay. Thank you.

17 MS. PEHNKE: Of course.

18 MR. CRISTIANO: Mr. Chairman, I have a
19 question.

20 CHAIRMAN BOISVERT: Shoot.

21 MR. CRISTIANO: Ms. Pehnke, what conditions
22 do you perform your tests? Is it optimal, like,
23 weather conditions? Is it rain, sleet, hail, snow?
24 How does -- how does that work?

25 MS. PEHNKE: We go out to the site and, you

1 know, we look at the day. But, I'm not sure what you
2 mean by conditions. Like, do we pick a rainy --

3 MR. CRISTIANO: Well, --

4 MS. PEHNKE: -- day to go out --

5 MR. CRISTIANO: -- I'm pretty sure --

6 MS. PEHNKE: -- or, I mean, --

7 MR. CRISTIANO: -- those S-turns --

8 MS. PEHNKE: -- we design it per MUTCD
9 standards. So, that takes into account a lot of, you
10 know, engineering design and criteria.

11 MR. CRISTIANO: But, I'm pretty sure those S-
12 turns during a snowy day is different from a nice
13 bright sunny day?

14 MS. PEHNKE: Oh, I'm sure -- I'm sure it is.

15 MR. CRISTIANO: So, that's what I'm just --
16 what type of conditions?

17 MS. PEHNKE: So, we're not designing it based
18 on a specific condition. We have to design it to our
19 design standards that we use for our --

20 MR. CRISTIANO: What's the design --

21 MS. PEHNKE: -- profession.

22 MR. CRISTIANO: -- standard that you're
23 saying?

24 MS. PEHNKE: The Manual on Uniform Traffic
25 Control Devices, MUTCD.

1 MR. CRISTIANO: What's the design standard?
2 What is it? What's its use?

3 MS. PEHNKE: Oh, it's different for each sign
4 and each thing that we implemented in the curve, the
5 chevron sign. There's different criteria. The signage
6 itself is different criteria.

7 MR. CRISTIANO: Is there ever a time where you
8 perform on substandard conditions on curves or S-curves
9 or something dangerous where we can use bad weather
10 design?

11 MS. PEHNKE: No.

12 MR. SIMON: Ms. Pehnke, I think the -- the
13 question, I mean, just to help out a little bit. I
14 think the question is whether when -- when you
15 undertake a design and you're doing it under a specific
16 standard, does that standard take into consideration
17 all different types of -- of weather conditions?

18 MS. PEHNKE: Not that I'm aware of. It's
19 specific design standards that we have to follow. It
20 doesn't really mention design conditions or --

21 MR. SIMON: Right. So, -- so, --

22 MS. PEHNKE: -- rain or snow.

23 MR. SIMON: -- so, in other words,
24 irrespective of the -- the weather condition, you as a
25 professional licensed traffic engineer, are -- are

1 designing to a certain standard and the standard takes
2 into consideration all different types of weather
3 conditions?

4 MS. PEHNKE: Yes.

5 MR. CRISTIANO: But, we're both clear that on
6 a snowy day, it's different than on an optimal sunny
7 day?

8 MS. PEHNKE: Oh, yes, for sure.

9 MR. CRISTIANO: (Indiscernible) event.

10 MS. PEHNKE: I agree with you.

11 CHAIRMAN BOISVERT: So, Ms. Pehnke, this
12 question was asked at the last meeting, so I'm going to
13 ask it again.

14 With the change that you made to the -- the
15 S-turn, those improvements, can two tractor trailers
16 both traverse that S-turn in opposite directions, one
17 going one way and one going the other, safely?

18 MS. PEHNKE: Yes.

19 CHAIRMAN BOISVERT: Okay.

20 MR. LEGGIO: Mrs. Pehnke, I got one more
21 question for you.

22 Okay. I had asked you the last time, you
23 know, I know we go -- you're -- the way you guys you do
24 things or, you know, DOT and -- and whatever the -- the
25 standards are for transportation and the charts and all

1 that stuff. But, I had mentioned, you know, if you
2 guys want to really do due diligence to this Board and
3 to the residents of Howell Township, why don't you
4 bring some tractor trailers there, live tractor
5 trailers, and let's see them navigate this S-turn at
6 this 25 miles an hour that you're proposing, 'cause
7 you're -- you're going to get onto the road at 50 from
8 547. Then, they're going -- then, they're going gear
9 down and hit it at 25 and that's the other direction,
10 too and that doesn't include any other vehicles that
11 are on the road, if they're going to even follow, you
12 know, the speed limits, 'cause that's not something we
13 can control or you can control.

14 So, as far as the S-turn and the 547
15 intersection, you know, bring some trucks, live trucks
16 and let's -- let's do it live instead of going by what,
17 you know, these charts say and all this stuff. That's
18 -- you know, we live here. We -- we see how it's done
19 every day. You know, you don't live -- you don't --
20 unfortunately don't live here and the professionals
21 don't live here. You know, that's -- that's my
22 question to you. You know, I respect your opinion --
23 your professionalism and -- and everything, but, it's
24 not accurate. It's not what we see every day. I'm
25 sorry.

1 MS. RIZZUTO: Mr. Chair, if I might, it's
2 Anne Marie.

3 MS. RUBANO: Go ahead, Anne Marie. You're
4 muted, Anne Marie.

5 MS. RIZZUTO: Okay. Now, am I hearing?

6 CHAIRMAN BOISVERT: We can hear.

7 MS. RUBANO: Yes.

8 MS. RIZZUTO: Mr. Leggio, thank you very
9 much. Mr. Simon, it's -- it's certainly your option or
10 consideration to do live tests like Mr. Leggio is -- is
11 suggesting. But, I don't know that this witness should
12 be put on the spot to answer that kind of question.
13 It's really an applicant question. And for the Board
14 Members, if you feel that some kind of testing like
15 that is really important and it's been discussed in the
16 hearing and the applicant chooses not to do it, then
17 you can take from that choice whatever logical relevant
18 point you want to take from it.

19 But, I think that we've been talking about
20 this for quite a while and we have heard this witness
21 say she thinks there's going to be infrequent use at
22 that intersection by trucks and she can't really tell
23 because we don't know the tenant. So, Mr. Simon, do
24 you have anything to say about whether your applicant
25 wants to run live tests with tractor trailers over this

1 point?

2 MR. SIMON: Well, I'll answer it two ways.
3 Number one is as we discussed at length by a number of
4 professionals, including myself, at the last hearing,
5 the Board is prohibited from, in essence, denying an
6 application because of off-site traffic conditions
7 because there are well beyond the jurisdiction of this
8 Board for site plan approval.
9 And there's abundant case law to support that
10 proposition.

11 Number two, with regard to the request, just
12 like any request of any Board Member or any Board
13 Professional, et cetera, that the applicant certainly
14 will -- will take all into consideration. But, I
15 think you are correct in that it's not an appropriate
16 question for the particular professional witness
17 because, you know, they're -- they're just providing
18 their testimony and the questions should be just
19 about their testimony.

20 MS. RIZZUTO: And if --

21 MR. SIMON: So, I take copious notes at all
22 -- at all these hearings.

23 MS. RIZZUTO: Right. And we discussed a
24 live tractor trailer test at the last hearing and Ms.
25 Pehnke -- Ms. Pehnke came back with a plan that shows

1 four or five different changes, shaded area where they
2 are proposing the widening at the S-turn; the signs are
3 going to be changed; proposing a 25 mile per hour limit
4 rather than whatever it is right now; raised pavement
5 markers; restriping milling and overlay where
6 necessary. And her testimony at that point was we'll
7 make that section of Victory Road safely able to be
8 passed by two different trucks.

9 So, that's her testimony and if you have a
10 question about that, that's fine and -- and it can be
11 commented upon when we go to make a vote and -- and
12 whether or not you feel there's the weight of her
13 testimony there. But, I think we should move
14 on -- on from that. She -- they've given a proposal.

15 And, Mr. Simon, I would just also like to say
16 to you that while I understand about off-site
17 improvements, that section of the roadway is -- is off-
18 site by how far? Your -- some of your trucks are going
19 to go that way and some of your trucks are going to go
20 the other way. And, yes, this is off-site, but this is
21 a condition that because you're bringing tractor
22 trailer traffic, you may -- you -- you are taking an
23 extra step to say here's some improvements that we can
24 make. So, the off-site -- the off-site improvement, we
25 understand that. But, this is not a major redo of the

1 entire road to make it straight instead of an S-turn.

2 And the same thing with the corner
3 intersection, there -- I don't hear any -- any proposal
4 to do anything about the corner intersection. And I
5 don't hear that there really is nothing that can be
6 done. I don't know if Ms. Pehnke finished her
7 testimony because she got interrupted. But, that point
8 wasn't addressed.

9 MR. SIMON: Well, --

10 MS. RIZZUTO: Anyway, --

11 MR. SIMON: -- certainly, Ms. Rizzuto, --

12 MS. RIZZUTO: -- one -- one thing, Mr. Simon,
13 one --

14 MR. SIMON: Yes, I'm sorry.

15 MS. RIZZUTO: -- thing more.

16 MR. SIMON: That's okay.

17 MS. RIZZUTO: Mr. Chair, we do need to pay
18 attention to when the witness testifies and then the
19 Board Members question and not be repetitive of that
20 question. We need to follow the format that we set
21 and I urge everyone to please consider that because
22 her testimony wasn't done and she got waylaid with
23 several different questions, not that the questions
24 shouldn't be answered. They should be answered. They
25 should be asked. So, that's all I have to say. It's

1 taking up too much time to get through one witness.

2 CHAIRMAN BOISVERT: Well, I mean, I
3 understand what you're saying.

4 MS. RIZZUTO: Yes.

5 CHAIRMAN BOISVERT: But, you know, we're the
6 ones that have to sit here and we have to take in all
7 the testimony and we have to weigh everything. So, if
8 we take six more days to listen to everything, --

9 MS. RIZZUTO: Yes.

10 CHAIRMAN BOISVERT: -- that's what we're
11 going to do.

12 MS. RIZZUTO: Yes, I understand.

13 CHAIRMAN BOISVERT: So, I respect your
14 opinion, but this Board is going to ask as many
15 questions as many times until we get the answers that
16 we're all comfortable with before we're going to vote
17 on anything.

18 MS. RIZZUTO: Yes, absolutely. I agree with
19 that.

20 CHAIRMAN BOISVERT: All right. So, with that
21 being said, anybody else from the Board have any
22 questions of any other witnesses before we let Mr.
23 Lieberman cross-examine?

24 MS. McGRATH: I do. I just have one more.
25 How much wider are we making that curve?

1 MR. SIMON: I'm sorry, Ms. McGrath, is this
2 for Ms. Pehnke, right?

3 MS. McGRATH: Oh, I apologize, yes.

4 MR. SIMON: No, that's okay.

5 MS. PEHNKE: Hi. I believe it was two or
6 three feet, but it varies along the curve. If we
7 wanted to pull that exhibit back up, you can see that
8 the -- the widening that we're doing varies depending
9 on the point of curve we're on.

10 MR. SIMON: Okay. Do you want to --

11 MS. PEHNKE: I think the maximum --

12 MR. SIMON: -- pull it back up? Thank you.

13 MS. PEHNKE: -- widening might have been
14 about three feet at its widest point.

15 MR. SIMON: Ms. Pehnke, can you refer to
16 answer Ms. McGrath's question? Can you please refer to
17 the -- which exhibit are you referring to?

18 MS. PEHNKE: So, I believe this A-40. So,
19 the widening we're proposing, as you can see, the
20 widths vary, depending at what point of the curve
21 you're along. I believe the maximum widening we were
22 doing was between two and three feet.

23 MS. McGRATH: Perfect. Thank you.

24 MR. LEGGIO: Okay. Mr. Simon?

25 MR. SIMON: Yes, sure.

1 MR. LEGGIO: All right. I just want to make
2 something clear to you, you know. I don't want to -- I
3 don't want you to think I was, you know, trying to --
4 to disrespect you in any way.

5 I -- my main concern with the tractor
6 trailers and the turning and the S-turn and everything
7 is -- is roadway safety. Okay? That's the biggest
8 concern is the safety of these roadways when -- when
9 you have these movements. Okay? For the residents,
10 for non-residents that are cutting through our town,
11 you know, going from town to town, that's, at the end
12 of the day, the biggest issue is safety for the buses,
13 the kids, cars, everything. That's it, you know? I'm
14 not trying to make this a big deal. I'm just trying to
15 understand how all these movements are going to be made
16 in a safe way. Thank you.

17 MR. SIMON: Okay. Can --

18 MS. BEAHM: And, Mr. Leggio, --

19 MR. SIMON: -- can I --

20 MS. BEAHM: -- I think that's kind of what I
21 was trying to get across earlier.

22 MR. LEGGIO: Absolutely, Ms. --

23 MS. BEAHM: Yes.

24 MR. LEGGIO: -- absolutely Mrs. Beahm.

25 I'm -- it -- it's just like I said, we -- it seems like

1 from the last meeting to this meeting, it -- we're
2 talking a little bit in circles with Mrs. Pehnke and us
3 and, you know, I -- I'm sorry that it got a little
4 mixed up. But, --

5 MS. BEAHM: No, I -- I agree, but I think
6 that that's the ultimate goal of my questioning, your
7 questioning and other questioning, the turning
8 movement, especially considering we don't know who is
9 going to be in the building. That's --

10 MR. LEGGIO: Yeah, see that -- that
11 intersection is a -- is -- is very tight and --

12 MS. BEAHM: It's a rough intersection at best
13 and this could potentially make it worse, so that --

14 MR. LEGGIO: Yes.

15 MS. BEAHM: -- I think that's the concern
16 that the Board has which I'm trying to express.

17 MR. LEGGIO: You're the professional and --
18 and you -- you -- with the Master Plan, you know every
19 road in this town very -- very well. So, do I --

20 MS. BEAHM: I try, yes.

21 MR. LEGGIO: -- and I do too. I've lived
22 here a long time. But, I'm with you and that's all
23 we're try -- trying to get our point.

24 MS. BEAHM: 100 percent agree. So, I -- I'm
25 just trying to say, like, that's been the concern with

1 respect to the questioning up til now, correct?

2 MR. LEGGIO: Correct, 100 percent. Thank
3 you.

4 CHAIRMAN BOISVERT: Okay.

5 MR. SIMON: And -- and Mr. Chair, can I just
6 ask Ms. Pehnke, are you there? Okay. You there?
7 Thank you. So, you just heard a couple of the comments
8 from a Board Member, from Board Planner, you know, and
9 they are concerned about the safety of the roadway when
10 -- when you have these movements. Can you just again
11 provide your opinion as to safety of the roadway as a
12 result of this proposed project?

13 MS. PEHNKE: Yeah, of course. So, I think
14 with what we're proposing at the curve, we're certainly
15 addressing the conditions there and improving the
16 safety there, you know, adding warning sides, as well
17 as, you know, the raised pavement markers and reducing
18 the speed limit for the curve itself.

19 In relation to the right turns at Victory and
20 Lakewood, you know, we were asked to look at the right
21 turn and -- and what they looked like. School buses
22 today are making that right turn and they encroach over
23 the center lines and per the DOT standards, given the
24 majority of traffic making that turn is a passenger car
25 vehicle, the intersection does not need to be designed

1 for those larger vehicles as long as they're not
2 significantly impacting the traffic which per the Truck
3 Turning Templates we've prepared for both single unit
4 size, as well as that WB-67, we feel it's inline with
5 that NJDOT design criteria.

6 MR. SIMON: Thank you. Thank you, Mr.
7 Chairman.

8 CHAIRMAN BOISVERT: Oh, you're welcome.

9 MR. CRISTIANO: Mr. Chair, I have a
10 question, --

11 THE COURT: Shoot.

12 MR. CRISTIANO: -- probably for maybe Jen
13 Beahm, maybe, I don't know. So, they're widening the
14 roadway by three feet. Is that -- is that still
15 Township property or are they encroaching on other
16 people's property to widen this road? Jen, did you
17 hear that?

18 MS. BEAHM: I'm sorry. I heard the half end
19 of it. Like give me the whole thing.

20 MR. CRISTIANO: Okay. So, I just wanted to
21 know that they're widening it by three feet. Does this
22 encroach -- is this on Township property or does it
23 encroach on other people's properties?

24 MS. BEAHM: They're going to have to -- I
25 don't -- it's not Township property. They're going to

1 have to -- if -- if it's -- okay. So, I don't know
2 exactly and I would like respectfully defer to Kevin.
3 But, like, the widening, is it within the right-of-way
4 or is it going to require right-of-way acquisition? I
5 don't know. That's not like Kevin, are you -- did you
6 look at that?

7 MR. CHEN: Respectfully, I did not because
8 the right-of-way lines were not shown on this plan.

9 MS. BEAHM: Okay.

10 MR. CHEN: I would like to ask the question
11 of Ms. Pehnke, if possible: Ms. Pehnke, do you happen
12 to know if the Township -- if the proposed two to
13 three foot widening that you show on the Consent Plan,
14 do you happen to know if that's within the Township
15 right-of-way or it does that encroach into other
16 property right-of-way.

17 MS. PEHNKE: Yes, the Concept we laid out
18 does have it within the right-of-way, for the pavement
19 widening. And we expect it to be in the wide -- the --
20 the right-of-way when we -- we do the designs plans as
21 well.

22 BY MS. BEAHM:

23 Q Does that require any widening to do that?

24 A The -- the widening itself is within the existing
25 Public right-of-way.

1 MS. BEAHM: Okay.
2 MR. CRISTIANO: Okay. So, you took the S-
3 curve that we were concerned about and replaced it with
4 an S-curve?
5 MR. SIMON: No, it --
6 MS. BEAHM: And it softened it out, right?
7 MR. SIMON: -- it was both.
8 MS. BEAHM: I mean, I'm -- I'm not --
9 MS. PEHNKE: We softened it up.
10 MS. BEAHM: -- going to -- right? Like I'm
11 not going to get into like technical terms. But, like
12 you softened it, correct? You softened that?
13 MS. PEHNKE: Correct, yeah. I mean, we're
14 constrained by the right-of-way that's out there. You
15 know, we can't --
16 MS. BEAHM: Of course.
17 MS. PEHNKE: -- go across --
18 MS. BEAHM: Yes.
19 MS. PEHNKE: -- someone's property. So, it
20 was --
21 MS. BEAHM: But, it -- it --
22 MS. PEHNKE: -- widened within the existing
23 right-of-way.
24 MS. BEAHM: It's definitely softened,
25 correct?

1 MS. PEHNKE: Yes.
2 MR. CRISTIANO: By three feet.
3 MR. CHEN: Ms. -- oh, sorry. I wanted
4 to -- ask a followup for Ms. Pehnke. I apologize.
5 MS. PEHNKE: Right.
6 MR. CHEN: Also, the sign posts along the
7 curb, beside the widening, are those also within the
8 Township right of way, to the best of your knowledge?
9 MS. PEHNKE: To the best of my knowledge,
10 yes.
11 MR. CHEN: Okay. I have no -- I have no
12 further questions at this point in time on this issue,
13 Ms. -- Mr. Chairman.
14 CHAIRMAN BOISVERT: Okay. Thank you.
15 MR. MERCER: I just have one additional
16 question.
17 On the -- what -- what's the shoulder of the
18 road like? Is it -- is it a drop-off? How is that in
19 those -- in the S-curve area?
20 MS. PEHNKE: The -- in just the S-curve area?
21 MR. MERCER: Yes.
22 MS. PEHNKE: So, the shoulder, there's no
23 significant drop-off with the shoulder.
24 MR. MERCER: Okay. All right. So, -- so, --
25 MS. PEHNKE: It's pretty flat out there.

1 MR. MERCER: So, guardrails would not be --
2 MS. PEHNKE: No.
3 MR. MERCER: -- considered in this because of
4 the speed, the lower speed and all that?
5 MS. PEHNKE: Correct. There -- there is no
6 grading that was suggest the use of a guardrail; that's
7 correct.
8 MR. MERCER: Gotcha.
9 CHAIRMAN BOISVERT: Okay. So, anybody else
10 from the Board?
11 (No audible response)
12 CHAIRMAN BOISVERT: Mr. Lieberman.
13 MR. LIEBERMAN: Okay. Good evening,
14 everybody. I'm Stuart Lieberman and I represent the
15 neighbors that I've identified previously.
16 EXAMINATION BY MR. LIEBERMAN:
17 Q Ms. Pehnke, let me start with you, in light
18 of the constraints that were expressed by counsel.
19 With regard to Exhibit A-40, that's what I want to
20 discuss first with you. What is the width of a truck,
21 a tractor trailer, a full-blow tractor trail truck,
22 including the side mirrors? In other words, side
23 mirror to mirror, generally, what's the width?
24 MR. SIMON: So, Kerry, first of all, Mr.
25 Lieberman referenced an Exhibit. So, why don't you

1 make reference to that exhibit.
2 A So, A-40 is the exhibit.
3 Q Right, yes.
4 A And I believe off the top of my head, the trailer
5 width is under 9 feet. I believe it's between like
6 eight feet, 8 1/2; I'm not sure off the top.
7 MS. BEAHM: Is there -- is there some way we
8 can bring the exhibit up? Yeah, great.
9 Q All right. So, the -- so, the width is --
10 is -- is wider than the cab, even mirror to mirror; is
11 that correct?
12 A Well, I -- I don't know the -- I know the average
13 width is 8, 8.5 feet of the tractor width. The trailer
14 width, I believe, is 8 and 1/2. So, I think the cape
15 with is 8.
16 Q All right. So, -- so, you've got 8 1/2 by 8
17 1/2 is 17 feet. What is the width of that S-turn
18 without the improvements?
19 A I believe it varies along the curve.
20 Q So, what -- what is the -- what is the
21 narrowest width?
22 A I know the lanes are 12 feet wide. The shoulder
23 varies across. I could -- can't tell you what the
24 narrowest width is.
25 Q All right. So, -- so, in its current state,

1 you've got approximately 24 feet of cart -- what do
2 they call it cart -- what's it called?

3 A The cartway?

4 Q Yeah, the cartway is about 24 feet; is that
5 right?

6 A Yes, --

7 Q Okay.

8 A -- approximately.

9 Q And -- and you've got two trucks passing
10 each other, each 17 feet wide. That gives you a margin
11 of seven feet; is that right? Yeah, that gives you a
12 margin of seven feet. Now, you indicated that with
13 your -- the -- the biggest problem with this turn was
14 that it obscured the trucks -- from one truck or a car
15 from seeing another truck coming from another
16 direction; wasn't that the biggest problem with it?
17 Would you agree with me?

18 MR. SIMON: Well, objection, only in that I
19 don't know what it means by "the biggest problem." Ms.
20 Pehnke, if you understand that question, you can answer
21 it or ask --

22 MR. LIEBERMAN: Withdrawn. I'll withdraw it.
23 BY MR. LIEBERMAN:

24 Q From a safety perspective, what was your
25 understanding of the issue that you were trying to cure

1 by adding the three feet?

2 A For vehicles to be able to pass safely with each
3 other side by side.

4 Q That's what that allows you to do. But,
5 would you agree with me that because this is an S-turn,
6 there's also a visual obscurity issue?

7 MR. SIMON: Objection. I don't know you mean
8 by visual obscurity.

9 Q Does the traffic planner understand what I
10 mean?

11 A I'm not sure I understand what the question you're
12 asking.

13 Q Does the fact that it's an S-turn make it
14 difficult for vehicles coming from one direction to see
15 vehicles approaching from the other direction?

16 A It depends what direction you're driving on the
17 curve. But, that would be any curve condition.

18 Q In this particular case, is there a
19 particular direction where a driver coming -- is there
20 a particular part of the S-turn where a driver coming
21 from one direction has -- is -- is visually obscured
22 from seeing a vehicle coming from another direction
23 because --

24 MR. SIMON: Mr. Lieberman, I just want to --

25 A I mean, --

1 MR. SIMON: -- I just want to -- hold on, Ms.
2 Pehnke. I just want to ask for clarification that with
3 regard to this question, as well as any questions along
4 this line of questioning, are -- are you talking still
5 about the existing condition or are you talking about
6 after the improvements as proposed?

7 MR. LIEBERMAN: Only the existing condition;
8 that's all.

9 MR. SIMON: Thank you for the clarification.

10 MS. PEHNKE: So, I think my clarification is
11 more of what distance you're referring to. So, if I'm
12 on the east side of the curve and the car is on the
13 west side of the curve, you know, I'm -- I'm not going
14 to see them, because it's a curve. So, --

15 MR. LIEBERMAN: So, --

16 MS. PEHNKE: -- it depends what distance
17 you're asking that you think they should be seeing each
18 other.

19 BY MR. LIEBERMAN:

20 Q So, -- so, if you're on the east side, which
21 part of this drawing shows the east side?

22 A Plan East.

23 Q All right. So, -- so, if you were on the
24 east side of the "S" near the top of the "S," I mean,
25 you know, as you go up -- yeah, where you're --

1 where -- you are there. It's going to be difficult for
2 you to see cars on the west side near where the match
3 line is; is that correct?

4 A It's a curve, yes.

5 Q It's a curve. And widening the road does
6 nothing to address that issue, right?

7 A Well, widening the road allows the vehicles to be
8 able to pass each other, safer conditions at the
9 proposed posted advisory speed. I mean, that's what --
10 that's what you're talking about is a condition on --
11 on any curve.

12 Q I understand that. Just -- well, I just want
13 to make it clear though that while -- that the only
14 benefit by widening the road is that it makes it
15 possible for the two trucks to pass; but, it does
16 nothing to address a visual obscurity issue of the
17 nature that we just talked about; is that accurate?

18 MR. SIMON: Objection. I -- I don't think
19 you can say, Mr. Lieberman, the -- the only benefit,
20 and you're talking about two elements of the turn. I
21 think Ms. Pehnke talked about a bunch of things in her
22 direct; but, she can answer the question. Do you
23 understand the question, Ms. Pehnke?

24 MS. PEHNKE: Yeah. So, I mean, they're --
25 they're two different things. You know, by allowing

1 them to be able to pass safely, you know, they'll be
2 able to go along the curve more easily, visual
3 obscurity doesn't really influence that in that way
4 because they have the room to navigate within their own
5 lane, as would the opposing vehicle.

6 BY MR. LIEBERMAN:

7 Q Now, this is a three foot addition that
8 you're adding by going into the right-of-way, correct?

9 A Approximately.

10 Q Is it three feet or is it more or less three
11 feet, or it less three feet?

12 A It's more or less three feet. It's a concept
13 plan; so, it's not specifically designed out. So, I
14 don't have the exact number. Like I said, it varies
15 along the curve.

16 Q Well, since you're talking three feet and not
17 30 feet or 40 feet, do you know whether you actually
18 are going to have three feet? Do you know what -- how
19 much the feet --

20 A Yes, we know the widening we're proposing is
21 within the existing public right-of-way.

22 Q But, is that three feet or is it less than
23 three feet or more than three feet?

24 A It varies.

25 Q Is it at least three feet anywhere?

1 A It -- it's at least three feet --

2 Q Okay.

3 A -- along it's wider point, at least.

4 Q Okay. Now, that means it's roughly -- is
5 this -- am I correct in saying that that means it's
6 really one and a half feet on each side?

7 A So, it's at least three feet.

8 Q It's three feet on both sides?

9 A Correct.

10 Q So, for the duration of the entire "S," will
11 there be an extra three feet, full three feet on both
12 sides?

13 A No, it's at its widest point. It's -- it's going
14 to vary. So, can -- can I actually bring up A-41? I
15 think will kind of help in our visual. So, showing the
16 plans and we ran the truck templates for this with the
17 widening. So, if you want to zoom into that, that
18 curve where the widening is, thank you so much, you can
19 see the outer part of the truck template runs along
20 where we're showing the proposed widening to allow
21 these trucks to safely pass each other, which is why we
22 have varying widths for -- for what we need along the
23 curve.

24 Q But, when I look at that on the -- you know,
25 I don't have a cursor where I can do this thing. But

1 on the top -- you know, if you go the top of the page
2 where the "S" starts, I see the widening on both sides,
3 right?

4 A Correct.

5 Q Can you put your cursors here? Yeah, that.
6 So, I do. But, then, as you proceed to the left of the
7 page and go down the "S," the widening ends on the
8 inner part of the curve --

9 A Correct.

10 Q -- and, so, there, there's no corresponding
11 widening on that -- on that lane. It's only on the
12 other lane; is that correct?

13 A Correct.

14 Q Why -- why can't you give that additional
15 width throughout the entire "S," both sides of the "S?"

16 A So, we didn't --

17 Q Why can't you?

18 A -- we didn't find it was needed.

19 Q Well, --

20 A As we're showing on the plan, the trucks are
21 within the -- their lane on and within the pavement
22 sections.

23 Q Okay. Now, this works -- in order for this,
24 I'm going to call it a "fix" and if you don't like the
25 word, you can correct me, please. But, in order for

1 this proposed fix to work, it does require in your
2 professional estimation a 25 mile an hour speed limit
3 on that curve; is that accurate?

4 A Correct, yes.

5 Q Now, are there any statistics in terms of how
6 drivers generally react to a 25 mile an hour speed
7 limit that you're aware of?

8 MR. SIMON: What -- what do you mean by
9 statistics and generally react?

10 MR. LIEBERMAN: She's a traffic engineer. The
11 question is in her field. Is she aware of any data,
12 any statistics, either at the National level or the
13 State level, that indicates how drivers generally react
14 to a 25 mile an hour speed limit?

15 MR. SIMON: Well, no. Well, Mr. Lieberman,
16 when I'm asking about generally react, are you talking
17 about in terms of speed or something else?

18 MR. LIEBERMAN: Only speed. I've not --

19 MR. SIMON: Thank you.

20 MR. LIEBERMAN: -- (indiscernible) whether it
21 puts a smile on their face or whatever? No, yeah, I
22 appreciate your question, Mr. Simon. I'm talking about
23 speed.

24 BY MR. LIEBERMAN:

25 Q Do they tend -- getting to the -- cutting

1 to the chase, do they tend to adhere to it or not?
2 What -- and/or do you not know? Maybe there's no
3 data?

4 A I'm not aware of any statistics.

5 Q But, this -- but this fits in order to work
6 at its maximum, in your professional opinion, requires
7 fairly strict adherence to that 25 mile an hour speed
8 limit, right?

9 MR. SIMON: Objection, 'cause I don't know
10 what works to the maximum, but you can answer the
11 question, Ms. Pehnke.

12 MR. LIEBERMAN: No, I'll rephrase it because
13 I don't want any objections in the record.

14 MR. SIMON: Yeah.

15 BY MR. LIEBERMAN:

16 Q In order for the fix that you are suggesting,
17 it's dependent on trucks adhering to the 25 mile an
18 hour speed limit, correct?

19 A It's the advisory speed we're proposing, yes.

20 Q Uh-huh. And what's the speed now?

21 A Fifty miles per hour.

22 Q So, the recommendation is -- is that --
23 and -- and where would it drop from -- from 50 to 25?
24 Where would that happen?

25 A So, if we go to A-40 exhibit, to the right, we

1 would be replacing the existing curb signing with the
2 proposed advisory speed, that W15R, warning of the
3 curve, as well as the 25 mile per hour advisory speed.
4 And, then, following that sign is the truck tipping
5 sign, which also will have the proposed advisory speed
6 of 25 miles per hour.

7 Q Okay. Now, -- thank you, Ms. Pehnke for
8 that -- for that clarification. I do appreciate it.
9 Let's please go to --

10 MS. RUBANO: Can I interrupt for one minute.
11 Can we stop sharing, because Nick Huszar is now in the
12 audience. I want to bring him into the meeting. Thank
13 you.

14 MR. LIEBERMAN: Okay. Can I continue or wait
15 a --

16 MS. RUBANO: Just one second.

17 MR. LIEBERMAN: Okay.

18 MS. RUBANO: You -- you can continue as long
19 as you don't need an exhibit.

20 MR. LIEBERMAN: No, I -- I don't even --

21 MS. RUBANO: You're good.

22 MR. LIEBERMAN: -- know how to show exhibits.
23 I wouldn't know how to do it.

24 MS. RUBANO: No, you're fine now, thank you.

25 MR. LIEBERMAN: You're welcome. Can we

1 please go to Exhibit 43.

2 BY MR. LIEBERMAN:

3 Q Now, one of your statements that you made
4 concerning your testimony relating to the turn from
5 Victory Road to Lakewood-Farmingdale Road is that
6 school buses do it; is that correct?

7 A That's correct.

8 Q Now, you realize that school buses have
9 routes that are dependent on where children happen to
10 live and these are children who, by law, have to go to
11 school. You have an understanding that that's how
12 truck (sic) routes are established, right?

13 A Yes.

14 Q And, so, you would expect --

15 MR. SIMON: Wait, when you say -- sir, you
16 said truck. Did you say bus?

17 MR. LIEBERMAN: Bus --

18 MR. SIMON: You meant bus route.

19 MR. LIEBERMAN: -- route. That's what you
20 meant, right?

21 MR. LIEBERMAN: I did. Thank you. School
22 bus routes is what I meant. Thank you.

23 BY MR. LIEBERMAN:

24 Q And what is -- you're not suggesting that the
25 fact that a school bus is compelled to make that turn

1 because it has to service those children that that
2 makes this a safe intersection? You're not suggesting
3 that, right?

4 A The purpose of the school bus here was to show
5 that -- on a vehicle of similar size making the same
6 movement will also encroach on the center line. It
7 wasn't to make any suggestions about the school bus,
8 whether they have to or not do it. It was for
9 comparison purpose for a similar vehicle.

10 Q We appreciate that. And according to the
11 design standards, and I -- I -- they're uniform design
12 standards, right? They're not NJDOT specific?
13 They're -- are they uniform?

14 A There's lot of design standards. What are you
15 referring to?

16 Q Ones that you're adhering to and your -- and
17 that you relied upon in terms of the testimony that you
18 provided today. You re -- you referenced design
19 standards. Which ones were they? Were they DOT
20 standards?

21 MR. SIMON: No.

22 Q Were they more uniform?

23 A So, the design standards I was referring to as far
24 as encroachment was the NJDOT standards. I also
25 referenced MUTCD standards and the -- a lot of these

1 truck templates are based on AASHTO standards, which
2 are all widely accepted.

3 Q Okay. And for those AASHTO standards, the
4 utility of this kind of turn is somewhat dependent on
5 the number of large trucks that are anticipated using
6 the -- the interchange; isn't that correct?

7 MR. SIMON: I'm not --

8 A I'm not sure I understand your question.

9 MR. SIMON: -- I'm -- yeah, I don't
10 understand either.

11 MR. LIEBERMAN: It's okay.

12 BY MR. LIEBERMAN:

13 Q It was my understanding from your testimony
14 that one of the reasons you testified that this would
15 be an acceptable right-hand turn is because you didn't
16 anticipate that there would be that many large tractor
17 trailers doing it; is that what --

18 A Yes.

19 Q -- you said or did I misstate your testimony?

20 A No. Yes, correct. That --

21 Q Okay.

22 A -- and that's based on the NJDOT Roadway Design
23 Manual.

24 Q Right. Right. And, so, how many trucks is
25 too many? What percentage is too many for the purpose

1 of that analysis and testimony?

2 MR. SIMON: And I -- I think it's important,
3 Mr. Lieberman, to clarify, again for the record, in
4 your question what do you mean in terms of are we
5 talking about a certain type of truck? Are we
6 talking -- talking about a certain movement in terms of
7 size of the truck, just -- just so that Ms. Pehnke can
8 provide you an accurate answer.

9 MR. LIEBERMAN: I'm going to refer to --

10 MS. RIZZUTO: Mr. Simon -- excuse me, Mr.
11 Simon, you're making a lot of objections and you're not
12 letting the Chair or myself answer them. And, frankly,
13 if the witness has a problem with the question, why
14 can't she just say I don't understand the question?
15 You keep saying that for her.

16 MR. SIMON: Ms. Rizzuto, I'm just trying to
17 make sure that the record is clear and because I don't
18 understand the record and somebody else who's -- who
19 may be looking at the transcript may not understand --

20 MS. RIZZUTO: I understand.

21 MR. SIMON: -- the record. I'm just --

22 MS. RIZZUTO: I understand.

23 MR. SIMON: -- trying to make sure that the
24 record is clear and the question is clear so that the
25 witness can provide an accurate answer. That's all.

1 MS. RIZZUTO: Yes, I understand. This is
2 cross-examination and Mr. Lieberman has a certain
3 amount of -- of free reign in how he wants to style his
4 cross-examination. She keeps agreeing with you when
5 you make an objection. But, you -- you keep making
6 objections that you don't understand the question.

7 MR. SIMON: Well, no, I'm just questioning
8 the --

9 MS. RIZZUTO: You're not the witness.

10 MR. SIMON: -- the on -- what -- what I'm
11 questioning --

12 MS. RIZZUTO: You're not the witness. You
13 don't have to answer.

14 MR. SIMON: No, I'm just questioning the some
15 use of language and Mr. Lieberman, to his credit, who I
16 know well, has been agreeing with me because he, I'm
17 sure, agrees that we want to have a clean, clear record
18 and we'll have a fight later on as to whether the
19 witness, you know, misunderstood the question or not.

20 MS. RIZZUTO: Okay.

21 MR. SIMON: That's all.

22 MR. LIEBERMAN: Mr. Simon, --

23 MR. SIMON: I'm just trying to help the
24 record.

25 MS. RIZZUTO: I gotcha.

1 MR. LIEBERMAN: Mr. Simon, -- Mr. Simon, the
2 honest truth is I agreed with you because I didn't
3 pan -- plan to be overly combative with you about
4 issues that weren't that important to me.

5 MR. SIMON: Right.

6 MR. LIEBERMAN: And that's really the reason.
7 I thought my questions --

8 MR. SIMON: Gotcha.

9 MR. LIEBERMAN: -- were okay, but, I -- but,
10 let me -- let me rephrase it.

11 MR. SIMON: Okay.

12 BY MR. LIEBERMAN:

13 Q The -- the point is this, the -- the truck I
14 was talking about was the truck the witness was talking
15 about? In other words, the witness's general testimony
16 was that this -- this type of turn would be acceptable
17 pursuant to whatever standard -- standard she was
18 relying on as long as there weren't many tractor
19 trailer trucks. I think that's what I said -- she said
20 and she agreed that's what she said. So, however it is
21 that she defines tractor trailer trucks, that's the
22 definition that I'd like her to use. I'm not giving
23 her a definition.

24 MR. SIMON: Thank you. That's per --

25 MR. LIEBERMAN: Yeah.

1 MR. SIMON: -- that's perfect.

2 MR. LIEBERMAN: That's --

3 MR. SIMON: Thank you, Stu.

4 MR. LIEBERMAN: -- well, of course, you're
5 welcome.

6 BY MR. LIEBERMAN:

7 Q And, so, what -- and, so, using your
8 definition of tractor trailer, Ms. Penhke, what
9 percentage or numerically, how many would be turning?

10 A So, NJDOT doesn't define a number of trucks. They
11 use that same language, "the occasional truck," so the
12 "infrequent truck." So, that's the standard that we're
13 following.

14 Q So, it's your belief that if this warehouse
15 is built, that it will not result in anything more than
16 an infrequent truck trying to make that turn? Is that
17 what your testimony is?

18 A Yes.

19 Q And -- and, yet, you don't know -- and, of
20 course, I'm not going to spend time on this except for
21 to point out again, you don't know what the tenants are
22 or what kinds of trucks would be leaving or the
23 direction they'd be going in; you're not sure at this
24 time 'cause you don't have a tenant. Is that accurate?

25 A Yes, we don't know a specific tenant.

1 Q Okay. And, so, if you had a tenant who --
2 who was going in that direction with large trucks,
3 because of the nature of their operations, that could
4 turn this from an intersection that would be considered
5 to be acceptable by DOT and other standards to an
6 intersection that would no longer be considered
7 acceptable, just by the basis -- just because of the
8 additional tractor trailers that could be incorporated;
9 is that accurate?

10 A So, in my opinion, any tenant that's going to be
11 at this type of warehouse, these types of trucks are
12 going to be frequented towards I -- the I-195
13 interchange --

14 Q I see.

15 A -- as I testified.

16 Q Let me see what other turn -- can -- thank
17 you, ma'am. And let me just keep going. Would you
18 agree -- does your --

19 MR. SEAMAN: That wasn't the question you
20 asked her.

21 MR. LIEBERMAN: All right. Go ahead.

22 MS. PEHNKE: I -- we don't know the tenants
23 so I can't speak to a specific tenant.

24 MR. LIEBERMAN: Okay. That's her answer.

25 BY MR. LIEBERMAN:

1 Q So, let me ask you this, would you -- do you
2 know -- is your -- maybe this was covered too, and if
3 it was, please just let me know and I can move right
4 on. Did your client agree to restrict trucks from
5 turning left out of this site onto Victory Road? Did
6 that come up even?

7 A That's correct.

8 Q They did. You agreed, right?

9 A Yes.

10 Q Okay. Thank you. Thank you. What -- did
11 you explain -- and -- and if you did, I missed it. And
12 I'm not going to -- I'm -- I'm sorry. I don't want to
13 take more time than I need to. But, what -- what are
14 you doing to ensure that trucks only make the right
15 turn? Are there going to be physical constraints on
16 the curbing or something of that nature? Or is it just
17 signage?

18 A Yes, we're proposing signage.

19 Q So, if -- so, the only control at this time
20 that you envision is to make sure that the trucks only
21 turn right is a right turn only sign or something to
22 that effect for trucks?

23 A Correct, something to that effect.

24 Q Okay.

25 A I think it's trucks, no left turns.

1 Q Okay. And do you feel within a reasonable
2 degree of certainty -- excuse me, it's the wrong
3 standard. But, do you -- do you agree as a
4 professional that -- that physical constraints in terms
5 of the egress are more effective in terms of ensuring
6 that left turns don't happen? And if you don't know
7 what I mean by physical constraints, I can explain
8 them. Do you understand my question?

9 A Like -- like an island is what you're asking?

10 Q Yes, for example, I've seen instances where
11 curbs are designed in a certain way that the trucks
12 sort of only can go one way or I've seen gates that are
13 sort of half open and stopped them. I've seen a
14 variety of things and I don't know what would employed.
15 But, do you -- are -- are you familiar with what I'm
16 talking about and do you have an understanding as to
17 whether, in general, they tend to do a better job at
18 stopping tractor trailers from making turns that are
19 unwanted?

20 A Yes.

21 Q Is there a reason why that hasn't been
22 proposed or considered or I don't know if it's been
23 considered, but why it hasn't been proposed in this
24 case?

25 A It's something we can look into.

1 Q So, I would like to know what it is because
2 then the question will be how easy is it for a tractor
3 trailer to circumvent that? So, I don't know what
4 you're going to do but that's what I would -- I'm not
5 the Board and I can't ask you to do things and I'm not.
6 But, you know, I know my clients would be interested in
7 that.

8 I believe you showed one of your exhibits.
9 There was an exhibit with a truck turning onto the
10 site from the west. Do you -- do you remember that
11 exhibit?

12 A I believe that was shown during the site civil
13 testimony. I don't recall the exhibit number. Are you
14 talking about the Truck Turning Templates onsite?

15 Q I think it was.

16 A Is this exhibit A-31?

17 Q Yes, you --

18 A I didn't -- I did not testify to this exhibit.

19 Q Okay. Okay. Well, from a traffic
20 standpoint, do you have an expectation that trucks will
21 be turning from the west or do you have no expectation
22 as to that issue?

23 A I -- the -- the trucks are going to be directed to
24 travel to and from the east. There's no expectation.

25 Q There is no expectation.

1 MR. LIEBERMAN: I might not have any other
2 questions for you at this time, but let me just check
3 my notes before I say goodbye to you. Hold on one
4 second, please.

5 (Pause)

6 MR. LIEBERMAN: Yeah, for you, ma'am, I have
7 no other questions, and I thank you for your courtesy.

8 MS. PEHNKE: Thank you.

9 MR. LIEBERMAN: You're welcome. Okay. Let
10 me continue. I'll --

11 CHAIRMAN BOISVERT: So, --

12 MR. LIEBERMAN: Yes.

13 CHAIRMAN BOISVERT: -- before you
14 continue, --

15 MR. LIEBERMAN: Yes.

16 CHAIRMAN BOISVERT: -- we're going to take a
17 five minute recess.

18 MR. LIEBERMAN: Okay.

19 CHAIRMAN BOISVERT: All right? So, we'll be
20 back in five minutes.

21 MR. LIEBERMAN: Okay. Thank you.

22 CHAIRMAN BOISVERT: You're welcome.

23 MS. RUBANO: The Board will now take a five
24 minute recess.

25 (Recess)

1 MS. RUBANO: The Planning Board will now
2 reconvene.

3 MR. LIEBERMAN: All right, ma'am. Should
4 I -- Mr. Chairman, should I continue?

5 CHAIRMAN BOISVERT: Yep.

6 MR. LIEBERMAN: Okay. Thank you again. It's
7 Stuart Lieberman for the record continuing the cross-
8 examination. Sorry. I have a cold that I'm dealing
9 with. May I have the engineer, the site engineer, Mr.
10 Simon?

11 MR. SIMON: Sure, of course.

12 (Pause)

13 MS. BEAHM: He's in the meeting.

14 MR. LIEBERMAN: Okay. Thank you very --
15 thank you very much. And what is -- please refresh my
16 memory as to the engineer's name?

17 MR. LAM: Tung-To Lam.

18 MR. LIEBERMAN: Yes, sir. Thank you. There
19 you are. Thank you. It's good to see you again. I
20 have some questions for you about the engineering,
21 sir.

22 EXAMINATION BY MR. LIEBERMAN:

23 Q So, my understanding is that when you
24 construct the facility, you're going to be elevating it
25 by adding some fill; is that correct?

1 A Yes.

2 Q And you're going to have to import some
3 amount of fill in order to accomplish this, yes?

4 A Correct.

5 Q Do you know how many cubic yards of fill
6 you're going to have to bring in?

7 A Not at the moment.

8 Q If -- if I were to tell you that our engineer
9 has estimated it could be approximately 87,000 cubic
10 yards, does that sound correct to you?

11 A I don't know. I haven't conducted my math yet.

12 Q So, do you have any idea at all in terms of
13 an approximation of fill, or you can't answer that
14 either?

15 A No, I --

16 Q No.

17 A -- can't.

18 Q Okay. All right. In any event, it's your
19 understanding that fill is going to have to be imported
20 and in addition to that, you're going to also have to
21 remove topsoil from the site when you do your 12 to 13
22 acre clearing; isn't that correct?

23 A It's possible.

24 Q Well, you're clear cutting the site, right,
25 the back portion?

1 A Yes, removing trees.
2 MR. SIMON: What -- I'm sorry, Mr. Lieberman.
3 When you say -- yeah, if you can just rephrase the
4 question in terms of --
5 MR. LIEBERMAN: Sure.
6 MR. SIMON: -- what portion you're talking
7 about.
8 BY MR. LIEBERMAN:
9 Q Well, is there an approximate 13 -- 12 to 13
10 acre portion of the site that's going to be clear cut?
11 A Yes.
12 Q Okay. And when you clear cut it, you're
13 going to be taking everything, the trees and the soil,
14 including the topsoil, correct?
15 A I don't have to remove it. I'll be moving the
16 trees, yes.
17 Q Okay. Is -- is it your plan to keep the
18 topsoil on site or -- or have you not made a
19 determination?
20 A No determination yet.
21 Q Okay. Are you aware that Howell has an
22 ordinance concerning topsoil and requires that it stay
23 within Howell and that it cannot leave Howell?
24 A That's fine.
25 Q Okay. Are you aware of that?

1 A I am.
2 Q Okay. And are you aware that if you have
3 over a certain amount of -- of soil, if you have over
4 600 cubic yards of topsoil, that you are exporting from
5 the site, you have to have -- have a site plan approved
6 for both the site from which it's coming from and the
7 site to which it's going; are you aware of that?
8 A I am right now.
9 Q Okay. Well, in particular, just so you know,
10 that -- and I'm sure you do, the Ordinance is 188-26.
11 Do you have any plans on seeking site plan approval for
12 soil removal?
13 MR. SIMON: Well, Mr. Lieberman, I don't know
14 if -- well, Mr. Lam, can you answer -- can you answer
15 the question? I think that's a question for certainly
16 the applicant. If you're asking the applicant whether
17 it seeks to comply with 188-26, I mean, the answer is
18 yes. But, I'll certainly take a look at it.
19 MR. LIEBERMAN: Yeah, I mean, I want to know
20 whether or not he plans on taking away enough soil so
21 that it's going to be warranted. It has to be at least
22 600 cubic yards. That's -- that's what I want to know.
23 But he doesn't know yet.
24 BY MR. LIEBERMAN:
25 Q Is that correct?

1 A Correct.

2 Q Okay. Okay. In order for you bring in the
3 required amount of fill, in order to build up this site
4 in the manner in which you've indicated you have to,
5 how many trucks -- do you know how many trucks are
6 going to have to be -- are going to have to go back and
7 forth on the roads?

8 A No, I already answered the question that I don't
9 know the amount. So, I don't know the number of
10 trucks.

11 Q Okay. But, you'd agree with me that one tri
12 axle dump truck typically handles 16 cubic yards of
13 soil; is that your understanding?

14 A Sounds about right.

15 Q Uh-huh. Do you have -- are you going to be
16 submitting any plans -- do you -- have you evaluated
17 what type of impact it will have on the local roads if
18 you have many trucks? And the reason I'm asking is
19 that if there was 87,000 cubic yards, which what we
20 estimated, we -- it's not confirmed by you, sir, and I
21 appreciate that, that could result, you know, based on
22 16 cubic yards, you're talking about thousands and
23 thousands of truck loads. Do you know -- if -- if that
24 were the case, would you plan on having some kind of
25 plan, safety plan, to ensure that the roads are

1 protected and that they don't get beaten up and -- and
2 that there isn't dust and all those things associated
3 with that much truck -- truck movement?

4 A Yeah, there are soil erosion measures. There's a
5 preconstruction meeting that needs to occur prior to
6 start of construction. Items like these would be
7 discussed. We're not at that stage at this time.

8 Q Uh-huh. Do you know how long it would
9 take -- well, you don't know how many tons are coming
10 in yet. So, you can't tell me how many weeks it would
11 take to bring in the soil, can you?

12 A No.

13 Q Would you estimate that that movement would
14 be on a 24/7 sort of basis or would it be less than
15 that?

16 A No, we would adhere to Township requirements on
17 when we can do construction.

18 Q All right. Now, in terms -- thank you, sir.
19 And in terms of the stormwater system that you gave
20 testimony about, is there -- if you look at ET -- at
21 A-2 on your stormwater plan, can you go to the section
22 that's marked as A-2 in your stormwater drainage and
23 see where that is on your plan?

24 A Which plan are you looking at?

25 Q Your drainage plan. Didn't you submit a

1 drainage plan?

2 A Sir, you're talking about Exhibit A-3? Is that
3 what you're referring to?

4 Q Let me take a look at it and I'll let you
5 know.

6 (Pause)

7 MS. RIZZUTO: Stuart, are you wanting
8 somebody to put it up on the screen?

9 MR. LIEBERMAN: Oh, -- oh, I'm sorry. Yes.
10 I was -- was anticipating that that would happen. I'm
11 sorry. I didn't ask for that. In my mind, I thought
12 you were doing it and I maybe didn't have any reason to
13 believe that. So, would you -- would you be so kind as
14 to make that picture available, that -- that -- that
15 drawing available?

16 MR. LAM: So, you're referring to Exhibit A-
17 3, Sheet C-402; is that correct?

18 MR. LIEBERMAN: It is, yes. I think that's
19 right. It's the Existing Conditions Drainage Plan. Is
20 that what that's called, and it is, --

21 MR. LAM: No.

22 MR. LIEBERMAN: -- right?

23 MR. LAM: No, that is a Drainage Plan.

24 MR. LIEBERMAN: Okay. Do you have an
25 Existing Conditions Drainage Plan?

1 MR. SIMON: Are you talking about existing
2 conditions on his site plan?

3 MR. LIEBERMAN: Well, I think there was a
4 plan called "Existing Conditions Drainage Plan" that
5 showed where predevelopment drainage goes.

6 MR. SIMON: Mr. Lieberman, if you or Ms.
7 Ferguson can i -- can identify the plan sheet, we would
8 be happy to correspond.

9 MR. LIEBERMAN: I know. I appreciate it.
10 Ms. Ferguson, see if you can help with that, please.
11 Let me try to get -- do you -- can you give me a little
12 more -- a little better information on that? I'll -- I
13 think I can do that, Mr. Simon.

14 MR. SIMON: Thank you.

15 MR. LIEBERMAN: You're welcome. Ms.
16 Ferguson, --

17 MR. LAM: What you're referring to, Exhibit
18 A-9, which is the stormwater report and it's page 479
19 of 481 out of the PDS. Is that correct?

20 MS. BEAHM: I don't think they're looking for
21 the stormwater management report. I think they're
22 looking for an actual plan.

23 MR. LIEBERMAN: Yes.

24 MS. FERGUSON: I actually --

25 MR. LIEBERMAN: Right.

1 MR. LAM: At the end of it, there's --
2 MS. FERGUSON: Yes, this is the correct one.
3 MR. LAM: -- plans attached to it.
4 MR. LIEBERMAN: That's the exhibit.
5 MS. FERGUSON: Wait, oh.
6 MR. LAM: Okay.
7 MR. LIEBERMAN: That's it, right, Ms.
8 Ferguson? That's it, isn't it?
9 MR. LAM: Okay. That's exhibit 89.
10 MR. LIEBERMAN: Thank you.
11 MR. LAM: It is .pdf page 479 out of 481 of
12 the Stormwater Management Report.
13 MR. LIEBERMAN: Okay. Okay.
14 BY MR. LIEBERMAN:
15 Q On the left-hand side of the drainage plan,
16 is there something identified as the -- as a watershed
17 to which the current drainage is generally going?
18 A There's a portion labeled as E-2.
19 Q Yes.
20 A Small portion of the site, yes, and it's going to
21 page south.
22 Q And, so, generally, in its undeveloped state,
23 stormwater is flowing that direction. Is it sheet
24 flowing generally in that direction? Is that fair to
25 say?

1 A Very small amount area, yes.
2 Q And -- and, then, once it gets to that area,
3 it tends to move away from the property in question, is
4 that accurate?
5 A This flows to page south, for a small portion
6 which is 2.293 acres of the site.
7 Q Thank you. Now, in the proposal that you've
8 set forth, you are installing a perforated pipe from
9 that drainage area to go to a -- to go to the basin
10 which is sort of on the other side of the site; is that
11 accurate?
12 A There is a perforated pipe being proposed along
13 the southern property line.
14 Q And that perforated pipe takes the effluent
15 or the drainage -- I guess it's not effluent in this
16 type of work. It's -- it takes the stormwater drainage
17 and it -- it -- it -- it channels it to the basin, yes?
18 A Yes.
19 Q And that's the --
20 A Basin Number 4.
21 Q And it's Basin Number 4, yes. And, then, --
22 and, so, it's taking it -- and, so, it will in some
23 manner interfere with current drainage because it's
24 going to take the drainage that in undeveloped
25 conditions would have moved away from the project and,

1 instead, it's going to take that stormwater and move it
2 in the direction of that basin that you're creating; is
3 that accurate?

4 A I have two drainage area, point of interest, and I
5 have to provide reduction to both of them.

6 Q Okay. But, -- but, the perforated pipe that
7 we're talking about that's going from that area to
8 the -- on the bottom left of the site that we initially
9 talked about, is going to that one particular basin,
10 correct?

11 A Yes.

12 Q Okay. Basin 4, I think it's called; is that
13 what you said?

14 A Yes.

15 Q Okay. Now, from -- the pipe that's taking
16 the water there is perforated, yes?

17 A Yes.

18 Q And, so, by being perforated, it allows for
19 stormwater to infilt -- stormwater to -- to infiltrate,
20 to -- I can't remember what you called it. It -- it
21 allows it to infiltrate into the ground to some extent,
22 yes?

23 A That's not the design intent, but sure.

24 Q Well, it's perforated, so, there's an
25 understanding that because it is perforated, some of

1 the stormwater that's traveling in it is going to
2 naturally be absorbed in the ground that underlies it,
3 yes?

4 A If you say so, that's not my design intent.
5 That's my answer.

6 Q So, if it wasn't your design intent, why did
7 you put holes in the bottom of the pipe?

8 A Because it's a traditional French drain. That's
9 how you construct a French drain.

10 Q Okay. So, the purpose of the French drain is
11 to prevent water from coming into the system or from
12 leaving the system? What does it -- what does it do in
13 this context?

14 A I'm collecting the runoff at the property line,

15 Q Yes.

16 A -- directing it down to an onsite feature that
17 would provide water quality and quantity reduction.

18 Q That pipe is perforated and surrounded by
19 crushed stone on both sides, correct?

20 A Yes.

21 Q Okay. Once it goes into that basin, Basin 4,
22 any infiltration that doesn't occur then is channeled
23 up to Victory Road where it runs into an inlet; is that
24 correct?

25 A Yes.

1 Q And, then, from that inlet, there are two
2 inlets on the other side of the street if I -- if I got
3 this correctly by the concrete plant and some of that
4 water goes there as well, correct?

5 A Yes.

6 Q Okay. The pipes in question -- the pipe in
7 question, have you -- have you determined what the
8 depth to groundwater is as it relates to that pipe and
9 whether or not it is two feet from the -- whether or
10 not the pipe is two feet from the seasonal high water
11 table.

12 A What pipe are you talking about?

13 Q The pipe that we're talking about. The --
14 the per -- and I'll be more specific for you, the
15 perforated pipe that is taking the -- conveying the
16 stormwater from the bottom left to Basin 4, which is
17 surrounded by crushed stone, is a stormwater feature;
18 isn't it?

19 A It's a pipe.

20 Q And it's als --

21 A It's not an infiltration basin. It does not have
22 to meet -- meet the two and a half -- two feet
23 separation that you're referring to.

24 Q Okay. So, I -- and, so, I want to make sure
25 I understand it. It's your testimony that doesn't have

1 to meet the two feet separation?

2 A That it's is not an infiltration basin.

3 Q Okay. Okay. We're leaving it there for now.
4 That's fine. Now, the water that goes to Victory Road,
5 do you have an understanding as to whether or not
6 flooding is frequently encountered on Victory Road in
7 pre -- predevelopment -- in -- in the current
8 predevelopment condition?

9 A Oh, just recently on-site after a weekend of rain?
10 I did not see any ponding on the road.

11 Q So, you're not -- so, your testimony is is
12 that Victory Road in that area doesn't flood or this
13 one time, you didn't see it?

14 A When I was on-site on Tuesday after this long
15 weekend of rain, I did not witness ponding.

16 Q Have you determined whether the preexisting
17 pipes that connect the infill -- the infill pipes in
18 that area can handle the extra capacity?

19 MR. SIMON: Objection, only because I don't
20 un -- can you just repeat the question, I think?

21 MR. LIEBERMAN: Good.

22 BY MR. LIEBERMAN:

23 Q That the --

24 MR. SIMON: A little distorted.

25 MR. LIEBERMAN: That's okay.

1 BY MR. LIEBERMAN:

2 Q The infill -- the three infills on Victory
3 Road, right, because there's one -- I don't mean
4 infill. I'm sorry. That's why it's a bad question. I
5 meant an inlet. I used the wrong word. I'm sorry.

6 A It's all right.

7 Q The three -- the three inlets on Victory Road
8 are connected by -- there are pipes that connect them
9 to various features, right?

10 A Yes, the storm pipes there currently.

11 Q Have you determined what the capacity of that
12 existing piping is and whether or not it will be able
13 to handle the additional stormwater that you anticipate
14 is going -- that those inlets are going to see?

15 A Yes. We ran it currently as to the way it's
16 designed and we also ran a very conservative analysis
17 from a sensitivity standpoint. We model a tailwater
18 condition of 71, which is a foot above the current
19 roadway and it still works.

20 Q How long did you do that modeling for?

21 A Say that again?

22 Q How long -- did you model it computer
23 modeling or did you actually introduce water?

24 A It was computer model. I can't flood the road.

25 Q How long did you -- how much water was

1 anticipated in that computer analysis and for what
2 duration?

3 A I assumed an entire existing drainage system
4 within Victory Road has a standing water a foot above
5 the road.

6 Q Do you know the width of the pipes that are
7 underneath the inlets?

8 A Fifteen inches.

9 Q Is that because you inspected them or did you
10 see as-builts?

11 A I rely on my survey and I was also on-site.

12 Q And from being aboveground you were able to
13 see the size of the pipes that are in question?

14 A It's measured with a stick, just like a surveyor
15 would.

16 Q Excuse me. I think I have one more or two
17 more questions for you and I'm -- oh, did you also do
18 the testimony concerning the tree ordinance and your --
19 how you are going to comply or was that somebody else,
20 sir?

21 A Yes, when we move a certain amount of trees, it's
22 on the plans, and we have a review letter from CME and
23 we're in agreement with how much trees we're removing
24 and what the fund needs to be for the tree replacement.

25 Q That's -- I'm going to have a question or two

1 for you about that. I just wanted to make sure that I
2 had the right person here and I appreciate that I do.
3 Just give me a minute, please. I just need to find my
4 notes, 'cause I had another question that I wanted to
5 ask you and I just need to find it. Okay.

6 Did -- on your stormwater plans, do you see
7 Underground Infiltration Basin Number 5 and if you
8 could --

9 A Yes.

10 Q -- if you could show that on the screen, I'd
11 appreciate it.

12 A Referring back to Exhibit A-9, .pdf page number
13 480 of 481. And that is to page south of the building
14 is the Underground Basin Number 5.

15 Q And are you putting the cursor in that
16 general area? Is that where it is?

17 A No.

18 Q Can you put it in the general area of where
19 the basin is, please?

20 A South side of the building.

21 Q Right.

22 A Bottom, right there.

23 Q Oh, okay. Yeah. Okay. I appreciate that.
24 Thank you very much. How many test pits or borings did
25 you take underneath filtration basin; do you know?

1 A Believe it was two.

2 Q We only see one. Are you sure there were
3 two?

4 A It's test pit 27 and test pit 28. So, there's
5 two.

6 Q Okay. Are both underneath the basin area or
7 are they adjacent?

8 A They are within the basin footprint as shown on
9 this sheet of the exhibit.

10 Q Are they on the sides of the basin or in the
11 deep end?

12 A What do you refer to as the side and what do you
13 refer as deep end?

14 Q Are they on the vertical sides of the basin
15 or are they more on the bot -- are they underneath the
16 bottom of the basin?

17 A They're within the basin footprint. I still don't
18 understand your question.

19 Q Would you please look at Sheet C-601 and --
20 and would you please go to MH Number 10?

21 A So, you're referring to Exhibit A-3, right now,
22 Sheet C-601, which is --

23 Q Yes.

24 A -- .pdf page 9.

25 Q Yes.

1 A And what was your question again?

2 Q Will you please go to PR -- PROP.MH NO. 10?

3 MR. SIMON: Mr. Lieberman, are you asking
4 him to enlarge the area where there's a proposed
5 manhole?

6 MR. LIEBERMAN: Well, let's -- yeah, let's go
7 to that -- that area, please and -- and enlarge it if
8 you would.

9 MR. LAM: Manhole 10, which is the page right
10 after Underground Basin Number 5.

11 BY MR. LIEBERMAN:

12 Q Okay. Now, do you know what the invert of
13 the pipe directing water out of the inlet is?

14 A 71.57.

15 Q Okay. And are you able to tell me what the
16 elevation of the same pipe is -- the same pipe run is
17 into PRO -- into Manhole Number 9?

18 A 68.72.

19 Q Thanks. And the test pits for the seasonal
20 high water table, doesn't TP20 -- isn't TP-21 in that
21 vicinity and doesn't it depict the seasonal high water
22 table of 70.2?

23 A Which test pit are you referring to again?

24 Q Twenty-one.

25 A (No audible response).

1 Q And what is the seas -- do you have it? Can
2 you depict what the seasonal high water table elevation
3 is there?

4 A I'm still trying to find --

5 MR. SIMON: Wait, yeah, yeah, wait, wait.
6 I'm sorry, Mr. Lieberman.

7 MR. LAM: Can you slow down, please.

8 MR. SIMON: Yeah, can we -- can we just back
9 up and the only reason why I'm asking is is so, that
10 the witness can, you know, identify and locate the area
11 that you want him to locate.

12 MR. LIEBERMAN: Oh, no, of course. Of
13 course.

14 MR. LAM: That's Pit 21, seasonal high
15 elevation 70.2.

16 MR. LIEBERMAN: 70.2.

17 BY MR. LIEBERMAN:

18 Q And -- and Test Pit 17 is at 73.4?

19 A Yes.

20 Q And Test Pit 18 is 73.8?

21 A I've got to find 18 first.

22 Q Yep.

23 A Right there is 18, 73.8.

24 Q So, that means then that the -- that -- that
25 the -- I'm sorry -- that the pipe in question, the pipe

1 that we were -- looked at originally, the pipe that was
2 directing water out of the inlet, isn't that below the
3 seasonal high water table?

4 MR. SIMON: Wait, wait I'm sorry. I
5 apologize, Mr. Lieberman.

6 MR. LIEBERMAN: No problem.

7 MR. SIMON: I just want you to just, for the
8 record, identify which pipe you're referring to, just
9 so the witness understands, because there's a lot here.

10 MR. LIEBERMAN: No, that's fine. The pipe
11 that runs into Manhole Number 9 that we were looking at
12 before. That's -- that's --

13 MR. LAM: Okay.

14 MR. LIEBERMAN: -- what I'm asking about.

15 MR. LAM: The pipe in Manhole 10 and Manhole
16 Number 9, --

17 MR. LIEBERMAN: Yep.

18 MR. LAM: -- yes, it's below seasonal high.

19 BY MR. LIEBERMAN:

20 Q It's below the season -- the seasonal high.
21 Isn't that a problem and would that cause inundation?
22 It's at --

23 A No, I --

24 Q Then why is that no?

25 A It's a conveyance pipe.

1 Q Does it meet the stormwater requirements for
2 that to be below the seasonal high water table?

3 A There's no requirement about a storm pipe within
4 or outside the seasonal high.

5 MR. LIEBERMAN: I don't have any other --
6 thank you, sir, and I don't have any other questions
7 for this witness. Do you have the representative from
8 Apple Science here?

9 MR. SIMON: What -- what -- which witness
10 that provided testimony?

11 MR. LIEBERMAN: The one who did the
12 testimony, I think they did, on the environmental
13 impact report. Did you -- did we have testimony on
14 that or no?

15 MR. SIMON: We submitted such a report, but I
16 don't believe we've had anyone specifically testify. I
17 don't know if the Board requested that some testimony
18 be provided in support of the report. So, we have not
19 provided a witness to date with regard to that report.

20 MR. LIEBERMAN: Well, --

21 MR. SIMON: Not -- not to say that, you know,
22 we're -- we're foreclosed from doing so, certainly.
23 But, --

24 MR. LIEBERMAN: Well, that's okay. I have
25 questions about the -- the report that I wanted to

1 ask.

2 MR. SIMON: Well, why don't -- why don't
3 you, Mr. Lieberman, -- let's -- let's first finish with
4 the -- with the witnesses for cross-examination
5 purposes, the witnesses who provided direct testimony
6 so far?

7 MR. LIEBERMAN: Yeah, I don't believe I have
8 any other -- oh, no, I -- let me just see if there's
9 anybody on this. Hold on, please. Well, okay, oh,
10 yeah. The -- the same witness, I'm sorry. Can you
11 bring -- would you ask him to forgive me and bring him
12 back for one more? I was going to ask him about the
13 tree.

14 MR. SIMON: I'm -- I'm going to ask him to
15 forgive you first.

16 MR. LIEBERMAN: Well, we can start with that.

17 MR. SIMON: And then we'll bring him back.

18 MR. LIEBERMAN: Let's start with that.

19 MR. SIMON: Okay.

20 MR. LIEBERMAN: That's fine.

21 MR. SIMON: All right.

22 MR. LAM: I'll think about it.

23 MR. LIEBERMAN: Thank you very much. I
24 appreciate it. Well, I hope you come my way. All
25 right.

1 BY MR. LIEBERMAN:

2 Q My question concerning the tree ordinance is
3 based on my review of -- of the written materials. Is
4 it true that only two percent was sampled as compared
5 to the five percent that's required under the
6 ordinance?

7 A We provided two test plots. Is that what you're
8 referring to? I don't understand your question.

9 Q A tree ordinance requires that there be a
10 sampling of five percent of the representative trees in
11 the area; isn't that correct? Isn't that what it
12 requires?

13 MR. SIMON: Mr. Lieberman, do you want to
14 refer Mr. Lam to what section you're referring to
15 specifically?

16 MS. BEAHM: I mean, the answer is yes. But,
17 yes, you can go to the section of the ordinance. But,
18 the answer is yes.

19 MR. LIEBERMAN: The -- let's see if I have it
20 in my notes the exact -- I just have it referenced as
21 the Howell -- Howell Tree Clearing Ordinance as
22 requiring a person to sample a representative five
23 percent of the wooded area in agreement with the
24 relevant agency. So, it's up to them to -- to indicate
25 what's acceptable. But, it's -- it's -- it --

1 according to the language of the Ordinance, it seems to
2 indicate five percent. I don't have an ordinance
3 number, Mr. Simon. I'm just referring to it in my note
4 s.

5 MR. SIMON: No, that's okay. Ms. Beahm was
6 helpful to take -- help clarify that.

7 BY MR. LIEBERMAN:

8 Q So, -- so, my question is it appears that
9 based on the written submissions, something like two
10 percent was sampled and I want to know is my -- is my
11 assumption correct? You know, I'm gleaning it from
12 your materials. But, maybe I'm wrong. And if it is,
13 why didn't you sample the five percent? Is there a
14 particular reason, if that's so?

15 A I don't have the math right now in front of me,
16 but I -- like I said, I provided two test plots and
17 they're indicated on my sheet C-707 of Exhibit A-3 and
18 that has been accepted and the review letter has been
19 generated and we have the calculation provided.

20 Q So, to understand my question, though, is it
21 correct that you can't testify one way or the other as
22 to whether the five percent referenced in the ordinance
23 was satisfied?

24 A I can't answer this question right as this moment.

25 Q All right.

1 MR. LIEBERMAN: I'm going to take one more
2 look at my notes and I believe I am finished with my
3 cross; but, let me just make sure.

4 (Pause)

5 BY MR. LIEBERMAN:

6 Q Are you familiar with an inlet that's on the
7 south side of Victory Road in --

8 MR. LIEBERMAN: No, you know what? I asked
9 you the questions about that inlet before, even though
10 I didn't identify it as Inlet B, I did ask you those
11 questions and I don't choose to be redundant. At this
12 time, I don't have any other questions on cross-
13 examination and I thank the witnesses for their
14 courtesy.

15 Now, Mr. Chairman, I have witnesses available
16 to provide testimony. Is it your desire that they go
17 now? The only reason I ask is you indicated that
18 before, but I don't know if you're adhering to that
19 still.

20 CHAIRMAN BOISVERT: Yeah, I mean, we have --
21 we have a 10:00 stop. But, yeah, I'd like to get your
22 witnesses on the record.

23 MR. LIEBERMAN: That's fine. I think we can
24 do that. Let's start with Mr. Goll, please.

25 MS. RUBANO: I'm going to bring both your

1 witnesses in for now, so, they'll be in there if you
2 need them.

3 MR. LIEBERMAN: We'll see how it goes
4 tonight, but thank you.

5 MS. RUBANO: You're welcome.

6 (Pause)

7 MS. RUBANO: Mr. Goll is in.

8 MR. LIEBERMAN: Mr. Goll, why don't you --

9 MS. RIZZUTO: Hold on. Hold on.

10 MR. LIEBERMAN: Yep.

11 MS. RIZZUTO: Hold on. Mr. Goll, can you
12 raise your right hand.

13 G E O F F R E Y G O L L, P.E., OBJECTOR'S ENGINEERING
14 EXPERT WITNESS, SWORN

15 MR. GOLL: I do.

16 MS. RIZZUTO: Okay. Please give your
17 qualifications, your name, your address, all that good
18 stuff.

19 MR. GOLL: My name is Geoffrey. It's
20 G-E-O-F-F-R-E-Y, middle initial M, last name is Goll.
21 I'm a licensed professional engineer in the State of
22 New Jersey as well as nine other States and the
23 District of Columbia. I am the President of Princeton
24 Hydro, a water resource and geotechnical engineering
25 firm located in the -- headquartered in the city of

1 Trenton, New Jersey.

2 I graduated from Rutgers University in 1990
3 with a BS in -- a bachelor of civil -- in civil
4 engineering. And I also have a masters degree in
5 engineering management from the University of
6 Wisconsin, Madison, where I received that in 2013.

7 I've been a founding partner of Princeton
8 Hydro since its inception in 1997. Prior to that, when
9 I first got out of school, I worked for a company
10 called, Goodkind and Odea, which is now Dewberry and
11 worked on various geotechnical and highway projects. I
12 then worked at Melick-Tully. You now know them as GZA
13 Geoenvironmental, as a geotechnical engineer until I
14 ended up at Prin -- finding Princeton Hydro or founding
15 Princeton Hydro with two partners in 1998. We've grown
16 to 60 people. Since then --

17 MR. LIEBERMAN: Okay. Wait. Let's --
18 let's --

19 CHAIRMAN BOISVERT: Yeah, Mr. Goll, --

20 MR. LIEBERMAN: Take -- take a deep breath.

21 CHAIRMAN BOISVERT: -- is your license in New
22 Jersey?

23 MR. GOLL: Yes, I am licensed -- I am a
24 licensed professional engineer in the State of New
25 Jersey.

1 CHAIRMAN BOISVERT: And your license is in
2 good standing?

3 MR. GOLL: It is in good standing.

4 CHAIRMAN BOISVERT: Then, the Board accepts
5 your credentials.

6 MR. LIEBERMAN: Very good. Thank you, sir.

7 MR. GOLL: Okay. Thanks.

8 EXAMINATION BY MR. LIEBERMAN:

9 Q Mr. Goll, why don't you tell the Board what
10 your assignment was in this case and -- and what did
11 you review in order to undertake that assignment?

12 A Yes. So, well, I was requested to review -- there
13 was -- our -- our -- by our client, one of the
14 homeowners is Santore, in the -- the neighborhood, to
15 review the application material that is now before the
16 Board, specific to stormwater, wetland regulations,
17 environmental impacts and a few tech --

18 MS. BEAHM: Mr. Goll, they're aware --

19 MR. GOLL: Yes.

20 MS. BEAHM: -- of what's happening. Let's
21 just get to it. Honestly. Like just delve -- dive
22 into it.

23 MR. LIEBERMAN: Okay. All right. Very good.
24 Thank you, ma'am.

25 BY MR. LIEBERMAN:

1 Q And -- and, Mr. Goll, let me ask you a
2 question, in terms of your conclusions in this site,
3 let's go over them one by one. Number one, did you
4 have any opinions concerning the fill that may or may
5 not be required at the site and, if you would, would
6 you succinctly share them with the Board and give your
7 factual and engineering basis for them?

8 A Sure. I reviewed the plans. Of course, I only
9 have a .pdf documents that have -- was available, but
10 they are scalable. And I'm able to use my experience
11 in engineering and understanding of plans and -- and
12 the technical information associated with it. And I
13 was able to, within a reasonable degree of engineering
14 certainty, determine that this site and -- and the
15 engineer for the applicant had stated last time that
16 he needed to "import" to the site, to elevate the site
17 in order to make the stormwater management work and to
18 make the seasonal high water table, have that two foot
19 separation that's purported for this project.

20 So, I went through the plans and, for
21 example, the -- on average, the slab of this 200,000
22 square foot warehouse will be about eight feet above
23 the existing grades of the site right now. And if
24 you look at Victory Road, the -- where the grade meets
25 the -- the building itself on the ground, it will be

1 about 10 feet above Victory Road on average, in the
2 middle of the -- if you go about halfway down the
3 road. In reviewing the site and looking at that and
4 subtracting out, for example, concrete asphalt that
5 needs to be placed, I came up with about 87,000 cubic
6 yards of fill that's going to be imported -- required
7 to be imported to the site in order to meet that
8 objective.

9 In addition, about 14,900 cubic yards of
10 topsoil will be removed. So, I wanted just to make the
11 applicant aware of that because it's going to be an
12 extra expense since apparently they're not aware of
13 that volume at this moment. The topsoil, because if
14 you actually look at the plan, it's 13 -- about 13.8
15 acres of disturbance. They're clearing it. The
16 majority of the area is going to be impervious, except for
17 the detention basin areas and in the detention basin,
18 they're going to actually have to place sand in there
19 so they're not putting topsoil back there. So, on
20 average, according to the GZA report, there's about an
21 average of nine and a half inches of topsoil throughout
22 the area of disturbance or, actually, throughout the
23 site. And, so -- and they say between 5 and 12 -- or 5
24 and 15 inches of topsoil. So, the average is about
25 nine and a half inches. So, when you take the 13.8

1 acres and the nine and a half inches of topsoil and
2 reduce the remaining landscaped areas to about 3.75
3 acres, the plans also call for placing -- well, there's
4 a discrepancy -- there's a -- in one detail, it says six
5 inches; in another technical note, it says five inches.
6 So, I used five and a half inches of top soil. That
7 will be placed back, so they'll be able to save about
8 that much topsoil, with the equivalent of about 3.75
9 acres.

10 As a result, you get -- there's going to be
11 in excess of 14,000, almost 15,000 cubic yards of
12 topsoil. Now, I -- like I said, I don't have access to
13 the AutoCAD drawings, but I was able to scale these off
14 the plans. I would say if I had a -- to admit a -- a
15 level of error, it might be about 10 to 15 percent,
16 plus or minus. Regardless, it's a significant amount
17 of material that's going to have to be brought down
18 the -- into the site.

19 So, 80 -- what does 87,000 cubic yards of
20 soil look like that's going to be imported? Well, it
21 means that there is -- if you have 16 yards per --
22 cubic yards per tri axle truck, you're dealing with
23 about 50 -- just under 5500 tri axle dump trucks, on
24 average, that will have to be im -- have to import to
25 site. So, coming in and going out will be 54 -- 55 --

1 almost 5500 trucks. The same thing for the topsoil:
2 For the top soil, the 14,900 cubic yards is equivalent
3 to about 930 tri axle dump trucks. So, we'll have to
4 now take that and export it from the site.

5 Another thing I -- I just calculated, each of
6 the detention basins, at least the outsides of them
7 where the embankment is, they are required to have an
8 impervious core where they -- and the plans specify it.
9 I think it's a 10 to the minus 8 imperviousness to them
10 which does not exist on-site and I equate -- I
11 estimated that to be about 1832 cubic yards, which is
12 now 115 tri axle dump trucks.

13 So, between the fill coming in --

14 Q Hold on a second. Mr. Goll, let's stop.

15 A -- and the top soil --

16 Q How many trucks is --

17 A Okay.

18 Q -- normal and why should the Planning Board
19 care? In your -- why does this matter in your opinion,
20 if it does?

21 A Well, that's -- and it's exactly where I was
22 going. So, this is not even including the trucks that
23 will be -- the duct -- the concrete trucks which --
24 that'll be required to import the material to build the
25 actual site itself, the asphalt, clean stone that's

1 going to have to be subgrade to this concrete and
2 asphalt. So, in addition to those trucks, which I have
3 not calculated yet, you're really dealing with a lot of
4 trucks and it's going to have a high impact on the --
5 on the conditions of Victory Road coming into this
6 site.

7 This is not the partential (phonetic) --
8 the part of the use of the site as we're -- as allowed
9 by ordinance. It's actually part of the construction.
10 And, so, with that in mind, you know, you're dealing
11 with about almost 5500 dump trucks that will be coming
12 in and out of the site in order -- during the
13 construction period.

14 Even GZA in their report of March 18th, 2022
15 on page seven states, "The substantial thickness of
16 controlled compacted fill that will be required to
17 reach the desired floor subgrade levels, there is a
18 potential for greater than normal total settlance
19 (phonetic)." That's just extraneous. They'll be able
20 to engineer around it. They talked about compacting
21 the subgrade and really needing to help modify the
22 site. So, they're going to have to be doing that.

23 So, that's a huge impact. One of the
24 concerns that I have, I -- I've reviewed the ordinance
25 and in -- and I think it was mentioned earlier and the

1 Township Engineer actually mentioned it -- or the
2 Planning Board engineer mentioned in the report of
3 November 15th, 2022, under subsection 188-26, in soil
4 removal and redistribution. It specifically states
5 that no top soil shall be removed from the Township of
6 Howell. I -- I'm not going to go into that more.

7 I believe the Planning Board is -- and -- and
8 the town committee are probably well aware of that
9 ordinance. So, anything above 600 cubic yards is
10 actually going to require where this material is
11 going. If there's not a site plan already approved for
12 it, what's the -- a site plan approval for that, that
13 property that's going to be receiving it, and even if
14 were to go to one site, it can't necessarily be sold
15 in piece meal and exported out of the Township. So,
16 somehow that 14,900 cubic yards of topsoil need to
17 remain in the Township --

18 Q Okay.

19 A -- according to the ordinance.

20 Q Let me go to your next -- to the next
21 question. Are you familiar with the drainage area E-2
22 that I asked the applicant's engineer about?

23 A Yep. Yep. And if you could pull that up? The --
24 the -- can you pull it up the existing conditions,
25 drainage plan.

1 MR. LIEBERMAN: Yes, Mr. Simon, would you
2 please accommodate that request. Would you be able to
3 do that for me?

4 MS. RIZZUTO: You're muted Mr. Simon.

5 MR. SIMON: Yeah, certainly we -- we will
6 accommodate that for sure. So, I'm going to ask
7 someone on my team to -- to pull up -- Mr. Goll,
8 what -- what plan do you want to see?

9 MR. GOLL: It's the Existing Conditions
10 Drainage Map. It's at the -- it's near the end of the
11 stormwater management report.

12 MR. LIEBERMAN: We looked at it just before,
13 yes.

14 MR. GOLL: Right. Yes, that's the one.

15 MR. LIEBERMAN: Yes.

16 MR. GOLL: So, if you'll notice, the dark
17 red -- the dark grey line in the bottom left. So, as
18 discussed before, there are two main watersheds that
19 have been modeled on this site. If you look on the
20 right side, there's a -- sort of a dark sinuous line
21 that -- it's not as dark as the one in the left, but it
22 runs up and then toward Victory Road in the top of the
23 page. And that is one watershed area and, then, on the
24 bottom left, where the darker line and the thicker line
25 is another watershed that's been modeled.

1 What was stated by the engineer in the prior
2 Planning Board hearing is that none of the drainage
3 patterns on this project site are going to be
4 modified. And, in fact, when you look at this existing
5 condition on the left, the -- they took about two and a
6 half acres and some off-site drainage, there's a line
7 there that kind of curves, if you look at the -- just
8 to the -- the left line on the -- on -- inside --
9 inside the -- inside the drainage area, there's a
10 curved line that -- that actually has arrows that point
11 down toward offsite away from Victory Road on the other
12 side of the property. And, so, water generally flows
13 there and stays there.

14 There's a -- the blue line that you see in
15 that water shed is actually a -- another low area. So,
16 this area has a lot of vernal pools. I'm not saying
17 this is one, but it's -- there's a lot undulating
18 topography. And, so, what happened is
19 the -- in this model, the water generally goes there.
20 What was testified to was the none of the drainage
21 patterns will change. However, in the proposed
22 condition, that drainage area will be intercepted and
23 then piped through a perforated drainage pipe and over
24 to, as they discussed before, Basin 4 and any overflow
25 will now go up to Victory Road. So, in fact, the --

1 the site's topo -- the site's hydrology will actually
2 be significantly changed.

3 Q What does that mean?

4 A On the -- the --

5 Q What does that -- that mean, hydrology
6 changes and -- and why should anybody -- why should the
7 Board care if the hydrology changes?

8 A Well, I mean, the whole point of the -- of the
9 stormwater regulations is to -- is to do your best to
10 ensure that the existing hydrologic patterns prior to
11 development are maintained. For example, right now,
12 any water that goes into the ground and, for example,
13 on the lower left, left spot goes eventually --
14 infiltrates into the ground when the water table lowers
15 and, then, spreads out to -- on the right side, you'll
16 see those hatched areas. Those are what are called
17 vernal pools that have been mapped with Pineland --
18 excuse me, the -- Pinelands Tree Frog and that Tree
19 Frog is a threatened and endangered species. And, so,
20 if you're taking water away from those areas, you're
21 threatening the existence of those ponds -- those
22 vernal pools, not that that's the purview of the -- of
23 the Planning Board, but again, part of the rules in the
24 stormwater rules, which are a concern, is to maintain
25 existing hydrology because -- because of those

1 resources that you want to maintain.

2 Q Explain --

3 A So, --

4 Q Wait, wait. Just explain in -- in short
5 order what a vernal pool is in case somebody doesn't
6 understand that. Just make it a quick explanation,
7 please.

8 A Sure. A vernal pool is a special habitat area.
9 It's actually also a special -- it's a -- it's a
10 specific type of wetland. Vernal pools actually only
11 appeared in the early Spring and they dry up by the
12 summer. And why that's important is the water --
13 ground water level rises up in the winter, right? And
14 it -- and then some runoff, but mostly ground water
15 rises up. It fills up these vernal pools and then
16 frogs and -- and salamanders, some of which are
17 threatened and endangered like the -- the -- the
18 Pinelands Tree Frog, is that it -- it breeds in there.
19 And why is that so important and why is that vernal
20 habitat import to those frogs? Because in the summer
21 when those verticals actually dry up and water level
22 drops down, it eliminates the potential for predatory
23 fish to start to inhabit that area.

24 So, for example, that type of frog could not
25 survive in a -- a pond that's lasting all year. It's

1 young would be eaten up, as well as the adult fish.

2 And so those vernal --

3 MS. BEAHM: Can I just ask a question? Can I
4 just ask a question?

5 MR. GOLL: Yes.

6 MS. BEAHM: Has there been any definitive
7 vernal pond determined by the DEP?

8 MR. GOLL: Yes.

9 MS. BEAHM: Where?

10 MR. GOLL: The gray areas that -- the hatched
11 areas on the bottom right. See those hatched areas
12 that come up from the bottom of the plan on the bottom
13 right of the property? They're like -- they go -- kind
14 of go up from the bottom left to the top right in the
15 hatching pattern. And, then, those are map wetlands
16 that have --

17 MS. BEAHM: I'm not saying map of wetlands.
18 I'm saying has the -- the DEP issued an absolute
19 affirmative determination that there's a vernal pond
20 there?

21 MR. GOLL: One hundred percent. They issued
22 a letter of interpretation which is why those vernal
23 pools have a 150 foot buffer on them, as opposed to the
24 ones that are closer to the road that only have a 50
25 foot buffer. What that means is they're considered

1 exceptional resource value to wetlands because they
2 contain those species that are considered threatened
3 and endangered.

4 MS. BEAHM: Well, I mean, --

5 MR. GOLL: So, the answer --

6 MS. BEAHM: -- you can have a teeny habitat
7 hit and still get a 150 buffer, right?

8 MR. GOLL: I -- it's -- there -- there's
9 frogs there. There's -- there is Pinelands Tree Frogs
10 there.

11 MS. BEAHM: I'm not asking that. That's not
12 what I asked. I said if -- if there was a teeny
13 potential habit, the DEP could potentially issue 150
14 foot buffer, correct?

15 MR. GOLL: In this case, I believe it was
16 confirmed.

17 MS. BEAHM: I'm not asking about this case.
18 I'm asking in general, yes or no: If there is an
19 identified potential habitat and the DEP declared it
20 as, you know, exceptional resource value with 150 foot
21 buffer, that would be based upon potential habitat.
22 That's an absolute potential issue, yes or no?

23 MR. GOLL: It's an issue, yes. But, in this
24 case, --

25 MS. BEAHM: All right. That's what I'm

1 asking.

2 MR. GOLL: -- it wasn't --

3 MS. BEAHM: I'm not getting into the weeds of
4 this. I'm just saying that 150 foot buffer is
5 something that could potentially habitat -- it could
6 potentially happen if it's potential habitat, correct?
7 I'm not saying that's a -- I'm not taking away from
8 what's happening here. I'm asking overall in your
9 professional opinion.

10 MR. GOLL: I guess, in general. But, in this
11 case it hasn't been. It was specific --

12 MS. BEAHM: Okay. So, you're not willing to
13 answer the question? Like, I'm -- I'm just saying. As
14 a professional environmental expert, if there are
15 potential landscape project hits for TME and there
16 could be a potential 150 foot buffer issued, that could
17 happen on the site, correct?

18 MR. GOLL: Can -- what -- I'm not sure what
19 you're --

20 MS. BEAHM: Oh my God! Okay. So, --

21 MR. GOLL: -- getting at.

22 MS. BEAHM: -- what -- you know what? I'm
23 over it. I -- I'm done asking questions. The --
24 the -- I can tell you from my professional experience
25 and my professional experience in dealing with DEP, if

1 there's a threatened endangered species potential
 2 habitat, they would look to do 150 foot buffer. That
 3 was my question. I'm not sure why they're re --
 4 reluctance to answer the question is happening. But,
 5 that is my professional experience. So, that does
 6 happen, yes.

7 MR. LIEBERMAN: Wait, no.

8 MR. GOLL: I can tell you DEP (indiscernible)
 9 150 buffer because there is -- there is -- it's -- it's
 10 habitat and also confirmed that it's not --

11 MS. BEAHM: Potential habitat. Let -- let's
 12 be clear. They will issue 150 buffer if there's
 13 potential habitat, yes or no? And I -- I -- you know,
 14 I have experience, too, so, yes or no?

15 MR. GOLL: Okay. I get it.

16 MS. BEAHM: So, I mean, like, I don't
 17 understand why we're dodging the question. I -- I'm
 18 just -- I'm over it.

19 MR. GOLL: I'm not dodging the question.

20 MS. BEAHM: Honestly, I'm over it.

21 BY MR. LIEBERMAN:

22 Q Mr. Goll, in wetlands terminology, there's
 23 three different types of wetlands, yes?

24 A Correct.

25 Q I'm talking about fresh water wetlands, not

1 coastal. There's wetlands of ordinary resource value,
 2 exceptional resource value and intermediate resource --

3 MS. BEAHM: Exceptional.

4 A Ordinary.

5 MS. BEAHM: Exceptional --

6 A Ordinary.

7 MS. BEAHM: -- resource value, yes.

8 BY MR. LIEBERMAN:

9 Q And, yes. And the wetlands of exceptional
 10 resource value, what is one of the ways that they get
 11 that designation, please?

12 A There's documented habitat for threatened and
 13 endangered species or high water quality, C1 waters,
 14 that kind of thing.

15 Q And --

16 A But, in this case, it's because of identification
 17 of -- of threatened and endangered species.

18 Q All right.

19 MS. BEAHM: I guess, Mr. Lieberman, that's
 20 what my question is, because I've had the experience
 21 where it's potential habitat and there's been
 22 exceptional resource value imposed. So, that was my
 23 question multiple times and your environmental expert
 24 was unwilling to answer the question.

25 MR. LIEBERMAN: Well, I think, you know, as

1 an engineer, he has to be very careful. He has license
2 obligations.

3 MS. BEAHM: No, I understand that. But, my
4 point is is that as an environmental professional and
5 that's how you qualified him, correct?

6 MR. LIEBERMAN: Absolutely, yes.

7 MS. BEAHM: And I have had multiple years of
8 experience with the DEP in areas where there are
9 potential habitat for exceptional -- like -- the
10 potential -- the exceptional resource value can come up
11 when there's potential habitat. And I asked that
12 question, I don't know, five times now, and he refused
13 to like address it. That makes me --

14 MR. GOLL: Not true.

15 MS. BEAHM: -- question --

16 MR. LIEBERMAN: No, no, no, Geoff, we're
17 not -- Geoff, that's not what we do. Just listen to
18 the question, please. Yes, ma'am, I'm sorry.

19 MS. BEAHM: I'm just saying, like, I've asked
20 you the question multiple times and he dodged it and
21 that's fine. I mean, it is what it is.

22 MR. LIEBERMAN: No, that's --

23 MS. BEAHM: But, no, no, not for nothing, I
24 asked it very clearly multiple times.

25 MR. LIEBERMAN: Well, let me ask him if --

1 MS. BEAHM: He dodged it.

2 MR. LIEBERMAN: -- if he had a problem --

3 MS. BEAHM: He would not answer it. He would
4 not answer it. He would not answer it.

5 MR. LIEBERMAN: No, no.

6 MS. BEAHM: So, what I'm saying to the Board
7 is, Mr. Chairman, you're going to have to take that for
8 what it is and that's the way I'm going to leave it and
9 I'm not --

10 CHAIRMAN BOISVERT: Okay.

11 MS. BEAHM: -- engaging in it any further.

12 CHAIRMAN BOISVERT: All right. Understood.

13 MR. GOLL: That's not correct.

14 CHAIRMAN BOISVERT: Thank you.

15 MR. LIEBERMAN: Okay, very good. Thank you,
16 everybody on that.

17 BY MR. LIEBERMAN:

18 Q So, why don't you please -- now, you've --
19 you've gone over the vernal habit issue. Would you
20 explain to me, you know, and -- and let's -- let's
21 finish this discussion. What your issue is concerning
22 the pipe that runs from that area and -- and what your
23 concerns are if you have concerns? Let's -- let's
24 bring it to a conclusion if you'd be so kind.

25 A Oh, I'm sorry. Can you repeat the question?

1 Q Yes, sir. Would you please finish your
2 testimony as to this slide and share with the Board
3 what your concerns are about the stormwater plan as
4 depicted on this slide and, you know, do -- do so in --
5 in prompt order; but, make sure that you cover
6 everything you need to, please?

7 A Sure. There -- there's several -- well, first of
8 all, the areas in blue that are identified there are
9 what the engineer had modeled as ponded areas. And,
10 so, in other words, you know, when there's ponded
11 areas, enclosed depressions, and correct and rightly
12 so, they would look at the -- they would use those
13 ponded areas to slow the water down. So, it -- it is
14 more conservative. It actually helps reduce the peak
15 flows from the existing conditions. However, when you
16 look at this plan and it's -- if you can zoom into the
17 bottom of the plan where it says "drainage area E-2
18 on-site."

19 MR. LIEBERMAN: Thank you, by the way.

20 MR. GOLL: Thank you. So, there's two test
21 pits. There's called "A" soil right there. It's
22 meaning "A" soils, meaning the -- the designation of
23 the hydrologic soil group, there is a -- a -- an
24 elevation contour that is basically a closed contour.
25 In other words, it -- it -- it's just -- it's not

1 circular, but it's -- it's like an oval, sort of an
2 amoeba-shape there. There's two test pits inside of it
3 just up -- just above the word "on-site" in
4 parentheses. And that area is a closed impression
5 which I don't believe in -- in reviewing the model that
6 that was included.

7 Additionally, if you go up to the top right,
8 it says Block 41, Lot 17, there's another similar
9 closed impression there. It does not appear to have
10 been modeled as a closed impression in the site. On
11 the top left, you'll see there's -- and that's one of
12 the -- well, there's -- the ones in hatch are the ones
13 that are being proposed to fill, those were found to be
14 ordinary and not habitat for threatened and species.
15 And, so, they're actually being filled under the
16 general permit number six, as well. But, there are a
17 few missing areas that probably need to be modeled and
18 which would probably pull down the preexisting peak
19 flow -- peak flows which would require further pulling
20 down of the post-development peak flows.

21 One of the other things, and if we could go
22 to the -- the next slide or the -- it's the Proposed
23 Condition of the Drainage Plan. So, if we zoom in to
24 where Mr. Lieberman was having this discussion earlier,
25 there's a perforated pipe on the southern boundary of

1 the property. It's a perforated pipe and a stone --
2 and it's surrounded by stone. I'll tell you as an
3 engineer, you perforate a pipe and put stone in it
4 because you're trying to -- you can try to both capture
5 and also recharge groundwater in order to either
6 recharge it down to the groundwater elevation or
7 capture it. In this case, --

8 Q Mr. Goll, where is that pipe on this drawing?
9 Just show everybody exactly where that pipe is so
10 everybody knows.

11 A It's literally that -- thank you. It's literally
12 across. It's right next to the prop -- the southern
13 property boundary between the two manholes that you
14 had identified previously. The engineer defined
15 those -- that as a "French drain." It does meet the
16 definition of a stormwater infiltration basin. It is a
17 single --

18 Q Why do you -- wait, stop. No, no, stop. Why
19 do you say that that drain is a stormwater device or a
20 stormwater feature? Why do you say that?

21 A Because it meets the definition of a sub -- an
22 underground infiltration basin, just like the other
23 basins that you see on -- on the -- just next to the
24 building with the multiple pipes and up on the top
25 left. In this case, it has a single perforated pipe

1 that is surrounded by stone. It's meant for water to
2 be able to easily be transmitted through both down and
3 out of the pipe.

4 Q Okay.

5 A And, so, what my opinion is -- my professional
6 opinion is, that was placed because there was a concern
7 from the bottom left by filling and providing that
8 seven feet of fill that's required in the lower left-
9 hand corner that it would create a bigger ponding area
10 which could lead to a hydrologic trespass concern by
11 the adjacent property owner. As a result, now, instead
12 of the water ending up there and infiltrating into the
13 ground or going south, it's going into this pipe. And
14 the reason I'm saying it's not going to infiltrate is
15 because according to the test pits that are provided
16 for Underground Basin Number 5, which is on the road
17 and between the building and the slope --

18 Q What test pit numbers --

19 A -- that's shown on this --

20 Q Yes, what test pit numbers --

21 A -- the bottom of this plan.

22 Q What test pit numbers are you talking about?

23 A It is Test Pit Numbers, bear with me -- Test Pit
24 Numbers 27 and 28.

25 Q So, what would you find in Test Pit Numbers

1 27 and 28 that you found to be germane and why?

2 A Test Pits Number 27 and 28 have seasonal high
3 ground water that is -- let me see here, the seasonal
4 high ground water is at an elevation above the
5 infiltration pipe that goes along the property
6 boundary.

7 Q How do you know?

8 A In other words, --

9 Q How do you know that?

10 A Because the invert of that -- the invert of that
11 pipe -- the invert of that pipe on the plan states that
12 the invert of the pipe is at elevation 73.14, whereas
13 in --

14 Q Okay.

15 A -- the elevation of seasonal high groundwater is
16 at -- on Test Pit 28, is -- and now, just let me
17 quickly calculate that, is at -- where is it -- excuse
18 me for a second -- oh, I'm sorry. I had the wrong one
19 here.

20 Q We -- we can find it.

21 A Sorry. Just let me see, wait. So, the elevation
22 of seasonal high groundwater at Test Pit 28 which is --
23 is at 75.05, whereas the invert of the pipe, the
24 perforated pipe on the property boundary is elevation
25 is elevation is 73.14. And so, it's -- excuse me. Oh,

1 there it is -- 70 -- I stand corrected. It's 74.9,
2 thank you, and the pipe invert is at 73.14. What that
3 means is that pipe is now intercepting seasonal high.
4 So, during parts of times of the year, especially in
5 the winter when the groundwater elevates, that
6 perforated pipe at the toe of slope is now going to
7 intercept groundwater.

8 Now, number one, it's not meeting it's --
9 it's actually not at all meeting the two foot
10 separation between seasonal high and the bottom of
11 the -- of the infiltration surface. It's now taking
12 that water and directing it where it normally would
13 have infiltrated and ran to the south. It's now going
14 to the Basin 4 up through Victory Road and offsite.
15 What that means is during the winter months when the
16 water elevation gets higher, the groundwater, you're
17 going to have a constant flow, not just from stormwater
18 runoff; you're going to have a constant flow of water
19 into -- into Basin -- I think it's Basin Number 4,
20 which was referenced before.

21 Q A few questions on that then: If -- if the
22 two feet of separation isn't required, what, if
23 anything does that mean in terms of whether this meets
24 the NJDEP Stormwater Requirements and the Howell
25 Township Stormwater Ordinance? Do you have an opinion

1 at all?

2 A Yeah, regardless of what -- you know, what's been
3 stated as whether or not it's been "designed as a
4 stormwater basin," you know -- you know, you can call
5 it what you want. It's a stone filled -- it's a --
6 it's a perforated pipe surrounded by stone and filter
7 fabric, which is exactly what is the definition of a
8 infiltration -- an underground infiltration or
9 actually, excuse me, an infiltration system is. If you
10 look at the -- the New Jersey BMP Manual, it's exactly
11 that definition both for small scale and large scale
12 infiltration systems.

13 As a result, the reason they do the two feed is
14 for two reasons: concerns about impact to water
15 quality and functioning of the system. In the winter,
16 that pipe will be flooded. So, whatever purpose it
17 had, whatever it may have been, is not going to
18 function anymore and it's simply going to take what
19 normally in a current condition had ended up on the
20 southwestern side and be discharged to Basin 9 and then
21 sent up through Victory Road.

22 Q So, --

23 A Going back, what it ends up being is now you're
24 intercepting the groundwater in the winter that would
25 normally be potentially replenishing those vernal pool

1 habitats that are south of the site.

2 Q So, is that consistent or inconsistent with
3 the DEP Regulations?

4 A You mean the -- the fact that it's not compliant?

5 Q Yes.

6 A Well, it's inconsistent with compliance. So,
7 it's -- it's a -- it's a system that is defined as a
8 re -- as an infiltration basin and it's out of
9 compliance.

10 Q It's out of compliance, yes. Okay. Good.
11 What else? So, -- so, we've dealt with that pipe.
12 Is -- are there any other concerns that you have
13 concerning, for example, the inlets, of I think water
14 will ultimately go to on Victory Road and their
15 capacity?

16 A Well, going back to the -- you were -- you were
17 discussing that -- the pipe between the two manholes.
18 It was just -- it's actually shown on this plan here,
19 between the two manholes where seasonal high
20 groundwater is higher than -- well, it has been
21 determined to be higher than admitted by the -- the
22 applicant's engineer --

23 Q Yes, yes.

24 A -- for seasonal high waters --

25 Q Can you identify --

1 A -- (indiscernible).

2 Q -- that pipe by location so for the record we
3 know what you're talking about?

4 A Okay.

5 Q What -- what exactly --

6 A Look, it's --

7 Q -- were you talking about for the record?

8 A -- it's the -- where is it? It's the 15 inch
9 diameter HDPE pipe between Manhole Number 10, proposed
10 Manhole Number 10 and proposed Manhole Number 9.

11 Q Go ahead. Finish your testimony, please.
12 Thank you. I appreciate it.

13 A You're welcome. And, so, what that means is so,
14 whenever you put stormwater pipe in, stormwater pipes
15 are made for conveyance. They're also -- but, they're
16 also not water tight. Unless you decide to put in
17 water tightness on the pipes and -- and they're --
18 that's not a normal construction practice, water will
19 infiltrate into the pipe if it's below the groundwater
20 level. What that will also do is artificially lower
21 the groundwater table.

22 In addition, stormwater pipe, the bed of
23 stormwater pipe is normally a granular material,
24 whether it's a -- a sandier material that might be
25 there or a gravel that they may install and I believe

1 in the -- you'll have to look at the details. I
2 believe it has a gravel bed. It will actually --
3 that's a place where, you know, they talk about how
4 water, it goes to the -- you know, the least resistance
5 and, so, if you have all these voids under the pipe,
6 that's where the groundwater's going to go. What that
7 means is it's now going to discharge to the recharge
8 ba -- the infiltration basins, the surface ones on the
9 right, and add more water than has been designed for it
10 to handle. That could actually --

11 Q Is there --

12 A -- over the long run artificially elevate
13 groundwater in that location.

14 Q Does -- is there a Best Management Practice
15 that's been adopted by DEP which would indicate the --
16 the -- whether or not this design meets DEP standards?

17 A Frankly, it's an omission in the Regulations.
18 There's not a specific standard for it. But, if you
19 think about the -- and I've actually had this
20 conversation with DEP officials about this concern.
21 And the issue is you're basically trying to recharge in
22 the recharge basins and as the water discharges, it's
23 now getting discharged again. And, so, you're
24 basically negating the benefit of the recharge basins
25 and you're creating a -- a -- basically, a -- what

1 they -- you know, if you're really talking about
2 credits and debits, you're creating a debit on the
3 groundwater that you're supposed to be infiltrating on
4 the site.

5 Q Do you have --

6 A So, by --

7 Q Right.

8 A Yes, sir.

9 Q Do you have an understanding as to whether
10 best engineering practices are consistent with this
11 particular proposal?

12 A I -- again, you're going to find that there's
13 continuous groundwater during the periods probably from
14 at least December to April during the year where
15 there's going to be water pouring out of that -- that
16 pipe and into Basin 4 and creating additional soil --
17 or water -- hydraulic loading on the infiltration
18 system.

19 Q So, what does that relate to in terms of best
20 engineering practices, if you have an opinion on that
21 issue?

22 A Well, it's the -- the whole -- the whole purpose
23 of these infiltration -- or the whole functioning of
24 these infiltration basins, meaning they empty in 72
25 hours and lower back to normal groundwater surface

1 elevation so that when the next storm comes in, it can
2 handle the recharge once again and, then, meet the
3 attenuation requirements. If you have a constant
4 amount of source water, then it's going to artificially
5 elevate the groundwater elevations and the basin and
6 not meet the recharge requirements.

7 Q Thank you, sir. Before we leave this
8 drawing, is there any other testimony that you wish to
9 provide from your -- from your engineering
10 perspective?

11 CHAIRMAN BOISVERT: Excuse me one second, Mr.
12 Lieberman.

13 MR. LIEBERMAN: Yes, sir.

14 CHAIRMAN BOISVERT: So, we stop at 10:00.

15 MR. LIEBERMAN: Right.

16 CHAIRMAN BOISVERT: So, obviously, you can
17 bring this witness back, you know.

18 MR. LIEBERMAN: Thank you, sir.

19 CHAIRMAN BOISVERT: Yeah, Eileen, I guess, we
20 got to give them a -- a --

21 MS. RUBANO: A date?

22 CHAIRMAN BOISVERT: Yep. We got to give
23 these guys a date.

24 MS. RUBANO: We have a meeting on May 11th.
25 We have a meeting on May 18th and then we go live on

1 June 1st and I don't know if you --
2 CHAIRMAN BOISVERT: What's the --
3 MS. RUBANO: -- want to bring them back next
4 week?
5 CHAIRMAN BOISVERT: What's it look like next
6 week?
7 MS. RUBANO: Next week is Monmouth Commerce.
8 MR. LIEBERMAN: What date is that, next week
9 please?
10 CHAIRMAN BOISVERT: That's May 11th.
11 MS. RUBANO: May 11th.
12 MR. LIEBERMAN: Oh, May 11th?
13 MS. RUBANO: Uh-huh.
14 MR. SIMON: I'm -- I'm not available on May
15 11th.
16 MR. LIEBERMAN: Yeah, I -- unfortunately,
17 thank you.
18 CHAIRMAN BOISVERT: Okay.
19 MR. LIEBERMAN: So, thank you.
20 CHAIRMAN BOISVERT: What's May 8th?
21 MS. RUBANO: May 18th?
22 CHAIRMAN BOISVERT: What's May 18th look
23 like?
24 MS. RUBANO: May 18th has, I believe, a
25 submission waiver and 96 Industrial Port on it.

1 MR. LIEBERMAN: That is the State -- that's
2 the State Bar Annual Meeting in Atlantic City.
3 MR. SIMON: Yeah, I -- I have a -- a Federal
4 Court remand hearing.
5 CHAIRMAN BOISVERT: Okay. So, what's June
6 1st look like?
7 MR. SIMON: June -- June 1st --
8 MS. RUBANO: The 1st?
9 MR. SIMON: -- looks good for me.
10 MS. RUBANO: All right.
11 MR. LIEBERMAN: June 1st, okay.
12 MS. RUBANO: That's going to have to --
13 that's going to have to be with notice because it's a
14 live --
15 CHAIRMAN BOISVERT: Yep.
16 MS. RUBANO: -- meeting.
17 CHAIRMAN BOISVERT: Yep.
18 MR. LIEBERMAN: Okay. Okay.
19 MR. SIMON: That's fine.
20 MR. LIEBERMAN: Oh, may I ask my experts,
21 both experts, could you please indicate if you're
22 available? I -- I just have to make sure they're
23 available. Mr. Klein, are you available?
24 MR. GOLL: I'm available.
25 MR. LIEBERMAN: Did -- Mis --

1 MR. GOLL: Yeah, Goll is available.
2 MR. LIEBERMAN: Geoff is available. Mr.
3 Klein, are you available?
4 MR. KLEIN: June 1st, no.
5 MR. LIEBERMAN: You're not available June
6 1st.
7 MR. KLEIN: I have to be in Old Bridge, as
8 far as I know. I have to double-check to make sure
9 it's still on. But, as far as I know, it's still on.
10 So, I have to go and check.
11 CHAIRMAN BOISVERT: So, what's the -- what's
12 the first meeting in July?
13 MS. RUBANO: Well, I have June 15th.
14 MS. BEAHM: Well, I mean, I'm just saying
15 it's the applicant's choice.
16 CHAIRMAN BOISVERT: Yeah.
17 MS. BEAHM: They don't have to --
18 CHAIRMAN BOISVERT: Okay.
19 MS. BEAHM: -- acquiesce to the objector's
20 availability.
21 CHAIRMAN BOISVERT: Okay. All right. So,
22 Mr. Simon, June 1st?
23 MR. SIMON: Yes. I -- I don't -- in terms of
24 rebuttal testimony, I would have to, you know, check --
25 to the extent that we desire to have it, I'd have to

1 check with my many witnesses as to their availability.
2 But, certainly, we could complete, you know, Mr.
3 Lieberman's at least direct case.
4 MR. LIEBERMAN: But, -- but, if you don't
5 have anything else, can we pick another date, because
6 that's not going to take the whole meeting. I have one
7 other -- well, I have to finish him. That's going to
8 take a little while, Mr. Goll. And, then, I've got a
9 traffic guy.
10 CHAIRMAN BOISVERT: I mean, that's up to --
11 that's up to Mr. Simon.
12 MR. SIMON: Yeah, I mean, you know -- you
13 know what we -- we could do is we could carry it
14 without further notice to May 11th, understanding that
15 that would be just a placeholder, and that would give
16 me an opportunity to check with all of my witnesses in
17 terms of availability for future meeting and work with
18 the Board, with Eileen, and -- and try to find a date
19 between now and -- and May 11th.
20 MR. LIEBERMAN: Mr. -- Mr. Simon, would you
21 consult with me, too, so we can try to have it -- a
22 time that's good for everybody?
23 MR. SIMON: I -- I --
24 MR. KLEIN: Re -- reserve the June date.
25 MR. SIMON: I certainly would consult with

1 you, but we would certainly ask even though I would
2 need to check with my witnesses between now and May
3 11th, I would ask if tonight we can reserve the June
4 1st date, because it's -- it's likely that that's when
5 we would like to carry it to. But, I just want to
6 confirm with my witnesses.

7 CHAIRMAN BOISVERT: Okay.

8 MR. LIEBERMAN: Well, I -- I do respect you
9 request another date if my Planner's not there. I know
10 the -- it is true that the applicant controls the
11 clock, but I'm just asking for courtesy.

12 MR. SIMON: Mr. -- Mr. Lieberman, you said --
13 you said a Planner, so I -- I know --

14 MR. LIEBERMAN: A traffic guy.

15 MR. SIMON: -- Mr. -- Mr. Goll --

16 MR. LIEBERMAN: Traffic planner.

17 MR. SIMON: -- hasn't finished his testimony
18 and Mr. Klein is waving his hand. Other than those
19 two, you don't have any other witnesses, correct?

20 MR. LIEBERMAN: Yeah, I meant traffic planner
21 and, yeah, that is correct, yes. Yeah.

22 MR. SIMON: So, if we can ask again that to
23 reserve the -- the June 1st date, understanding that if
24 we end up with the June 1st date, we'd have to
25 renote. But, for now, we ask that the matter be

1 carried by the Board to the May 11th, 2023 meeting of
2 the Board without further notice and between now and
3 then we'll -- we'll try to confirm a future date.

4 CHAIRMAN BOISVERT: Okay.

5 MS. RUBANO: You want to grant us an
6 extension of time past the June 1st date now or --

7 MR. SIMON: Yeah, we're --

8 MS. RUBANO: -- you want to wait?

9 MR. SIMON: Oh, no, Eileen, I think it's
10 fine. I think I'd like to provide an extension of time
11 to the Board through June 30th.

12 MS. RUBANO: Perfect, thank you.

13 MR. SIMON: Thank you.

14 MS. RIZZUTO: So, let me understand. You're
15 carrying it May 11th to -- one week from tonight to
16 select a new date in the future?

17 MR. SIMON: Yeah, so that the Board can --
18 can iden -- select a new date in the future, I have to
19 consult with my witnesses. But, I'm asking now since
20 we're all together if the June 1st date can be
21 reserved because at this time, subject to checking
22 availability, that would be a preferred date for the
23 applicant.

24 MS. RIZZUTO: Okay. The objector is -- one
25 of the objector's witnesses is not available, we know,

1 that day.

2 MR. SIMON: I'll -- I'll be -- Ms. Rizzuto,
3 I'll be talking to Mr. Lieberman.

4 MS. RIZZUTO: Okay. Good. Thank you.

5 MS. RUBANO: Ms. Rizzuto, do you want to
6 carry it on the record to May 11th?

7 MS. RIZZUTO: Sure. What do you want -- I'm
8 sorry. I have no problem with that.

9 MR. LIEBERMAN: Rather than showing up,
10 though, can this be done administratively before then
11 and -- and just worked out and, then, perhaps counsel
12 for the Board can make the announcement at that
13 meeting? Is that possible?

14 MS. RIZZUTO: All right. Hold on. Eileen,
15 you -- we -- you have a meeting in the schedule for May
16 11th, correct? It's a --

17 MS. RUBANO: Yes.

18 MS. RIZZUTO: -- regular meeting? It's a
19 regular meeting?

20 MS. RUBANO: Yes. Yes.

21 MS. RIZZUTO: Okay. So, then, -- so, then,
22 for all the members of the Public who are present and
23 all of our Board Members and our Professionals, this
24 matter is being carried til next Thursday, May 11th at
25 7 p. -- starting at 7 p.m. and wherever we fall --

1 this matter falls on the agenda. At that time, there
2 will not be a hearing, but there will be a
3 determination of the future date which will be
4 announced on May 11th. The May 11th meeting is to
5 announce the next date and there will be no further
6 notice from that date forward.

7 MR. LIEBERMAN: Thank you.

8 MR. SIMON: With -- with the understanding,
9 Ms. Rizzuto, that if we have to, if the meeting date is
10 in June, when you go live, we respectfully understand
11 that we'd have to renotece.

12 MS. RIZZUTO: Yeah, right, because -- because
13 it's a change in format. Okay.

14 MS. RUBANO: Perfect. Thank you.

15 MS. RIZZUTO: All right. Thank you.

16 MR. SIMON: Okay.

17 MR. LIEBERMAN: Are we adjourned now?

18 MR. SIMON: Well, I just want to thank the --

19 CHAIRMAN BOISVERT: Yes.

20 MR. SIMON: -- the Board -- I just want to
21 thank the Board for their attention and courtesies this
22 evening. Thank you.

23 CHAIRMAN BOISVERT: Yes, sir. Thank you.

24 MR. LIEBERMAN: Thank you.

25 MS. RUBANO: Thank you.

1 MR. LIEBERMAN: Have a good night, everybody.
2 Thank you very much.
3 CHAIRMAN BOISVERT: Have a good night.
4 MS. RUBANO: You, too.
5 MR. SIMON: Thank you.
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C E R T I F I C A T I O N

I, Lisa A. Wilson, the assigned transcriber, do hereby certify that the foregoing transcript of the Planning Board Meeting hearing in the Township of Howell, County of Monmouth, State of New Jersey, on May 4, 2023, CD from 13:05 to 16:04, is prepared in full compliance with the current Transcript Format for Judicial Proceedings and is a true and accurate compressed transcript of the proceedings as recorded.

 /s/Lisa A. Wilson
LISA A. WILSON AOC# 429
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DATE: June 2, 2023