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TOWNSHIP OF SPARTA
PLANNING BOARD

| | | |
|---------------------------|---|-------------|
| IN THE MATTER OF: | : | |
| | : | TRANSCRIPT |
| DIAMOND CHIP REALTY, LLC, | : | OF |
| #689, 33 DEMAREST ROAD, | : | PROCEEDINGS |
| BLOCK 12008, LOT 23 | : | |
| | : | |

Wednesday, April 6, 2022
Municipal Building
65 Main Street
Sparta, New Jersey
Commencing at 7:05 p.m.

BOARD MEMBERS PRESENT:

ANDREW REINA, Chairperson
TED GALL
GEORGE PARKER
PETER SKEI
CHRISTINE QUINN
MICHAEL SYLVESTER
JOSHUA HERTZBERG
JERRY MURPHY
JOHN KOLLAR
JOE TUSCANO

ALSO PRESENT:

DIANE KATZENSTEIN, Secretary
DAVID SIMMONS, PE
KATHERINE SARMAD, PP

ALISON GULINO, CCR, RPR
CERTIFIED COURT REPORTER

QUICK COURT REPORTING, LLC
47 BRIAN ROAD
WEST CALDWELL, NEW JERSEY 07006
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1 A P P E A R A N C E S:

2
3 THOMAS COLLINS, ESQ.
4 Counsel for the Board

5 GIORDANO, HALLERAN & CIESLA, P.C.
6 125 Half Mile Road Suite 300
7 Red Bank, New Jersey 07701
8 By: STEVE P. GOUIN, ESQ.
9 (lbalchen@ghclaw.com)
10 Counsel for the Applicant

11 KENNEDYS
12 120 Mountain View Boulevard
13 Basking Ridge, New Jersey 07920
14 BY: ANAND DASH, ESQ.
15 Counsel for the Objectors

16
17 FARUQI & FARUQI
18 1617 JFK Boulevard, Suite 1550
19 Philadelphia, Pennsylvania 19103
20 BY: NEILL CLARK, ESQ.
21 Counsel for the Objectors

22
23 LAVERY, SELVAGGI, ABROMITIS & COHEN, P.C.
24 1001 County Road 517
25 Hackettstown, New Jersey 07840
26 BY: LAWRENCE COHEN, ESQ.
27 Counsel for Michael Burns and Georgianna Burns

I N D E X

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| <u>APPLICANT'S WITNESS:</u> | <u>PAGE</u> |
| JAMES FORD | 38 |

EXHIBITS MARKED INTO EVIDENCE

| <u>NUMBER</u> | <u>DESCRIPTION</u> | <u>PAGE</u> |
|---------------|--------------------|-------------|
| | (None marked) | |

1 CHAIRPERSON REINA: All right. So our
2 agenda this evening is Blue [sic] Diamond Chip Realty
3 so this is -- application is for preliminary site plan
4 approval for a warehouse located at 33 Demarest Road.
5 The property currently consists of a large concrete
6 mixing and cement facility in the economic development
7 zone. This meeting has been carried forward from
8 March 2, 2022.

9 So I'm, both, encouraged and proud of the
10 fact that we have so many participants in the room
11 tonight and I really appreciate everybody taking the
12 time out of their busy schedules. You know, this is --
13 you know, we recognize and we share that there is a lot
14 of strong interest around this project and we know that
15 there are a lot of critical questions, both, from the
16 community as well at the Board so we -- we share that
17 with you so we want to thank you, everybody, for coming
18 out, both, all of you that were able to make it in --
19 into this building as well as those are in the
20 vestibule.

21 I also recognize that this is an
22 emotionally-charged, sort of, project. There is a lot
23 of -- there's a lot of discussion around this. I ask
24 everybody tonight: Please be respectful, courteous and
25 let's be professional as we're going through it.

1 So before we give -- begin testimony, I
2 want to remind all the participants a little bit in
3 terms of how this process works for the Planning Board
4 because it is different than other statutory Boards
5 including the Town Council.

6 So typically, the process, by nature, is
7 a bit more judicial in the sense that this is a -- you
8 will have witnesses come forward, present testimony.
9 We will cross-examine those with our questions. We
10 will have attorneys that are representing Sparta
11 residents cross-examine them as well as Board members
12 and we'll also be engaging in feedback from our
13 professionals as well so it is a little bit different
14 in that sense. The public will -- and, absolutely, we
15 want everybody to be heard. This is an extremely
16 important part. I want to make sure everybody
17 understands it clearly.

18 So historically and traditionally, with
19 any of these proceedings, after witness testimony is
20 done, again, because this is more of a judiciary-based
21 process, all -- all questions, comments, everything
22 would be reserved for the end, all public commentary
23 and everything.

24 We're actually going to switch things up
25 a little bit tonight. You know, we've heard from the

1 community. We understand the importance of your voice
2 and your ability to be part of this so we're actually
3 shifting up which is a bit unprecedented for is in
4 terms of, you know, asking for and having the community
5 component before we conclude the evidence portion of
6 it.

7 So what I mean by that is: At 9:00
8 tonight, we're going to open up the Board -- we're
9 going to open up the meeting to public comments or
10 questions, specific questions for the testimony that's
11 been provided. Again, keep in mind, this is more of a
12 judicial-based setting. With that in mind, we're going
13 to ask please; these should be direct questions as a
14 result of testimony. This is not for opinion
15 statements. This is not for, you know, speeches for or
16 against this specific project. This is for specific
17 questions to make sure that we're addressing the entire
18 public and all the questions that you've got.

19 We're in receipt of the questions that
20 have been presented at a previous meeting. We've
21 forwarded those to the applicant. We suspect the
22 majority of those are going to be covered because the
23 vast majority of those were covering, both, the traffic
24 impact study as well as the environmental study so I
25 think you will get most of those addresses this

1 evening. If not, we'll also continue to address those
2 throughout tonight during the public portion.

3 So I wanted to share that with everybody.
4 It's not lost on us, your impact, your voices, so we
5 appreciate everybody coming out.

6 So, with that, Tom, do we want to start
7 with swearing in the witness? We'll start with -- Mr.
8 Ford was the last witness to give testimony when we
9 left off.

10 MR. DASH: Mr. Chairman, we have a legal
11 question.

12 My name is Anand, last name is Dash, D-A-
13 S-H. I'm an attorney. I'm representing myself and I'm
14 here with my co-citizen, Neill Clark.

15 CHAIRPERSON REINA: Mr. Dash, can you
16 just provide your -- your address for the record?

17 MR. DASH: Of course. 17 Ponderosa
18 Trail, Sparta, New Jersey 07871.

19 MR. COLLINS: So, Mr. Dash, please come
20 forward to the -- to the bar and --

21 MR. CLARK: It's also Neill Clark. I'll
22 spell it, N-E-I-L-L, C-L-A-R-K, 224 Spring Brook Trail,
23 Sparta.

24 MR. COLLINS: So, gentlemen, please go
25 ahead and address the Board and then, if Mr. Cohen

1 wants to, then Mr. Cohen and then Mr. Gouin, the
2 applicant's attorney, about your letter of a couple
3 days ago and explain your position to the Board without
4 presenting witnesses and then, if Mr. Clark wants to
5 add something, he -- he may. These are legal -- legal
6 arguments only at this stage and then Mr. Cohen, if he
7 wants to, and then Mr. Gouin and then the Board will
8 consider what to do so please go ahead, gentlemen.

9 MR. DASH: Thank you, Mr. Collins.

10 CHAIRPERSON REINA: Please go ahead,
11 gentlemen.

12 MR. DASH: Appreciate it.

13 Mr. Chairman, thank you. Good evening.

14 Thank you, members of the public, for
15 attending. Your participation is very important and we
16 appreciate it.

17 This -- this is not an emotional
18 argument. This is an argument based solely in law, a
19 pure legal argument. This -- the fundamental tenets of
20 our Municipal Land Use Law provide certain enumerated
21 powers for this Planning Board to hear. Those powers
22 are set forth in NJSA 40:55-D:770C and 770D. Those
23 powers of the Planning Board do not include an
24 application to hear an interpretation before -- of an
25 ordinance.

1 I would like the record to -- to reflect,
2 on April 4, 2022, myself and Mr. Clark filed, with the
3 Zoning Board of Adjustment, a pending application for
4 interpretation for interpretation of the use of this
5 application.

6 When this matter first began, arguably,
7 this Board had -- this Planning Board had jurisdiction.
8 Our case law and the statute provides, once an objector
9 has filed an application for interpretation with the
10 Zoning Board that addresses a fundamental threshold
11 issue as to the nature of the use applied for, in
12 fairness to the applicant, in fairness to the members
13 of the public and in fairness to this Board, the time
14 and the legal propriety, this Board cannot proceed on
15 this application tonight. We've made that in a
16 respectful manner before this Board in our written
17 submission. We've -- we're making it here again.

18 The case law is clear that we also have a
19 right to make a direct appeal to the Superior Court on
20 this jurisdictional issue. This is not a substance
21 issue. We're not going to the merits of this
22 application. We are dealing with a jurisdiction that
23 is paramount before this Board can proceed.

24 We are asking, in accordance with the
25 law, Dipietro vs. the Township of Planning [sic] --

1 Wayne Township Planning Board and the progeny of cases
2 that follow, that this Board no longer has the
3 jurisdiction; however, it will potentially retain that
4 jurisdiction after a determination has been made by the
5 Zoning Board of Adjustment. The Dipietro case is found
6 at 367NJ Super 161 2004. It's a published Appellate
7 Division ruling that provides for facts that are on
8 point with this case.

9 In Dipietro, the objectors sought to have
10 the Planning Board decide the issue of interpretation
11 as to the nature of the use. The court struck that
12 objection and said the proper forum for that application
13 is the Zoning Board. We have followed that instruction
14 to the T. We are guided not by passion, not by the --
15 the -- the adversariness here but we are guided by the
16 New Jersey Appellate Division which controls this case,
17 respectfully. Okay? We have made that application to
18 the Zoning Board out of deference, while we could have
19 also gone straight to the Superior Court.

20 What we would like, because this is a --
21 should this township be a government of its people, by
22 its people and for its people, we have respectfully
23 made that application before our Zoning Board so it can
24 make a threshold determination as to whether this is a
25 permitted use under the ED zone or for a conditionally

1 permitted use in -- in the ED zone which would change
2 the considerations so my most salient point is this:
3 Any action taken by this Board after I have finished
4 discussing will be a nullity if this application has
5 not been transferred to the Zoning Board and I cite;
6 Dipietro is stating good law in the State of New
7 Jersey. It's unassailable.

8 I respectfully ask that this application
9 be adjourned and I entered the evidence into the
10 record, both written and oral.

11 (Applause)

12 MR. CLARK: I join the arguments made by
13 Mr. Dash and.

14 MEMBER OF THE PUBLIC: Can you all speak
15 up, please?

16 MR. CLARK: Sure.

17 I join the arguments made by my
18 colleague, Mr. Dash. I think that what the Board does
19 after this is simply going to be a waste of time. Your
20 best recourse here is to let the Zoning Board rule and
21 then you can proceed, the applicant make its argument
22 about what use it has, but any testimony that you take
23 today is a waste of everyone's time because what will
24 happen is that you're without jurisdiction. If you're
25 without jurisdiction, at any hearing, any testimony

1 that you take has no basis and so all that will happen
2 is that you'll get a court order, eventually, that says
3 any testimony that you take is null and void and you'll
4 have to do this all over again and we'd like to save
5 you time, the applicant time and the people that are
6 here's time and so respect to everyone here.

7 I know most people on here are
8 volunteers. They put a lot of time and effort into it
9 and I'd hate to see you have to come back and do this
10 all over again and that's what we're trying to avoid
11 and so the best thing that you can do here tonight is
12 make a motion to adjourn further proceeding on this
13 application until such time as a Zoning Board has heard
14 our application for interpretation. That's the best
15 recourse for this Board tonight. It saves you time in
16 the future and it avoids witnesses having to come back
17 and do the exact same testimony that they may give here
18 or they may have to change the entire nature of their
19 testimony depending on what the Zoning Board said.

20 So for efficiency sake, for -- to give a
21 fair hearing to the applicant and for a fair hearing
22 for the public, the best course tonight is a motion to
23 adjourn pending decision by the Zoning Board.

24 Thank you.

25 (Applause)

1 MR. DASH: And I just add -- I just add
2 -- thank you.

3 It's not a discretionary decision. This
4 is a legal question that this Board does not have the
5 power to -- to address as Mr. -- Mr. Collins is a -- I
6 respect him. He's been around a long time and -- and
7 my -- my teacher, Will -- Bill Cox, who wrote the book
8 in land use. I've had this discussion with him many
9 times. We have to separate passion, politics from the
10 law. We are all here to respect the law and I'm here
11 out of respect for the applicant.

12 I appreciate they spent time and money
13 here but we are lawyers. Mr. Collins is a lawyer and,
14 Mr. Gouin, I respect as a member of the Bar, a
15 colleague. Let's do this the right way. Let's respect
16 the law. It's not my words. It's the judges' who have
17 written the case in Dipietro vs. the Township of
18 Planning -- Wayne Township Planning Board. This isn't
19 a plea for passion at this point. This is a respect
20 for the law.

21 CHAIRPERSON REINA: Mr. Dash, Mr. Clark,
22 thank you very much for -- for sharing that. I
23 appreciate it and I fully share your sentiments with
24 regards to, you know, the purpose behind this is to
25 ensure that we do this by the law, factually-based and

1 we want to save everybody time, money, aggravation.
2 You know, they're all -- we're all volunteers here so
3 everybody is doing the best they can.

4 I guess, Mr. Collins, I would defer to
5 you in terms of the legal argument that's been
6 presented by Mr. Dash and by the other attorneys. A,
7 we need --

8 MR. COLLINS: Yeah. We need to hear from
9 Mr. Cohen and Mr. Gouin and then we'll rule on it.

10 MR. COHEN: By the way, do you have a
11 microphone for the public?

12 CHAIRPERSON REINA: Yeah, we normally do
13 have a microphone out there.

14 MS. QUINN: So maybe we can move -- can
15 we move that microphone to the middle so that everyone
16 that's in the lobby and everyone that's in the room can
17 hear the testimony.

18 Thank you.

19 MR. COHEN: Okay. Thank you.

20 Can you hear me better now?

21 CHAIRPERSON REINA: We can. Thank you,
22 Mr. Cohen.

23 MR. COHEN: All right. Okay. I think
24 this is fine.

25 Good evening. Laurence Cohen, C-O-H-E-N,

1 as indicated in the previous meeting, I represent
2 Michael Burns and Georgianna Burns who own property at
3 95 Demarest which adjoins this site and they're,
4 obviously, significantly impacted by this -- this
5 application.

6 I did review Mr. Dash's letter. I did
7 some research of my own and I agree with Mr. Dash.
8 This is an issue which requires an interpretation. As
9 you know, your ordinance is kind of close with
10 reference to definition as to what is a "warehouse" and
11 what is a "truck terminal." There's a portion of this
12 property, this proposed development, that I think,
13 certainly, is -- fits into a "truck terminal"
14 definition but it's not for me to say. It's not for
15 Mr. Gouin to say. It's not for Mr. Collins to say.
16 It's a determination that has to be made by the Board
17 of Adjustment which is the only Board that has the
18 power, especially, in this particular situation because
19 you have two Boards and not a single Land Use Board but
20 that power is granted to the Board of Adjustment.

21 Quite frankly, if I were representing the
22 applicant at this application, I would not object to a
23 stay for a shorter period of time to determine what --
24 what the interpretation of the Board of Adjustment is
25 rather than going through all of this, going to the

1 Board of Adjustment or going to court to decide that
2 issue.

3 So I think it's in everyone's best
4 interest to grant the application made by Mr. Dash.
5 Obviously, I can't speak for the applicant but I think
6 it would be in the applicant's best interest. I'm sure
7 the applicant doesn't want to do that but this is a
8 legal issue that has to be decided and, obviously, you
9 are going to get an opinion from Mr. Colins and we'll
10 move on from there.

11 So thank you.

12 CHAIRPERSON REINA: Thank you, Mr. Cohen.

13 (Applause)

14 CHAIRPERSON REINA: Mr. Gouin?

15 MR. GOUIN: Sure.

16 Steve Gouin; Giordano, Halleran & Ciesla,
17 on behalf of the applicant, Diamond Chip Realty, LLC.

18 I'm sorry. Can you hear me?

19 Does this work?

20 CHAIRPERSON REINA: Better yes.

21 MR. COLLINS: Can everybody hear me?

22 MEMBERS OF THE PUBLIC: Yes. Thank you.

23 MR. GOUIN: Sorry about that.

24 So Steve Gouin for the applicant.

25 So I understand. I heard the arguments.

1 I understand everything Mr. Dash, Mr. Cohen, Mr. Clark
2 said. Certainly, we have respect for the law here as
3 well.

4 Frankly, I have to say that, you know,
5 when it comes to questions of law, certainly,
6 reasonable minds can differ and we certainly -- I
7 certainly differ with Mr. Clark, Mr. Dash's and Mr.
8 Cohen's interpretation of the law on this issue.

9 I think the facts of Dipietro, which is
10 the case that Mr. Dash has cited, quite a bit different
11 than what we have here. We were very clear, in our
12 initial presentation to the Board that we are seeking
13 approval for a warehouse. A warehouse is a use that is
14 defined in the township's code. It is what we are
15 seeking approval for and it is a permitted use in the
16 ED zone so we are before this Board asking for approval
17 of a warehouse. We are not asking for approval of a
18 trucking terminal facility. If we were to get site
19 plan approval before this Board and develop a project
20 that met the definition of a "trucking terminal
21 facility" and not a warehouse, we would not be in
22 compliance with the -- with the zoning ordinance and
23 we'd be subject to a violation that would have to be
24 issued by the township but we're not here asking for
25 that. We are here asking for a warehouse which is a

1 permed use. With that being said, that's a substantive
2 issue with their objection that we're going to resolve,
3 I guess, in a different forum before the Zoning Board
4 of Adjustment if we even get there.

5 But the idea that the Planning Board, all
6 of you sitting up there, does not have the inherent
7 jurisdiction to decide this type of question, is it --
8 that -- that very opinion that they -- that they just
9 elicited a few minutes ago and told you that you don't
10 have the inherent ability do that, that is contrary to
11 published Appellate Division case law.

12 There is a published Appellate Division
13 case law, Fallone, and then, for Mr. Dash, Mr. Clark,
14 Mr. Cohen, it's 369 NJ Super 552 and that case which is
15 cited in Mr. Dash's mentor's book, William Cox Guide on
16 New Jersey Zoning and Land Use, stands for the
17 proposition that the Planning Board has the inherent
18 authority to construe the zoning ordinance for a
19 pending application.

20 Here, we're not even asking you to make a
21 construction of the zoning ordinance. We are telling
22 you we are here seeking approval for a use that is
23 permitted. We are going to provide testimony for a use
24 that is permitted and we are going to ask you to
25 approve a use that is permitted which is all the

1 Planning Board has authority to do.

2 In addition to that, the idea that we are
3 going to somehow agree to a stay of this proceeding,
4 frankly, the Planning Board, number one, does not have
5 the statutory authority to issue a stay of the
6 proceeding. The Planning Board has to act within
7 certain, definite statutory time frames. In this type
8 of an application, that time frame is 95 days from a
9 complete application. We've extended that time frame
10 through correspondence with Mr. Collins until May 15th
11 but the Planning Board has to act during that time.

12 If the objectors want to pursue the
13 zoning ordinance interpretation at the Board of
14 Adjustment, if that get resolved unfavorably to us, for
15 some reason, that's the risk that we take by proceeding
16 tonight but, frankly, in my opinion, that appeal, as of
17 right now, is completely untimely. We haven't even
18 finished our application. To make an application to
19 the Zoning Board at this -- at this juncture, as if
20 they know exactly what we're proposing to do, they've
21 only heard, I don't know, one-third of our
22 presentation, one-third of our testimony. They haven't
23 even heard the entire application and, yet, they
24 presume that they can go to the Zoning Board for an
25 interpretation of something that they don't fully

1 understand yet.

2 So the idea that we should not be allowed
3 to put our entire case on, if the objectors want to
4 appeal the Planning Board's decision in that matter or
5 if they want to seek a determination from the Zoning
6 Board after the fact? Fine. That's their prerogative.
7 They have every right to do it but the facts in
8 Dipietro are much different than what we have here.

9 In Dipietro, there was an applicant that
10 was seeking approval for a self-storage facility in a
11 commercial zone. The commercial zone permitted any
12 commercial uses consistent with that zone, essentially.
13 The objectors said "That's not a self-storage facility.
14 That's not a permitted use. That's a commercial
15 warehouse and a commercial warehouse is expressly not
16 permitted in this zone so, Planning Board, you need to
17 look at this application and determine whether or not
18 that is actually a permitted use that they're
19 proposing. Make that determination." The Planning
20 Board had a separate vote in the middle of the
21 proceeding to rule on an interpretation of the zoning
22 ordinance and the court said, "No. You can't do that.
23 You have to go to the Zoning Board of Adjustment."

24 It's not factually analogous to this at
25 all. We're not here asking for you to interpret

1 whether or not our use fits into a broad category of
2 permitted uses under the ordinance. We're telling you:
3 This is going to be a warehouse. That's all it's going
4 to be and a warehouse is permitted. That's it, end of
5 story.

6 So suffice to say, I disagree. The
7 Planning Board should move forward and we'd like to
8 present our case.

9 Thank you.

10 MR. DASH: I'd like the opportunity to
11 respond to that.

12 (Applause)

13 MR. DASH: So the -- the case cited by
14 Counsel is not on point. What that case says, if you
15 actually read it carefully and you read Dipietro in
16 connection with this case is that, yes, at one point,
17 this Planning Board had jurisdiction, when it initially
18 was submitted as a warehouse application. What
19 Dipietro stands for is, once an application -- we're
20 not theorizing here. We have actually -- and maybe
21 this has been lost upon Mr. Gouin.

22 We have actually filed an application
23 before the Zoning Board of Adjustment for an
24 interpretation. Once we do that, this Board is
25 divested of its authority and jurisdiction to hear it

1 so it's not a simple matter of: We've submitted it as
2 a warehouse. Of course, they have, right? Because
3 that -- that -- that plays into their case. We would
4 respectfully suggest it's a trucking terminal but, out
5 of fairness, neither we nor the applicant or this
6 Board, under Dipietro, which is on all fours here,
7 Colts Neck vs. -- our law system would be Colts Neck
8 vs. the City of Colts Neck also applies. Okay?

9 Those cases stand for the proposition
10 that, yes, once this Board initially had jurisdiction,
11 no longer retains jurisdiction when an application for
12 interpretation has been made. It only makes sense and
13 it's only fair. It's a threshold determination and our
14 courts have recognized that that threshold
15 determination cannot be made by the Planning Board or
16 according to what the applicant has characterized it as
17 because it is -- it's not my opinion. This is the law.
18 There's a very different -- there's a very different
19 analysis there. I'm not simply opining on what I think
20 it should be. Certainly, I would prefer it to be a
21 trucking terminal but I'm not going that far here. I'm
22 not saying, "Mr. Chairman, this is a trucking terminal"
23 to you. I respectfully am but not to this Board. I'll
24 make that augment to the Zoning Board.

25 Pending that determination, the case is

1 clear that the -- that this body does not have the
2 right to take that decision before it.

3 CHAIRPERSON REINA: Thank you.

4 Mr. Collins?

5 (Applause)

6 MR. COLLINS: Mr. Chairman, I've reviewed
7 the legal letter submitted by Mr. Dash and Mr. Clark
8 and we've heard the arguments of Counsel. This is a
9 legal issue but the -- some of these issues about what
10 the use is will be a future issue in this case at the
11 Planning Board even if we still proceed tonight and
12 into the hearing on this because such issues involve
13 determinations not interpretations but determinations
14 by the Planning Board of whether a use that's submitted
15 complies with the townships ordinances.

16 Indeed, a site plan application is a
17 hearing to determine whether the application conforms
18 with the township ordinances. The applicant, in this
19 case, asserted jurisdiction of the Board at the last
20 hearing as a warehouse. The Board proceeded and found
21 that the Board had jurisdiction to hear the application
22 for a warehouse. The objectors can make their own
23 objections and express their own position regarding
24 what type of use it is and what facts are and whether
25 the use complies with the ordinance as a warehouse but

1 that's part of a hearing on a site plan application and
2 the Board, the Planning Board, is the sole Board that
3 has jurisdiction over permitted uses.

4 So in this case -- unlike Dipietro, in
5 this case, warehouses are explicitly listed as a
6 permitted use in the ED zone and have been so listed
7 probably for decades, perhaps four decades, and
8 numerous tenants of warehouses have actually been
9 approved and built in the ED zone throughout Sparta
10 Township's ED zone so this is not a new use. This is
11 not a use that was not listed in the uses permitted in
12 the ordinances as was the case in Wayne Township where
13 the applicant was asking for a self-storage facility.
14 Self-storage facility was not even listed in the
15 business zone that the applicant was seeking approval
16 in.

17 So the -- the distinguishing feature of
18 these two cases is very clear, is clear as a matter of
19 law. Dipietro, the use was not listed as a permitted
20 use. Diamond Chip, the use, warehouse, is listed as a
21 permitted use. There is no doubt that that's what the
22 ordinance says. It's black and white. It's black-
23 letter law. It's not up to me to recommend that to
24 you. That's what that ordinance says and that is very
25 different than Dipietro.

1 I think that the Board should just
2 proceed with the application. The parties can go ahead
3 and disagree all they want about what their positions
4 are and, to the extent that relevant information is
5 provided to this Board about why this application does
6 not conform to the ordinances, that is totally relevant
7 in a proceeding like this on a site plan application.
8 They can contest it all they want in this hearing.

9 On the issue of a stay, the Board has no
10 authority to stay or stop an application. The
11 Municipal Land Use Law sets up a procedure for starting
12 a hearing and sets up statutory time clock for the
13 Board to review and decide an application. That
14 statutory time clock can be extended by permission from
15 the applicant but, if it was not acted upon within the
16 statutory time clock, a very Draconian remedy takes
17 place which is an automatic approval that the applicant
18 obtains because a Board, in New Jersey, did not act
19 within the time required by a statute. Very few
20 governmental agencies are subject to such a strict time
21 clock but your Board is and every Board in New Jersey
22 is subject to that type of Draconian time clock that
23 results in an automatic approval which is exactly what
24 we don't want in any case in which action is not taken
25 by a Board within the statutory time frame.

1 So my opinion, there is no authority of
2 the Board to stay the application. The applicant has
3 not agreed to postpone their application and, that
4 being said, without any further argument, you should go
5 forward, start hearing the remainder of this case and
6 proceed, as the Chairman was saying, with giving an
7 opportunity of the public to ask questions at 9:00.

8 MR. DASH: If this Board does not have --

9 MR. COLLINS: No further -- no further
10 comment, Mr. Dash. You are done.

11 MR. DASH: This Board has no further
12 jurisdiction to hear this application.

13 MR. COLLINS: I don't agree, Mr. Dash, so
14 you heard the decision.

15 CHAIRPERSON REINA: So if I'm
16 understanding correctly and, again, I'm not an
17 attorney. I want to make sure we're clear and that the
18 rest of the community is clear.

19 Mr. Dash, Mr. Clark, your -- your --
20 presented findings to the Board that, at the end of the
21 day, you disagree with the interpretation that this is
22 a warehouse versus a trucking terminal. Is that
23 correct?

24 MR. DASH: That --

25 MR. COLLINS: We're not going --

1 Mr. Chairman, we're not saying that it's an
2 interpretation. What -- what Mr. Dash is making the
3 point to you about is a specific phrase in the
4 Municipal Land Use Law of a legal phrase called
5 "interpretation" under Section B. I did not say that
6 we interpreted the ordinance. I had said to you that
7 the Board took jurisdiction over a warehouse
8 application at its last meeting. Actually, Mr. Dash
9 was asked if he had any jurisdictional objections to
10 that determination at that meeting and he did not have
11 any.

12 MR. DASH: You're mischaracterizing.

13 MR. COLLINS: He said -- and he said that
14 the notice is acceptable so, that being said, we are
15 done with this discussion. There is no authority of
16 the Board to stay an application that has started, that
17 there is no interpretation being made by the Planning
18 Board because Planning Boards don't make
19 interpretations but no interpretation is needed because
20 the ordinance, unlike the Dipietro case, explicitly
21 lists warehouses as a permitted use in the ED zone.

22 The debate that they might have about
23 whether it's a trucking terminal and not a warehouse is
24 a debate that they can have in this forum and in other
25 forums and they can even try to assert in this forum

1 that it is a trucking terminal and present testimony to
2 that effect but, the bottom line is, unlike Dipietro,
3 warehouses are specifically permitted in this zone so
4 an interpretation is, technically, not needed and the
5 Board doesn't have to make an interpretation. The
6 Board just applies the current ordinances to the site
7 plan application. There's nothing in the case law that
8 prohibits that and there's nothing in the case law that
9 requires you to stay an application and nothing in the
10 case law that allows to you stay an application.

11 So we should proceed.

12 MR. DASH: Mr. Chairman, I appreciate the
13 -- the question. It was --

14 MR. COLLINS: Mr. Dash, you should -- you
15 should now stop because you are arguing --

16 (Multiple people speaking simultaneously)

17 MEMBER OF THE PUBLIC: Let him speak.

18 MEMBER OF THE PUBLIC: Stop talking to
19 him like that.

20 MR. DASH: Mr. Chairman, it was a good
21 question and I don't think it was answered properly
22 here. We're not arguing that it's a trucking terminal
23 here tonight. That's not why we're here. We're --
24 we're here tonight -- I'm sorry. We're -- we're here
25 tonight. We're here tonight to make a point that

1 Mr. Collins has said that this Board does not have the
2 jurisdiction to stay this application and I want to
3 assure you, please. I have been a citizen here and a
4 member of the Bar for 42 years. I'm not making an
5 application here on passion. I have researched this ad
6 nauseam. You're not receiving the proper legal advice
7 here, respectfully. Okay?

8 The -- the -- the contention here is that
9 this Board doesn't have the jurisdiction, forget about
10 a stay. They can't even decide the stay without the
11 jurisdiction in the first place. The -- the --
12 Dipietro has been read. It's in the -- it's in the Cox
13 treatises that, once an application has been filed
14 seeking an interpretation, the Board -- neither the
15 Board nor applicant nor the Board's attorney gets to
16 make that decision. The Zoning Board does.
17 Alternatively, the court does. There's no prejudice to
18 the applicant here. There's no prejudice to the Board
19 here. We're asking for accordance it with the law and,
20 the interpretation of Dipietro to -- to -- without
21 jurisdiction, it's a nullity.

22 Anything that we go on forward from here
23 -- and I want to make the record very clear. We're not
24 arguing about semantics here tonight, whether it's a
25 trucking terminal or whether it's not. Ultimately, we

1 will make that argument but nobody here, in straight
2 face, if it's not politically motivated can say that
3 this is a not legal argument that needs to be submitted
4 to the Zoning Board of Adjustment. Anything else
5 suggests that there are other motives implied there.
6 I, respectfully, am not doing that. I'm not here to do
7 that. I really want to keep this at a high level and
8 I -- I've -- I've -- researched this in quite detail.

9 The case that Mr. Gouin stands for does
10 not stand for what we're arguing here today. This --
11 as I said, this Board had jurisdiction but Dipietro, as
12 interpreted, you can read it and Mr. Collins is
13 familiar with it. I'm disappointed he's not advising
14 you of it. Okay?

15 MR. COLLINS: Mr. Dash, I do not --

16 MR. DASH: You interrupted me before.
17 Don't interrupt me now.

18 (Applause)

19 CHAIRPERSON REINA: Mr. Dash? Mr. Dash,
20 I asked politely earlier.

21 MR. DASH: Okay.

22 CHAIRPERSON REINA: Keep this
23 professional, cordial and respectful.

24 MR. DASH: I have not been disrespectful
25 at all.

1 MR. COLLINS: Yes. You were, Mr. Dash.

2 MR. DASH: Okay. I don't think so.

3 And all I'm saying is that this is not a
4 question of how we are interpreting this application
5 tonight because none of us have the authority to do so.
6 Only the Zoning Board has the authority.

7 If we -- if we, theoretically, were going
8 to say to you, Mr. Chairman, "We intend to file an
9 application," then I respect that this Board has the
10 right and I would respect that but we are not
11 theoretical. We have actually taken the step to file
12 the application. I want to make sure that's clear. We
13 have actually filed that application before the Zoning
14 Board. That divests this Board of jurisdiction to hear
15 this application and, therefore, the -- the notion that
16 Mr. Collins said that there is not the right to stay
17 this application, well, there's not the right to act on
18 this application because there's no jurisdiction.
19 Please.

20 MR. CLARK: And I'll just add that what
21 you're being asked to do is actually to make an
22 interpretation. If you go forward tonight, you are
23 effectively making an interpretation of whether this is
24 a warehouse and a trucking terminal and they want us to
25 do exactly what the -- the mistake they made in

1 Dipietro. What they want us to do is to continue to go
2 forward and make arguments and ask for findings about
3 whether this is a trucking terminal or a warehouse in
4 front of the Board that doesn't have jurisdiction to
5 hear it. We can't make the same mistake as the
6 plaintiffs did in Dipietro but that's what Mr. Collins
7 wants us to do and the applicant wants us to do and we
8 can't do it.

9 CHAIRPERSON REINA: My understanding
10 based on --

11 (Applause)

12 CHAIRPERSON REINA: My understanding,
13 from the guidance from Mr. Collins, is that this Board
14 does not have the authority to stay. I understand your
15 arguments with regards to your interpretation for
16 Dipietro and I respect that and I think, you know, you
17 putting forth an application for interpretation, you
18 know, I commend you on a move to make sure that we are
19 looking at this in the proper form under the proper
20 jurisdiction.

21 I will say, I mean, if this Board -- and
22 under legal advice from the town attorney is that we do
23 not have the jurisdiction to create a stay for this and
24 we've got an applicant that is willing to proceed, our
25 biggest cost or loss here is time, effort and money

1 should your argument be withheld. Is that correct?

2 MR. DASH: Respectfully, thank you for
3 thinking about this and I really appreciate that but
4 the point is a finer distinction.

5 The argument that this Board doesn't have
6 the stay the ability to stay, doesn't have the
7 jurisdiction, that -- that presupposes that the Board
8 -- that this Board has jurisdiction to begin with
9 tonight in light of our pending application for an
10 objection on the question of interpretation. That
11 application has divested this Board of jurisdiction
12 under the analysis of Dipietro. That's a fine
13 distinction, sir, that needs to be taken into
14 consideration. The idea that this Board cannot effect
15 a stay is not true. It's incorrect legally.

16 And, moreover, I want to impress that the
17 action taken here tonight is not subject to the
18 arbitrary, capricious and de novo standard --
19 arbitrary, capricious, unreasonable standard because
20 this is a legal question of interpretation and it would
21 be plain error of this Board to proceed further tonight
22 without the jurisdiction so I can appreciate if you
23 didn't have the ability to stay but you don't have the
24 jurisdiction to begin with now that we've filed this
25 application and we have a right to go straight to the

1 court but we're not doing that out of respect and
2 deference to the Zoning Board to give them an
3 opportunity to give the applicant a fair opportunity to
4 be heard at the Zoning Board.

5 This is an absolute disrespect for the
6 process that has been laid out by Dipietro and by the
7 long line of -- the -- the analysis of where the Board
8 gets its jurisdiction goes to a question of
9 interpretation. We're putting the cart before the
10 horse by adopting the applicant's interpretation of the
11 applicant as a warehouse.

12 Yes, there -- I don't disagree with Mr.
13 Collins. Yes, when the application was submitted,
14 sure, the Board had jurisdiction. No question about
15 that. That jurisdiction has now been lost when a
16 question has been put into place formally before the
17 Zoning Board by our application that now divests this
18 Board of any further jurisdiction so, whether you
19 characterize it as a "stay" or as an "adjournment," the
20 applicant doesn't have a right to demand a decision on
21 this hearing when this Board doesn't have jurisdiction.
22 It would be the same argument when we appear in Federal
23 Court of the United States which is based on the
24 Constitution, fundamental to a quasi-judicial body
25 right to make any decision, before you get into whether

1 you have a right to stay, whether it's a warehouse,
2 whether it's not a warehouse, is whether the Board has
3 jurisdiction. The application for interpretation now
4 divests this Board of jurisdiction. It's -- it's --
5 it's -- it's a fundamental concept in law. I
6 respectfully ask, again, whether you call it an
7 "adjournment," a "stay" or a "continuance," this Board
8 does not have the right to -- to proceed tonight.

9 Thank you.

10 (Applause)

11 MR. COLLINS: Mr. Chairman? Mr.
12 Chairman, the case cited to you by Mr. Dash does not
13 support Mr. Dash's position. Dipietro actually was an
14 Appellate Division case that actually affirmed the
15 Planning Board determination that a self-storage
16 facility that was not explicitly listed as a permitted
17 use in the commercial zone was a permitted use and that
18 the Board acted properly in approving the site plan
19 approval for that use, even though self-storage was not
20 explicitly permitted in the zone. As I have explained
21 to you before, in the ED zone, warehouse is explicitly
22 permitted so the Board has jurisdiction, as a Planning
23 Board, to hear an application -- there's no doubt about
24 that -- for a warehouse and you probably should proceed
25 tonight and you offered the opportunity to use the last

1 hour for the questions from the public so I recommend
2 that we proceed and there should be no further comment
3 from attorneys.

4 CHAIRPERSON REINA: All right.

5 MR. DASH: That's not consist with our --
6 that's not consistent with our due process. We made
7 the record.

8 MR. COLLINS: It is consistent, Mr. Dash.
9 You are finished.

10 CHAIRPERSON REINA: Mr. Dash, I
11 appreciate your comments. I appreciate your testimony
12 and you putting forth your comments. I want to thank
13 you guys. I think, at, you know, this point, based on
14 legal advice, I'd like to move forward with the
15 application.

16 MR. DASH: Okay. You can.

17 CHAIRPERSON REINA: I encourage you to
18 continue to have those discussions with Zoning
19 Departments and, you know, with -- you know, with the
20 attorneys to determine whether or not, you know, again,
21 the interpretation of -- of where jurisdiction lies.

22 As Mr. Collins has pointed out, you know,
23 this was presented to us as a warehouse --

24 MEMBER OF THE PUBLIC: But it's not.

25 CHAIRPERSON REINA: -- which is a

1 permitted use within this economic development zone so
2 I want to be clear on that. I mean that's how this was
3 presented to the Board so I want to give the applicant
4 an opportunity to, at least, walk through and discuss
5 why and the fundamentals of their application as it
6 sits before this Board.

7 MR. CLARK: Sure. And just let the
8 record reflect, that, by allowing this to continue, we
9 are not waiving our jurisdictional arguments nor
10 arguments that any testimony taken subsequent to the
11 filing of our application is null and void and shall
12 have no effect.

13 Thank you.

14 MR. DASH: We reserve the right to -- to
15 -- with all rights with respect to filing a directive
16 with the court.

17 CHAIRPERSON REINA: Thank you.

18 (Applause)

19 CHAIRPERSON REINA: So with that, Mr.
20 Collins, I believe next up is Mr. Ford. We left off
21 with you during our -- our last meeting. I would like
22 to swear --

23 MR. COLLINS: So Mr. Ford is still under
24 oath and Mr. Ford will try to answer the questions as
25 much as he can from the questions posted on the website

1 from the Q and A from the last meeting of March 3rd.

2 Please go ahead, gentlemen.

3 MR. GOUIN: Sure. Thank you.

4 Yeah. So what we wanted to do tonight,
5 we also have -- sorry. We also have our traffic
6 engineer here. Actually, we have our whole team here
7 and what we hoped to do during the public comment
8 portion was answer questions from anybody in the public
9 that has questions of everybody who's testified so far.
10 We do have all those professionals available. We
11 actually brought a few more professionals in case there
12 are targeted questions we need them to answer.

13 But what we did, after the first hearing,
14 was, we took a look at the questions that the Planning
15 Board received from the public and those were distilled
16 down for us by Board staff so we do have a list of
17 questions and it was promised that we would go through
18 these questions with Mr. Ford and answer them. My hope
19 is that a lot of the questions that we would otherwise
20 get during the public comment period will be answered
21 at this portion of the hearing. Somehow I suspect that
22 might not be the case but we are going to do our best
23 to address the public's questions.

24 DIRECT EXAMINATION BY MR. GOUIN:

25 Q. So, Mr. Ford, you're still under oath and

1 why don't we just start running through these one by
2 one together. Okay?

3 So the first question: Does this project
4 fall under a PILOT? Which is "payment in lieu of
5 taxes."

6 A. No.

7 Q. And -- and -- and the reason for that,
8 just so everybody is familiar, this is not a
9 redevelopment project with a capital "R." This is not
10 a redevelopment area, there's no payment in lieu of
11 taxes, no financial agreement with the municipality,
12 nothing like that. This is strictly an application for
13 a use that is permitted in the ED zone and so there is
14 no financial arrangement, payment in lieu of taxes,
15 long-term abatement, anything like that.

16 Number 2: "What is the difference in
17 truck traffic coming and going now from the current use
18 compared to the proposed use for Route 15 and local
19 roads?"

20 A. Minimal impact.

21 CHAIRPERSON REINA: May I make a
22 recommendation?

23 MR. GOUIN: Sure.

24 CHAIRPERSON REINA: So instead of going
25 line by line for each of these, because I know there's

1 72-plus questions, is it okay, because it -- it -- a
2 lot of the questions are centered around the traffic
3 component and the environmental, would you be okay if
4 we, I guess, started with the traffic? Because I do
5 want to make sure that we get to the traffic testimony.

6 MR. GOUIN: Yeah. I think -- I think
7 we'll be through this shorter than you think. Most of
8 the traffic questions, we're going to defer to our
9 traffic engineer.

10 CHAIRPERSON REINA: Okay.

11 MR. GOUIN: Environmental, we'll defer
12 so, for the questions that Mr. Ford can answer, I just
13 want to let everybody know that, if there's a traffic
14 question, we are going to punt it to our traffic
15 engineer.

16 CHAIRPERSON REINA: All right. Thank
17 you.

18 MR. PARKER: Mr. Ford? Just turn around
19 and grab the mic and bring it close to you. Bring the
20 stand around.

21 MR. FORD: Got it.

22 MR. PARKER: Just so the testimony is
23 picked up on the record. Thank you.

24 MR. FORD: Certainly.

25 Q. Okay. So Number 2: "What is the

1 difference in truck traffic coming and going now for
2 the current use compared to the proposed use for Route
3 15 and local roads?"

4 A. It will be a minimum impact and our
5 traffic engineer --

6 MEMBER OF THE PUBLIC: Oh my God.

7 MEMBER OF THE PUBLIC: Try living there.

8 MEMBER OF THE PUBLIC: Give us -- give us
9 a break.

10 MEMBER OF THE PUBLIC: Do you live here?

11 A. Compared -- compared to the existing
12 operation and what we are proposing, it will be a
13 minimum impact of truck traffic and our traffic
14 engineer --

15 MEMBER OF THE PUBLIC: It's terrible as
16 it is.

17 MEMBER OF THE PUBLIC: Yep.

18 A. Our traffic engineer will be sworn in for
19 testimony to model that under the DOT standards.

20 Q. Number 3: "Does 'boxcar loading' refer
21 to the actual train loading and unloading area?"

22 A. Boxcars are one form of equipment that
23 are used in rail operations for moving the goods so, if
24 you're referring to that type of equipment being a
25 boxcar, as to loading and unloading? Yes.

1 Q. "Where will the trains travel to and
2 from?"

3 A. The New York Susquehanna Western, the
4 NYS&W Railroad, which is the operating railroad here in
5 town, there's a yard called "Sparta Junction" which is
6 over by the propane operation and that's where they
7 switch, at night, cars in from -- in and out from...

8 Q. So the next question, Jim, pertains to
9 traffic and we'll probably kick this over to Adam
10 Gibson but the next question is: "How many" --

11 MR. COLLINS: Mr. Ford, while you're on
12 that -- I'm sorry -- why don't you just explain where
13 the rail line runs from and to, the New York
14 Susquehanna and Western Rail Line.

15 MR. FORD: The New York Susquehanna and
16 Western is a short line or railroad. It's not a Class
17 1 large railroad like you see a section of the Norfolk
18 Southern here in the Northeast so the NYS&W runs,
19 basically, from -- from south of the ports in New
20 Jersey up -- up into New York as far as Syracuse but --
21 but the actually rail -- rail line that, as you know,
22 runs under adjacent to our site under 15. There's no
23 crossing there. There is a crossing, Gray Crossing, as
24 you all know. Further south on 15 of -- of the -- of
25 the intersection at Houses Corner and 15 there but then

1 the rail line runs across Demarest and over to the
2 propane, sugar terminal and nitrous -- the gases
3 facility that is over there and there is an actual rail
4 yard there that stores those cars that come in via the
5 other locations into the NYS&W to serve local jobs or
6 local industry which has existed for years.

7 Q. Number -- I'm going to skip over a few
8 that have to deal with traffic. I want to hand those
9 over to Adam Gibson.

10 Number 5 has do with traffic.

11 Number 6 is: "How many additional train
12 cars are expected to come through and at what hours?"

13 A. Our facility that we -- our warehouse
14 facility that we designed here allows for 16 unloading
15 spots for railcars or "boxcars" as some people in the
16 audience might call them as well. It just depends on
17 the type of product that is moved which is, in our
18 case, what we're marketing towards is consumer goods,
19 as I've said before, packaging, those things that we
20 would consume on a regular basis just like the word
21 "warehouse" explains or is -- is written, it's a
22 housing of wares and wares would be consumer goods in
23 nature so there are 16 spots at the unloading facility
24 location dock outside of the warehouse so -- so the
25 answer, really, is 16 spots and we can unload or load

1 at any time.

2 Q. Well, what hours will those trains be
3 operating?

4 A. The NYS&W Railroad operates and does
5 their local switching for this industry, for the
6 propane that exists right now, for the sugar terminal
7 for any operation, the switching they do to industry
8 locations like this and they presently do it on -- on
9 -- on like part of the properties at Sparta Redi-Mix
10 are on between the hours of 5:00 p.m. and 5:00 a.m.

11 Q. "How much noise would be generated and
12 has there been any -- has that been given any attention
13 or study?"

14 A. There is a very written and clear -- it's
15 been for a long time -- a noise ordinance in the
16 township here and any tenants or any use at this
17 facility would have to meet all of those noise
18 standards that already exist.

19 Q. This is -- this is a loaded question:
20 "What is the proposed use of the warehouse?"

21 A. To store consumer goods or packaging as
22 I've said before in testimony.

23 Q. "What type of products would be shipped
24 to and from the warehouse?"

25 A. Same thing, anything consumer goods,

1 anything durables, anything packaging that we consume
2 on a daily basis as consumers.

3 Q. "How much will the use increase the
4 burdens on township for water and other police and
5 fire-related work?"

6 "How much tax revenue will be paid to
7 Sparta Township?"

8 A. I think, both, the fire department and
9 the police department have signed off on our
10 preliminary plan, in all forms and fashions, number
11 one. Number two is that --

12 What was the second part of the question?

13 Q. Tax revenue.

14 A. Tax revenue is probably going to be in
15 the range of a dollar 50 per square foot so, if you
16 times it by 881,000 square feet, that would be the
17 ratable minimum that we -- we -- we expect within
18 Sussex County from history of other types of warehouses
19 just like ours.

20 Q. So, approximately, 1.5, 1.6 million per
21 year?

22 A. Could be a little bit less; could be a
23 little bit more, yes. That's up to the tax assessor.

24 Q. And just to point out, to Mr. Ford's
25 point, we did get handed letters actually right before

1 we walked in. One is dated March 21, 2022 from the
2 Sparta Township fire official. One is dated April 5,
3 2022 and that is from the Sparta Township Police
4 Department. Both of those letters, basically, conclude
5 that they have no issues or concerns with the above
6 project as the Fire Prevention Bureau stated and, as
7 the township police department stated based on the
8 traffic study that we submitted, they don't foresee any
9 traffic-related issues with the proposed project at 33
10 Demarest Road.

11 MR. CLARK: Objection. Speculation.
12 There's no evidence. That's a conclusion with no...

13 MR. GOUIN: I'm just reading what the
14 fire -- what the fire and police department --

15 CHAIRPERSON REINA: We'll address those.

16 MR. GOUIN: Yeah. That's fine.

17 CHAIRPERSON REINA: We'll ask.

18 MR. GOUIN: I was reading what the letter
19 stated.

20 Q. Number 16: "Will the tenants be
21 restricted from sending their trucks to Exit 15" -- I'm
22 sorry -- "will be sending their trucks to Exit Route 15
23 earlier on 517?"

24 A. No.

25 Q. "Will a private fuel station be needed?"

1 A. No.

2 Q. 18 deals with traffic which Adam will
3 handle.

4 19 deals with property tax impact which
5 we already addressed.

6 20 deals with the expected increase in
7 rail traffic. Jim, you can answer that.

8 A. Once again, as I stated, that our
9 facility, the maximum amount of boxcars, railcars, any
10 type of rail equipment that can be unloaded or loaded
11 at any given time, 16 car spots.

12 Q. And the idea is that the -- the rail
13 currently serves the existing use, correct?

14 A. That is correct.

15 Q. Right. So the idea that the -- the
16 testimony would be that the expected increase in rail
17 traffic is essentially none because it's already
18 operating.

19 A. It is operating presently. It's been
20 operating for years.

21 Q. "Does the main rail line cross Route 15
22 where Route 15 goes from dual-lane highway to single-
23 lane?"

24 A. I'm not sure exactly what the intent or,
25 the person who asked that question, what exactly they

1 meant by single- to dual-lane but -- but as we all know
2 -- as we all know, the main rail line for the NYS&W and
3 our site or adjacent or that would service our site,
4 period, goes under Route 15 -- Route 15.

5 MEMBERS OF THE PUBLIC: No.

6 MR. FORD: Yes. It does.

7 MEMBER OF THE PUBLIC: No, it does not.

8 I live there.

9 MR. FORD: Yes, it does.

10 MEMBER OF THE PUBLIC: Right by the Bagel
11 Station.

12 CHAIRPERSON REINA: There are -- there
13 are additional crossings --

14 MR. FORD: Mr. Chairman, I said that
15 earlier in my testimony. There are other crossings,
16 absolutely. Online Press on 15 further to the south
17 but the line that's adjacent to our property, as it
18 effects 15, goes under 15. It's not even adjacent to
19 our property.

20 MEMBER OF THE PUBLIC: What are you
21 talking about?

22 MR. GOUIN: We'll reserve whether or not
23 it goes under or --

24 MR. DASH: This isn't credible testimony.
25 The Board needs to question it. It's not.

1 Q. "If the train is on the tracks, will
2 there still be access to the buildings for emergency
3 road?"

4 A. Yes.

5 Q. "What is the distance of the property
6 from Route 15?"

7 A. The actual discuss from -- from our
8 property to Route 15 is 1600 feet in a direct line.

9 Q. Next question is really an environment
10 question, Jim, so I'm going to defer that to Mike
11 Green, who will come up later, or Pat Lehman, our
12 environmental consultant.

13 MR. GOUIN: Adam, you're going to deal
14 with question 25 which deals with traffic.

15 Q. "Looking at the traffic study, is there
16 any indication listed in the initial train cars and
17 site frequency, time, storage and effects on
18 surrounding sites?" So, basically, the question is:
19 What is the effect on train cars going to be on
20 traffic? Train car deliveries?

21 A. It's the same as -- as is existing right
22 now.

23 Q. Well, is the -- is the idea that the
24 warehouse is going to be served by rail gone to have,
25 in your opinion, any positive or negative impact on

1 traffic on the site?

2 A. Less trucks. It's a four-to-one
3 conversion ratio. You can fit four truck trailers'
4 products, cubic amount of product, into one railcar.

5 MR. DASH: It's irrelevant.

6 Q. "Is there an artist" -- the question is:
7 "Is there an artist rendering" which, obviously, we
8 submitted at the last hearing. It's actually Page A002
9 in the architectural plans which were all marked as A-3
10 at the last hearing and that's what we have up in front
11 of everybody right now.

12 "How will the vehicle emissions affect
13 people living in the area?"

14 A. Emissions is the standard that -- that
15 the government sets forth so whatever trucks, whatever
16 autos, whatever rail, locomotives, that need to meet
17 the government standards. That's not our
18 determination.

19 Q. And those are -- those would be federal,
20 state, whoever regulates those vehicle emissions, all
21 the trucks would have to meet whatever regulations
22 apply?

23 A. Yes.

24 Q. "How would it affect the environment and
25 wildlife" which is really a question for our

1 environmental expert and we will get to that later in
2 the presentation.

3 The next question relates to noise which
4 Mr. Ford already talked about. All of our tenants
5 would have to comply with whatever the noise ordinance
6 in town and any relevant state standards.

7 Mr. Gibson is going to talk about the
8 anticipated traffic pattern which is Number 31.

9 Adam is going to talk about Number 32
10 which is testimony on the traffic study.

11 Next question: "How many tractor-
12 trailers per day will drive through Sparta daily
13 considering there are 190 loading docks?" And that's
14 more of an operational question, Jim. Obviously, Adam
15 will talk to traffic impacts but, operationally, how is
16 this going to work?

17 A. Just because there's 190 doors doesn't
18 mean there's 190 truck moving in and out every day.
19 It's a warehouse, a dwell facility, which means that
20 it's a, you know, facility where consumers goods come
21 in or packaging comes in and it could sit there for
22 three months six months. I have warehouses that it
23 sits there for a year. It's when the demand from the
24 consumer or the stores or the retailers need that
25 product that goes out.

1 This whole -- the whole operation of
2 warehouse is orchestrated. It's like a ballet.
3 There's not free reign of coming in and out whenever
4 you want. Trucks have to get appointments, scheduled,
5 just like the train service. It's all scheduled and
6 it's not a free-for-all. It's complete -- a
7 completely-scheduled operation, 100 percent, that's
8 presented to this Board and to the city before any
9 occupancy of the building.

10 CHAIRPERSON REINA: Mr. Ford, do you
11 operate other warehouses of this size and magnitude?

12 MR. FORD: In my 30-year career, I grew
13 up in a transportation family, grew up in a trucking
14 family, a railroad family. In over 30 years, it's been
15 millions of square feet.

16 CHAIRPERSON REINA: Understanding we
17 don't know what the tenants have and I know it's
18 difficult to determine whether or not we know what
19 those tenants would be but, based on history or based
20 on similar operations of this size and scope, what is
21 the number of trucks that you would expect for this
22 sort of operation?

23 MR. HERTZBERG: Can I just add something
24 to your question? Because the way I understand our
25 ordinance is the only thing that would be allowed as

1 far as a warehouse goes would be not a retail warehouse
2 but a wholesale warehouse and --

3 MR. FORD: Facility to facility.

4 MR. HERTZBERG: -- can you explain the
5 difference?

6 MR. FORD: There's no -- another question
7 coming up is retail component. There is no retail
8 component to this.

9 CHAIRPERSON REINA: So this is not an
10 Amazon warehouse where they can ship directly to a
11 retail or I'm sorry a household.

12 MR. FORD: No.

13 CHAIRPERSON REINA: Okay. So I guess
14 back to my original question and, I mean, the ability
15 and, I think, from a community perspective, obviously,
16 one of the larger impacts for us is a traffic component
17 and how many trucks is this going to bring in and what
18 sort of impact is that going to have so, again,
19 understanding that we don't know what the tenants are
20 going to be and this is Phase 1 of just getting
21 figuring out getting preliminary site plan approval and
22 then final site plan approval and then, ultimately, any
23 tenants that have to get approved but, based on your, I
24 guess, 30 years' of conspiracy and what you have seen,
25 do you have some sort of an estimate or based on

1 similar-size-scope facilities, what would you
2 anticipate in terms of trucking volume?

3 MR. FORD: Any answer I'd give right now,
4 based on my history and based on other warehouses that
5 I've had, I do -- I just built a warehouse similar size
6 to this in another part of the country, okay, another
7 major metropolitan area, okay, that has less than 20
8 trucks that come in and out a day but -- and we do have
9 over 100 doors on that building. Okay? The reason why
10 they need the doors is because the fact that they stage
11 those trailers there, whether they're empty or whether
12 they're full. It takes an operator -- an operator and
13 the warehouse staff, you know, over four hours to load
14 or unload a trailer. Because of that, that's why they
15 have those empty doors for staging. It's a staging
16 area. That's what it is, you know, to fill or to empty
17 but if -- if -- if the simple -- the simple fact of
18 common knowledge is that, you know, we are requesting
19 191 doors, that would be the spots that are available
20 including the additional 50 of trailer parking so the
21 maximum capacity of trailers that could ever be on this
22 site at one time is 241.

23 CHAIRPERSON REINA: So 241 but not an
24 understanding of when that traffic may move?

25 MR. SYLVESTER: That could be turned over

1 a number of different times.

2 MR. FORD: Right.

3 MR. SYLVESTER: So then carrying that
4 statement, how you're -- I guess we'll get into the
5 traffic study.

6 MR. FORD: Yes.

7 MR. SYLVESTER: Since you can't give an
8 order of magnitude or a range, what is the traffic
9 study going to use as some of the assumptions?

10 MR. FORD: What -- what we had to do and
11 I well let Adam, as an expert witness, testify to that
12 but we have to use, by NJDOT standards and federal
13 standards, what's known as the Institute of Traffic
14 Engineers recommendations. It's for this size facility
15 and it's at a worst-case scenario. It's a national
16 standard. It's what I would call a "metric," the
17 national standard, and I would rather Adam, who is the
18 expert engineer, who did the report, who wrote it,
19 explain that in detail.

20 MR. MURPHY: Mr. Chairman, one
21 clarification: The 191 doors is the actual amount of
22 doors. The number 241 that you gave includes the 50
23 spaces for spotting empty trailers?

24 MR. FORD: Yes, sir.

25 CHAIRPERSON REINA: So understanding

1 we'll get into more detail of the traffic.

2 MR. GOUIN: Correct.

3 Q. So back to -- back to the list of
4 questions:

5 35 deals with traffic as well.

6 36 deals with traffic.

7 Question 37: "Is this project already
8 approved?" No.

9 A. No.

10 Q. It's not.

11 "How will the increase in trucking affect
12 residences in the area?" That's really a question for
13 Mr. Gibson.

14 There's a question regarding the
15 retaining wall which maybe, when we get to the public
16 comment, that's really a question for our civil
17 engineer so maybe, when we get to public comment and we
18 open to everybody, we'll have him answer that.

19 CHAIRPERSON REINA: Yeah. I recommend
20 similarly for 40.

21 MR. GOUIN: And, similarly, for 40 and
22 41. Those are all questions regarding the retaining
23 walls.

24 Q. 42 is: "Will any trucks be spending the
25 night with cabs and sleeping quarters?"

1 A. Absolutely not, no.

2 Q. No. And, frankly, that if the Board
3 elects, that could be a condition of any approval here
4 as well.

5 A. I'm glad to make it a condition.

6 Q. "What is the proposed" -- we -- we did
7 talk about 43. The question was: "What is the
8 proposed roofing material? TPO or EPDM?"

9 Our architect testified to that at the
10 previous hearing, what the roof was going to be made
11 of.

12 44 --

13 CHAIRPERSON REINA: Do you want to
14 restate that?

15 MR. GOUIN: The answer is: It could be
16 either one; it could be either one.

17 CHAIRPERSON REINA: Do you have one that
18 you are leaning towards or...

19 MR. FORD: Well, it sounds like, whoever
20 did ask the question is of the opinion that TPO is a
21 better solution for this. I would gladly use TPO.
22 It's not a cost factor. It's more of an opinion. In a
23 colder climate like this, there's a difference of
24 opinions on longevity, life expectancy of those two
25 types of materials. It's hard to get either one right

1 now in the supply-chain world we're living in but TPO
2 would be fine.

3 CHAIRPERSON REINA: Thank you.

4 Q. Number 44: "Are you aware that, across
5 from this development, there's a big hazmat/natural gas
6 storage facility?"

7 A. Yes. I mentioned that earlier in my
8 discussion testimony.

9 Q. Number 45: Would this facility increase
10 rail traffic resulting in additional crossing on Route
11 15 and Main Street in Sparta coming up to Route 517?"

12 A. Additional? No. Because that -- that --
13 those trains that are switching are switching from
14 points beyond the Sparta Junction yard and, as I said,
15 our warehouse building would be served on what we call
16 a local job and that's from 5:00 p.m. to 5:00 a.m.
17 where the NYS&W switches cars in and out of our
18 property.

19 CHAIRPERSON REINA: Mr. Ford, has there
20 been any sort of a, I guess, train impact study? I
21 know we've got the traffic study. We've got the
22 environmental study. Is it -- is it normal to conduct
23 a train-based study when we're going when we're looking
24 at train-based operations like this?

25 MR. FORD: No, it's not, other than the

1 ratio you had referenced before, yes.

2 MR. SYLVESTER: Just to clarify, was that
3 60 or 16 cars, boxcars?

4 MR. FORD: There's 16, 1-6, unloading
5 spots proposed on our property.

6 MR. SYLVESTER: Thank you.

7 MR. HERTZBERG: So just to clarify, you
8 might see an increase in cars on a particular rail to
9 serve your warehouse but it wouldn't require an extra
10 train. Is that why you're saying you don't expect an
11 increase in rail?

12 MR. FORD: That is correct so maybe let
13 me lever in a little bit, is that, the way a railroad
14 operates, in this case, the NYS&W, they have a -- what
15 we call a "manifest train." A manifest train is what
16 we all, as individuals, see as a long train that's
17 going to cross the tracks, that kind of stuff, right?
18 That -- there's so many different types of rail
19 operations but that typically is proposed of hundreds
20 of railcars.

21 MR. HERTZBERG: Correct.

22 MR. FORD: And those are the freight
23 trains that frustrate us every day going to work. The
24 gates are down, the signals are on and the intersection
25 is blocked. Our operation, our warehouses, is not

1 remotely that. It is a minimal amount of cars that can
2 be handled daily. I use the word "daily" but meaning
3 in a day's time. Switched at night, as I said, from
4 5:00 p.m. to 5:00 a.m. so whatever cars at a maximum of
5 16 could be pulled off the empties and put in live
6 loads or, you know, fill loads, is the absolute maximum
7 that is proposed in this existing operation and that
8 switch with Sparta Junction yard which is adjacent to
9 the propane operation, as those who live here know, it
10 is not a long, you know, 200-car train that's being
11 switched in and out of our property. There's not a
12 length of track that comes in and out of our property
13 and, once again, that's what's known as a "local job."

14 When the big train comes in from
15 elsewhere, from anywhere else that the NYS&W is
16 receiving that train, whether it's south, whether it's
17 north, whether it's you know Syracuse, wherever that
18 longer train is coming in, they switch it into the
19 yard, they break it down into smaller components. Some
20 go to the propane company. Some go to, you know, other
21 operations here locally that exist in industry and a
22 couple of those cars or some of those cars come to us.
23 One day, it might be four cars and it could be -- it
24 could be a maximum of 16 cars at one time.

25 MS. QUINN: Can I -- can I ask you a

1 quick question?

2 MR. FORD: Sure.

3 MS. QUINN: So, currently, do either of
4 the businesses that are on this site accept rail?

5 MR. FORD: Yes, they do.

6 MS. QUINN: Okay. So what is the number
7 of railcars, ballpark? So in -- in addition -- in
8 comparison to this?

9 MR. FORD: Councilwoman, it -- it varies.
10 It truly varies depending on the operation and, as you
11 know, my -- my partner is in the Redi-Mix business and
12 the sand and gravel business have been there for years
13 and their use has been permitted for years. They
14 worked, for many years, with the railroad trying to use
15 this as more of a transfer facility or, as you can see,
16 there's sand, there are gravel, there are other
17 operations of building materials and supplies that are
18 transferred to that to the local area for home
19 building, for retail, for any type of development that
20 may be going on and that varies at times. It's a
21 supply-and-demand question is what it really is so, at
22 times --

23 MS. QUINN: Yeah. I'm looking at this to
24 see -- there's a lot of questions.

25 MR. FORD: Sure.

1 MS. QUINN: Is this going to increase the
2 cars? The question keeps coming up so what I'm
3 recommending is maybe you could provide us with, go
4 back, look at your data, the scheduling, whatever and
5 just give us an average so that we know what we're
6 talking about.

7 MR. FORD: Sure.

8 MS. QUINN: What are we talking about now
9 versus what are we talking about, you know, projected
10 into the future.

11 MR. FORD: Sure.

12 MS. QUINN: I would recommend that that
13 be given to the Board.

14 MR. FORD: Absolutely.

15 MS. QUINN: Okay?

16 MR. SYLVESTER: And maybe just a -- just
17 a couple to that, the assumptions need to be defined,
18 at least. They can't be so broad that it doesn't
19 answer the questions or it leaves more uncertainty than
20 certainty when you either are referring to rail or the
21 traffic that we're going to hear upcoming here but the
22 assumptions should be very clearly defined.

23 MR. GOVIN: Fair enough. We understand.
24 We agree.

25 MR. KOLLAR: I just have one question.

1 MR. GOUIN: Sure.

2 MR. KOLLAR: You mentioned before that it
3 would take four hours to load or unload an 18-wheeler.
4 How long would it take to load or unload a single
5 boxcar?

6 MR. FORD: That's, at least, double the
7 time.

8 MR. KOLLAR: Thank you.

9 MR. SKEI: And if I could ask one
10 question as well, please?

11 MR. FORD: Sure.

12 MR. SKEI: In regards to the traffic, I
13 understand that you have a maximum of 16 cars that you
14 could fit there, correct?

15 MR. FORD: Correct.

16 MR. SKEI: Okay. So you know, you can
17 have 16 or less depending on the load that's coming in.
18 I think, when we get that additional information, what
19 would be helpful is to understand not just the
20 additional cars that may be, right now, put on to
21 current trains that have less than 16 but I think, to
22 the Councilman's question before, you know, are there
23 additional engines bringing an additional loads? I
24 think there's a distinction there, right? Are you
25 bringing more frequency of trains in with engines

1 pulling in up to 16 boxcars or is it just a question of
2 making sure or whatever the need might be at the
3 warehouse that there's up to 16 boxcars that can come
4 in and the traffic won't change? I think we need to
5 understand that distinction.

6 MR. GOUIN: No. Understood and that's
7 what we're going to provide so that -- we understand --

8 MS. QUINN: We can cover all of this more
9 --

10 MR. GOUIN: Yes.

11 MS. QUINN: -- obviously, in the
12 testimony?

13 MR. FORD: Absolutely.

14 MS. QUINN: So let's keep going with the
15 questions.

16 MR. GOUIN: Yep.

17 MR. FORD: Sure.

18 MR. GOUIN: I'm going -- I'm going - I'm
19 going to try to skip over the train questions for now
20 because I think it would be more beneficial if we
21 provided that information.

22 Q. All right. So 47: "Will there be
23 storefronts? Will there be retail stores in the
24 building?"

25 A. No.

1 Q. "Will this be a last-mile warehouse? If
2 it is, will that increase traffic?" We don't have to
3 answer the second part because the answer is no,
4 correct?

5 A. No.

6 Q. "Are restaurants proposed for this site?"

7 A. No.

8 Q. "What kind of traffic is going to be
9 added to Route 15," which is a question that Adam will
10 get into.

11 "If warehouse and some sort of shipping,
12 will you have lots of traffic," that's an Adam
13 question.

14 "Why does it have to be 50 feet high"
15 which is Number 52.

16 A. Because it's a dwell warehouse. It is
17 not a truck terminal. It's not a transfer operation.
18 When products come in, as I said, consumer goods -- it
19 could be bottled water, it could be anything that we
20 need for our daily lives for consumption, it's a dwell
21 facility -- we either wrap it or it's palletized. The
22 reason for that clear height is designed in a warehouse
23 building at 43 clear in the inside is for long-term
24 dwell. It doesn't go in one side and come out of the
25 other. It needs to stay there. That's why. The size

1 of the warehouse is an intention of -- of the dwell
2 time in the warehouse.

3 Q. And just so we're clear on that, Jim, can
4 you just -- just for a little bit explain why a dwell
5 warehouse -- I think he said that it's not -- it wasn't
6 clear. Explain why a dwell warehouse needs to be 50
7 feet high; whereas, a trucking terminal might be
8 something less?

9 A. Because it doesn't go in one door and out
10 the other. By design alone -- by design alone of these
11 facilities, it is not a cross-dock terminal. It is not
12 a transfer terminal. It is not a truck terminal. It
13 is a warehouse. It houses wares and it sits there and
14 dwells for months upon time and, literally, I mean I --
15 I --

16 I have a tenant that makes glass bottles.
17 I kid you not, walked in their warehouse recently and
18 there's dust in the bottles because they've been
19 sitting there for over a year. Their customer, the
20 consumer, has not had a need for that type of bottle
21 and that type of product to be shipped out to be filled
22 and used. It's there available for -- for when needed.

23 MR. MURPHY: Mr. Chairman?

24 Just to add on to that, there's a certain
25 distance that you -- from the top of your top rack to

1 the sprinkler system.

2 MR. FORD: That is correct.

3 MR. MURPHY: And it used to be 4 feet. I
4 don't know what it is to our code. Is it -- because
5 you're at a difference of 40 feet versus 50 for the
6 building height.

7 MR. FORD: Yeah. That's what the code
8 requires so -- so it is...

9 MR. MURPHY: It will be within code?

10 MR. FORD: Oh. Absolutely, yes. Yes.

11 MR. MURPHY: Thank you.

12 Q. "Will there be a security team on the
13 site or will you rely on the township police?"

14 A. These type of warehouse operations,
15 typically, would have either a manager or a security
16 person on site, whether they're checking trucks in and
17 out at the gate facility, whether they're there,
18 literally, just to -- to secure it at night. Some
19 companies elect to have full-time security guards even
20 at night when they're not operating but, yeah, if there
21 was a 911 call, of course, we're going to call. I
22 would assume that the operator or the user of the
23 building would call the township police.

24 Q. Well, what are -- well, the next question
25 is: "What are the intended use and operational

1 details" which is what we're going through now.

2 Question 55 is more a question for the
3 township which is: "Does the township have a fire
4 truck which can go up 50 feet?"

5 I mentioned before; we did get a letter
6 from the Fire Prevention Bureau that said -- and I
7 quote: "The fire prevention bureau has no issues or
8 concerns with the above project as presented" but I'll
9 defer to the township on that.

10 56: "Based on the amount of trucks
11 coming in" -- and -- oh. We talked about on-site fuel
12 station. There is not one?

13 A. No.

14 Q. We talked about whether it's going to be
15 a warehouse or a distribution center.

16 The next question, I'm not exactly sure
17 how -- well, Jim, you could answer this the best you
18 can. "How is the facility going to manage all the
19 transient individuals who will be passing through as
20 factory workers, truckers and rail workers and the
21 safety and that of our children, traffic."

22 That's the question.

23 MEMBER OF THE PUBLIC: Yes.

24 A. The warehouse, when it -- when it's open,
25 if it's open, would look towards a local labor pool so

1 there's no transients, in any form or fashion. The
2 truckers -- the truckers are coming from other
3 locations and they're bringing a live load or an empty
4 load and leaving upon switching their load and, the
5 railroad, the NYS&W, there's only two people on a crew
6 on their nightly crew, two people that switch all the
7 industry around here so there's two people that are
8 local residents here that work for the railroad that
9 switch the cars in and out. That's it.

10 MR. SYLVESTER: Are the -- are the
11 truckers all independent, operating as independents or
12 that's going to be determined upon the tenant?

13 MR. FORD: It's determined by the tenant
14 but another one of the major shortages, as we know, in
15 the country is -- are truck -- truck drivers and can --
16 pass the CDL and that kind of stuff so you're seeing a
17 consolidation of many. They could be independent but
18 -- but I think, a lot of the type of users that we'd
19 look for this warehouse would rely on larger
20 corporations to manage their freight so you would see
21 larger corporations in the form of truck drivers that
22 would service this facility.

23 CHAIRPERSON REINA: And, Mr. Ford, your
24 -- your expectation, I think, based on the last
25 testimony, was employment, again, not knowing what the

1 tenants are yet so I know it's kind of putting the cart
2 before the horse but somewhere in the neighborhood
3 between 100 and 400. Is that correct?

4 MR. GOUIN: Jim? Why don't we --
5 That's -- that's a fair question, Mr.
6 Chairman.

7 Why don't we clarify that, Jim? Because
8 I think that was a big point of confusion during the
9 first hearing so let's explain what's going on with
10 respect to our employment number.

11 A. We are approved presently, you know, for
12 up to 100 employees from our sanitary capabilities,
13 period. We would need to add capacity to the sanitary
14 system and pay for that ourselves in order to have more
15 employees at the warehouse.

16 As I stated earlier, Mr. Chairman, I have
17 warehouses that are bigger than this with minimal
18 employees and it's a matter of flushing toilets or
19 having lunch or water, whatever it might be, to use in
20 general but there are warehouses like this that could
21 very well have, you know, 100 to 400 employees but that
22 amount of employees, that amount of hiring and stuff,
23 those -- those things are all in -- in -- in the next
24 process that comes through the city, an approval of a
25 business license. They need to be approved for anybody

1 operating those capacities so, once again, I would be
2 guessing, 100 percent, from my 30-year history, what it
3 could be, could be minimal.

4 And, as I heard you, Councilwoman Quinn,
5 say is that, I'm not here to give, you know -- you
6 know, guesstimates or whatever it might be. We're here
7 to give facts so...

8 MR. SYLVESTER: Again, back to my
9 assumptions, that's -- you know, 100 to 400, are those
10 numbers going to be factored into your traffic study
11 outside of just the use of the terminal?

12 MR. GOUIN: Yeah. That's a point and --
13 and thank you, Mr. Sylvester. So that's a point that I
14 wanted to clarify so the -- I don't know that we did a
15 great job explaining that at the first hearing.

16 Right now, we have an approval for the
17 on-site wastewater treatment facility for up to 100
18 employees. That's the maximum we can go so, for all
19 intents and purposes, for this present application, the
20 maximum that we would have for this facility is 100
21 employees. If we wanted to go anything over 100
22 employees, we would need to get a water quality
23 management plan amendment, we would need to get
24 additional approvals to have a water -- on-site
25 treatment facility. We don't have that yet so that's

1 something --

2 MR. SYLVESTER: But you did file for
3 that, correct?

4 MR. GOUIN: Correct. That -- we have
5 applications pending for those but, again, you know,
6 there's no guarantee that we get those approvals.
7 There's no guarantee when we get those approvals and,
8 frankly, it's not even something like, you know, NJDEP
9 freshwater Wetlands or flood hazard area or Sussex
10 County Planning Board or Soil Conservation District,
11 all of which are going to be conditions of any approval
12 this Board grants. That's not necessarily a condition
13 of an approval that this Board grants. That's just
14 something that this applicant would have to do, over
15 and above, in order to get additional capacity for its
16 on-site wastewater treatment to have more employees.
17 It's not a guarantee so I think we gave that range at
18 the -- at the first hearing but, right now, before this
19 Board, we're presenting an application with a 2,000-
20 gallon-per-day -- am I getting that right -- 2,000-
21 gallon-per-day system so that's approved and that's all
22 we have.

23 If that changes, frankly, if the
24 applicant were to, in the future, get approval for an
25 larger on-site wastewater treatment facility, we would

1 have to come back for amended site plan approval from
2 this Board.

3 MR. FORD: Correct.

4 MR. GOUIN: And -- and the Board would
5 have an opportunity to -- to address the additional
6 employees that that would cause and all the additional
7 factors so I just want to make that clear for the
8 record because I do think we needed to -- to make that
9 straight.

10 MR. COLLINS: Mr. Gouin, while we're on
11 this, could you just take a look at your septic permit
12 and just -- let's go back to this hundred person and
13 just take -- take a look at it. It seems to say 80
14 employees with some guests, 150 guests; I assume
15 visitors so is that the correct maximum under the
16 current septic permit?

17 MR. FORD: It's -- yes. Which -- which
18 --

19 MR. COLLINS: Which is what the --

20 MR. FORD: Right. So when they say
21 "visitors," there could be visitors to the facility
22 but, just as much, that would also be there to service,
23 you know, a driver came in, had to use a restroom
24 before they left out right away.

25 MR. COLLINS: Right. That would be the

1 visitors, number of users, visitors, so, to the extent
2 you made a general statement of the hundred employees,
3 is that more likely to be limited to 80 per this septic
4 permit?

5 MR. GOUIN: Yeah. That's probably right.
6 When I said 100, that -- that was intending that it
7 would be some combination of, you know, permanent, on-
8 site employees and some number of visitors that would
9 be using that allocation.

10 MR. COLLINS: Okay.

11 MR. GOUIN: I suppose it could be up to
12 150 visitors. We wouldn't anticipate that many
13 visitors at any one time so --

14 MR. COLLINS: But -- but the point is,
15 you'll comply with this septic permit and you'll act
16 accordingly.

17 MR. GOUIN: Correct.

18 MR. COLLINS: Okay.

19 MR. GOUIN: Correct. Thank you.

20 We're almost -- we're almost through
21 these. I think we can get through these last few
22 quickly and then we have traffic.

23 Q. So, Jim, the question is, basically: Was
24 there a market-need analysis done for this project?
25 You know, why here?

1 A. Yes. There's -- there's -- our spending
2 habits change on a regular basis and -- and, because of
3 that, the market analysis shows that, yes, in the
4 consumer goods space, things we consume daily, there's
5 a need for this type of operation for warehouse product
6 that can be distributed to the future, in any form or
7 fashion, to other suppliers. You know, every industry
8 has different ways of distribution. The beverage
9 industry is an example. You know, alcohol-related
10 products, it comes from a specific building for that.
11 This warehouse could very well feed that distribution
12 facility.

13 So yes, there's a market analysis and the
14 demand for this type of warehouse, numeration-wise,
15 number-wise, is well beyond this for the region.

16 MR. SYLVESTER: Was that shared with the
17 township or in a packet?

18 MR. GOUIN: Our market analysis?

19 MR. SYLVESTER: Yes.

20 MR. GOUIN: No. We have not submitted
21 that.

22 Q. "If you can only unload 12 trucks at a
23 time and don't want drivers waiting the four hours
24 while other trucks are unloaded, roughly, 178 doors
25 will be unused. Is that correct?"

1 You've gone through that a little bit,
2 Jim. Why don't you just elaborate?

3 A. I'm not quite sure what that question
4 means, to be honest.

5 Q. Well, essentially, it's -- essentially,
6 the unloading operation could look something like this
7 rendering, correct, where some of the doors are unused,
8 some of the doors are used?

9 A. That's correct.

10 Q. And the reason that some of the doors
11 would be unused is that those would be used for future
12 staging areas for goods that have not been unloaded or
13 they would be used for areas for goods that have
14 already been unloaded, correct?

15 A. That is correct.

16 MR. KOLLAR: Excuse me. Could I --

17 MR. GOUIN: Sure.

18 MR. KOLLAR: -- just get a clarification
19 on that? So when an 18-wheeler pulls in, will the --
20 will the cab wait while the truck -- while the trailer
21 is loaded and unloaded or, rather, unloaded and loaded
22 or does the cab pick up a different trailer and then
23 leave right away?

24 MR. FORD: The typical -- the typical
25 process -- and I say "typical" because of my 30 years'

1 of experience -- trucker comes in with a live load,
2 backs it up to the door they've been told to back it up
3 to and that door that they're backing up to is where
4 it's going to be positioned in the warehouse because,
5 even when the forklift operator comes in and he's
6 unloading that trailer, they don't want that -- every
7 time you touch it, it costs money. It's hours of
8 operation. It's labor cost. It's all those kind of
9 things, equipment cost.

10 You know, our electric -- electric
11 forklifts that we mandate in the buildings -- it's
12 electric by the way. The forklifts, you know, you
13 don't want them running down at the end of the building
14 so they -- they're told ahead of time their
15 appointment. It's told which door to line up with in
16 which to drop -- drop that load. Once they disconnect,
17 they're typically pulling an empty trailer, hooking an
18 empty trailer and bringing it outbound. It's what we
19 call a "closed-loop system."

20 So, once again, on the trucking side of
21 this operation, the absolute maximum, as I said
22 multiple times, is 241 spot. That's the absolute max
23 in a closed-loop system that you can ever support and
24 you need a balance between, you know, the live loads
25 and the empties and that's the reason why you have

1 multiple doors is because, one of those trailers,
2 whether it's empty or full or that trailer may be
3 reloaded as quick as it's unloaded, is at a given door
4 in a given spot for that reason.

5 I've also stated in the past and I'm
6 sticking with this 100 percent: Until a tenant is
7 identified and shared with this -- this Board and
8 shared with the city for any kind of an approval, I do
9 not attend to the construction process of building but
10 half of 191 door spots so 90-some, 95 spots, doors,
11 actual doors, is what I believe, even less than that,
12 in my opinion of 30 years, whenever they need it for
13 this facility.

14 MR. KOLLAR: So what would be the dwell
15 time of a cab in the facility?

16 MR. FORD: Less than an hour.

17 MR. KOLLAR: Okay. Thank you.

18 MR. FORD: By the -- by the time they
19 back up their live load, unload the door or, you know,
20 roll the door open, we don't have what we call
21 "lumpers." That doesn't exist here. This is a pure
22 warehouse operation so they don't have additional help.
23 You know, finding these type employees sometimes is
24 difficult too so they need to use and utilize their
25 labor and that's why a lot of -- lot of major

1 corporations that make consumer goods actually
2 outsource this in the form of what we call a "3PL
3 business," a third-party logistics firm, or a "4PL" and
4 they outsource that and those companies are more
5 efficient in cost operations from equipment, from --
6 from -- from the forklifts, from operations, from
7 software, from tracking, from billing, from all that
8 kind of stuff as well as the amount of labor that they
9 have in the warehouse. They don't want even one more
10 employee in the warehouse than they have to have
11 because it costs money.

12 MS. QUINN: While we're on the topic of
13 the facility itself, may I ask two questions?

14 CHAIRPERSON REINA: Please.

15 MS. QUINN: Okay.

16 So two things and we didn't -- I didn't
17 have this information when you were --

18 MEMBER OF THE PUBLIC: Can you speak up,
19 please?

20 MS. QUINN: So I didn't have this
21 information the first time that you came. You were
22 waiting for the report. I've done some research since
23 then and, in your history in your other warehouses, do
24 these trailers, the back ends of the trucks, are they
25 stacked against the building itself or are they stacked

1 -- in other words, are they stacked off the building or
2 are they stacked to the building?

3 MR. FORD: When the -- a live load comes
4 in?

5 MS. QUINN: I'm not talking about a truck
6 comes in and a truck is leaving that day. I'm talking
7 about trailers pulled up to the side of the building,
8 do you have trailers that are parked in front of these
9 bays for longer than it is just to turnaround? So --

10 MR. FORD: Yes. Yes. There's a -- the
11 trailers dwell as well so, when I refer to this closed-
12 loop system, the trailer is empty as well --

13 MS. QUINN: Okay.

14 MR. FORD: -- may be needed for a future
15 load but the maximum you can have, at any point, is
16 241.

17 MS. QUINN: Well, what I'm saying is --
18 so those trailers --

19 MR. FORD: Yes.

20 MS. QUINN: -- are all stacked -- and I'm
21 going to repeat. They're stacked to the building or
22 they're stacked in parking spots or whatever and then
23 brought to the doors? And the reason why I'm asking
24 this is because, in doing some research, some safety
25 research, you know, when you leave the trailers up to

1 building, that just creates more space if there is a
2 fire, God forbid, for fire officials to get to the
3 building because they have to hurdle all these trucks
4 so what I'm saying is: What is your proposal? Are you
5 proposing to leave -- you know, is this how you run
6 your operation like where the -- the trailers stay to
7 the building and they're stacked up or do they -- are
8 the trailers there on site but not to the doors?

9 MR. FORD: Well, they're not stacked up.
10 I mean, they would be backed up to the door.

11 CHAIRPERSON REINA: Yeah. I think the
12 question is: Are those full spots going to be taken up
13 by a tractor-trailer that's going to effectively extend
14 the length it would take a firefighter, the fire
15 department, to get to in case of a fire? I mean, are
16 they going to stay there or, to your point, they're
17 transient? And understanding you've got dedicated
18 parking spots, for 50-some-odd spots for the dedicated
19 parking --

20 MR. FORD: Correct.

21 CHAIRPERSON REINA: You've got 191. Does
22 the facility or is the proposal to allow those 191 a
23 time of -- that they're not being used for trucks to
24 sit in front of that spot?

25 MS. QUINN: Right.

1 MR. FORD: They're available for that
2 but, if you look at the rendering here, this is what I
3 envision, in years of doing this, what the operation
4 would look like, never being full. It is not a -- not
5 a facility that's there to store trailers, empty or
6 full, because that equipment is not making money so the
7 reality is that the trucking firm or the 3PL or the
8 owner --

9 MS. QUINN: Okay.

10 MR. FORD: Procter & Gamble, I've used as
11 an example before; they don't want their trailers
12 sitting there. They want it on the street being --

13 MS. QUINN: But you have -- I'm saying,
14 you have spaces on the site --

15 MR. FORD: Yes.

16 MS. QUINN: -- using these trailers.

17 MR. FORD: Correct.

18 MS. QUINN: So what I'm saying is, is
19 that where they go? Like, if they're not being
20 utilized --

21 MR. FORD: Yes.

22 MS. QUINN: -- they're there?

23 MR. FORD: They have to be in a spot.

24 MS. QUINN: Okay. So they are not to the
25 building?

1 MR. FORD: The building could be
2 considered spots, Councilwoman.

3 MS. QUINN: So I mean --

4 MR. SYLVESTER: You've got to assume --
5 you've got to assume, based on what you're hearing,
6 that those -- all those bays can potentially have a
7 trailer in that spot.

8 MS. QUINN: Okay. So I'm just going to
9 recommend to the Board that's a future consideration.
10 I think, from a safety perspective, we need to just be
11 mindful of that, that there -- you know, we need to
12 take that into consideration. Okay? Because it's a
13 big distance that the trucks have to be away and, if
14 they can't have any break in the spaces and everything
15 is trailers and something happens -- so I'm just
16 throwing it out there right now.

17 MR. MURPHY: Yeah. Chris, I think, when
18 I brought up the fact that there were 50 additional
19 spots to drop it, an empty or a full trailer, yeah,
20 when the fire department looked at this, they could
21 probably assume that every single door, 191, might have
22 a trailer in front of it plus the 50 extra to drop so
23 I'm sure, if that was a problem for the fire
24 department, they would have notified us.

25 MS. QUINN: I'm bringing it up because I

1 think -- I want to make sure that we are taking every
2 precaution when you're looking at an application.

3 MR. MURPHY: Sure.

4 MS. QUINN: The other thing is I think we
5 need to double-check what the flow to the site is too
6 so I don't know if you've had a chance to check what
7 the actual flow to the site is but I think you need to
8 just double-check that as well. God forbid there's a
9 fire or something there. Let's figure out what the
10 flow is to make sure that it can handle. I am not
11 saying it on the trucks.

12 MR. MURPHY: Right.

13 MS. QUINN: I'm saying I want to make
14 sure that they have a flow.

15 MR. FORD: Councilwoman, we -- we are far
16 from designing the fire --

17 MS. QUINN: I understand. I'm just
18 putting this out there right now.

19 MR. FORD: Oh. No. I hear you loud and
20 clear, yeah.

21 MS. QUINN: I want it on the record and I
22 -- I don't want time to go by and I don't want to
23 forget about it.

24 MR. GOVIN: And that's for the water
25 department, those volume metrics.

1 MR. FORD: Right. Yeah.

2 MR. GOUIN: So we do have -- yeah. We
3 have --

4 MR. FORD: Yeah. You have to do a flow
5 test, absolutely have to do a flow test with the water
6 department.

7 MR. GOUIN: We engage the water
8 department. We have a review letter from them. We're
9 working out some of those conditions in that review
10 letter and, obviously, that's going to be a condition
11 of any approval.

12 MS. QUINN: So we'll get it in our
13 packet?

14 MR. GOUIN: You should already have it.
15 It was part of our review letters provided to the
16 Board. What I'm saying is, we have to get approval
17 from that outside agency in addition to approval from
18 the Board.

19 MEMBER OF THE PUBLIC: Can't hear
20 anything.

21 MR. PARKER: We have a letter from the
22 water department and the water department, for the
23 moment, according to that letter, if they don't comply
24 with it, they're working on it and they can comply in
25 the near future.

1 MR. GOUIN: Correct.

2 MS. QUINN: All right. So I just want to
3 make sure that we had confirmation of that.

4 MR. GOUIN: Absolutely.

5 MS. QUINN: Okay.

6 MR. GOUIN: Just a few more of those and
7 then we can jump over to Mr. Gibson.

8 Q. I'm going to skip the ones that have to
9 do with rail because I think we talked about that
10 already.

11 Most importantly, I think, on this list
12 is the LEED Gold Platinum certification. Is that
13 something that this building is going to participate
14 in?

15 A. The question is that a prominent versus
16 -- I believe in that proponent. Every building that I
17 have done in the past 15 years or have been responsible
18 for is designed, even a speculative basis, to meet
19 minimum LEED standards. What we do is then we work
20 with the tenant, when they're identified, to meet their
21 goals. A lot of corporations have different goals and
22 standards.

23 To understand LEED certification, there's
24 minimum standards and then there are different levels.
25 As somebody educated and understanding of this

1 question, there's Gold, there's Platinum, there's
2 Silver, there's different levels, and that, you know,
3 has evolved with different things. We always put LED
4 lighting in the warehouses now which is a minimum
5 standard. We always allow for future electric vehicles
6 in all the auto parking which is a minimum standard.
7 We do a lot of these things up front as practice in our
8 -- in our -- in our development and it will be shown
9 reflectively in all the plans that will be submitted
10 for a building permit.

11 And then the tenant, a lot of times, to
12 get to a higher standard, whether it's Gold, Silver or
13 Platinum, it's different technologies, different
14 materials, different things that they use within --
15 within the building within the walls of the warehouse
16 that would actually identify whether it meets a higher
17 standard of Gold, Silver or Platinum but, yes, we use
18 that in all -- in our building material.

19 MR. SYLVESTER: And that application
20 process, would you be starting that earlier in the
21 project or after it's developed?

22 MR. FORD: You mean, the LEED's aspect of
23 it? The basic LEED's standard would come with the
24 building permit drawings and -- and have those
25 standards, correct, so then, to hit the higher

1 standards in certification, it depends typically what
2 you do within the building, not the exterior of the
3 building or the roof or the walls or, you know, future
4 EV spot, that kind of stuff.

5 Q. Just two more, I think, that are not
6 duplicative: "Will the applicant be required to obtain
7 a major access permit?" That would be from the NJDOT.

8 MEMBER OF THE PUBLIC: Here we go.

9 Q. The answer to that question is no because
10 we're not located on a state highway.

11 A. Right.

12 Q. Then, there was a question about: "Will
13 this project be similar to the Harry Shupe Industrial
14 Park in Wharton, New Jersey?"

15 Frankly, none of us were familiar with
16 that so...

17 A. Yeah. We -- we saw some pictures of it
18 but not familiar with that -- with that development.

19 CHAIRPERSON REINA: Can you restate that
20 question? I didn't --

21 MR. GOUIN: Yeah. The question was 67:
22 "Is it intended to be similar to the Harry Shupe
23 Industrial Park in Wharton, New Jersey?" So none of us
24 were familiar with it either but the rest of that
25 questions, I think, on that final sheet are largely

1 duplicative of what we've already addressed so up to
2 the Board how you want to run this but I was --

3 MR. PARKER: Question about the rail
4 before you leave?

5 MR. GOVIN: Yeah. Absolutely.

6 MR. PARKER: We've been talking about 16
7 cars that come in or less at any given time with
8 product.

9 MR. FORD: Yes.

10 MR. PARKER: How many cars are going to
11 leave with product?

12 MR. FORD: That, once again, is up to the
13 user of their operation. It would be identified with
14 -- with a business permit before -- before they moved
15 in. There is a possibility always of outbound rail.
16 Yes, there is, just like --

17 MS. QUINN: I think that's a huge impact.
18 We need to talk about that in traffic, I understand,
19 but I think that's something huge that's been a
20 question that, really, we need an answer.

21 MR. FORD: The main -- one of the main
22 reasons why is because, you know, there are, in the
23 rail world, finished products that do go out. It is a
24 possibility so, if we want more clarity on that,
25 Councilwoman and -- I'm sorry.

1 MR. SYLVESTER: That's Dr. Parker.

2 MR. FORD: Okay. Mr. Parker. Sorry.

3 Sorry, Doctor. I couldn't see you over
4 there.

5 MR. PARKER: That's okay. I couldn't see
6 you either.

7 MR. FORD: It is, yes. That is a
8 possibility. Understanding how the NYS&W, specific to
9 this project, runs their operations, their goal is,
10 once again, as I said earlier, every time you touch it,
11 it costs money so the reality is that, until all 16
12 spots are unloaded, potentially reloaded, okay, and --
13 and that's dealt with, they're -- they're not in the
14 business of switching one car or two cars at a time
15 having rail operations.

16 MS. QUINN: I think the question that --
17 that -- I understand what he's saying because I have
18 the same question. If there's a big difference and I
19 think what we need to have a clear understanding of is:
20 Okay. It's great to get four trucks off the road. You
21 testified that four trucks is one railcar. That's
22 great so I guess the question is: Okay. Now, we have
23 four trucks with the stuff in the warehouse so the
24 question is: How many trucks are taking it out versus
25 is there a percentage of all of that that's going to go

1 rail to rail so a truck is it not going to hit the
2 road? So that is, I think, what we are looking for
3 clarification on. Is it rail to rail? You know,
4 what's the percent of the anticipated --

5 MR. FORD: It would be -- it would be
6 very little.

7 MR. GOUIN: Well, we -- we already agreed
8 that -- I think we already agreed that we were going to
9 we're going to provide that information so --

10 MS. QUINN: I just wanted to clarify
11 because I know that has a mask on so people might not
12 be able to hear what he asked and I just want to be
13 clear that everybody can understand the question that
14 he asked.

15 MR. GOUIN: And I totally agree. I don't
16 just -- I don't want to spend so much time on it
17 because we -- we recognize we didn't provide you that
18 information and I do want to get through our traffic
19 testimony.

20 So that's really all I -- those are the
21 questions from the first hearing. Believe it or not,
22 we got through the whole list and I know we're -- we're
23 running up against, you know, the timeline. We want to
24 give the public a chance to speak but I do think we can
25 get through Mr. Gibson's direct in about 20 minutes and

1 then everybody would be available.

2 CHAIRPERSON REINA: So we've got 15
3 minutes, roughly until we open it up to the public. I
4 think, first, we need to open it up to the Board to
5 make sure that we've satisfied all the questions for
6 Mr. Ford directly and then we can talk.

7 I think my -- my hesitation is: I don't
8 want you to rush through the traffic piece.

9 MR. GOUIN: Fair enough.

10 CHAIRPERSON REINA: 15 minutes to cover
11 this --

12 MR. SYLVESTER: And you'd also have to
13 factor in questions from the Board itself so everything
14 that goes forward from that point on takes away from
15 the public time slot we allocated.

16 MR. GOUIN: Understood.

17 CHAIRPERSON REINA: And just given the --
18 given the time that we're at right now, I want to make
19 sure that we have enough time for, both, the vestibule
20 and the audience.

21 MR. GOUIN: Fair enough.

22 CHAIRPERSON REINA: So if we could, what
23 I'd like to do is, Diane, maybe just do a roll call for
24 any remaining questions for Mr. Ford at this time?

25 MS. KATZENSTEIN: Mr. Kollar?

1 MR. KOLLAR: Not at this time.

2 MS. KATZENSTEIN: Mr. Murphy?

3 MR. MURPHY: Just one. Just a
4 clarification, there is no manufacturing going on in
5 this building, right?

6 MR. FORD: Manufacturing? No. It's not
7 intended for manufacturing. It's not, no.

8 MR. MURPHY: Okay. When you talk about
9 "packing," is that another term for repackaging? In
10 other words, if you break down a skid, you take part of
11 the product out and then you co-mingle it with some
12 other skid, do you call that "packaging"?

13 MR. FORD: That could be a repackage,
14 yes.

15 MR. MURPHY: Repackage?

16 MR. FORD: Yes.

17 MR. MURPHY: Okay. That's all I have.

18 MS. KATZENSTEIN: Councilman Hertzberg?

19 MR. HERTZBERG: Yeah.

20 The only thing and it's not really a
21 question. I just wanted you to address, when you look
22 at the rail situation, is that, it looks to me like the
23 rail crosses Route 15, either comes in under the
24 overpass under -- you know, under Route 15 and then
25 goes out over Route 15. I want to make sure or, at

1 least, find out, if there's ever a possibility of that
2 blocking the road while it's being unloaded? It looks
3 like because the transfer station is on -- on the end
4 of the loop, the back would be where all of that gets
5 done but I just want to make sure.

6 MR. GOUIN: Yeah. So I think what we're
7 going to do after speaking with Mr. Ford is, obviously,
8 we're going to go to public comment, I think, after
9 this, right, so we're going to skip over the traffic
10 for -- for tonight and come back with that. I think
11 what we'd like to do is, when we do bring back our
12 traffic expert, that we also either incorporate some of
13 this rail testimony into the traffic testimony or we
14 have a separate expert, if necessary, but that would be
15 addressed at the same time so all of the train
16 questions and rail questions tonight, fair enough,
17 message received and we will address those in the
18 future.

19 CHAIRPERSON REINA: Thank you.

20 MS. KATZENSTEIN: Mr. Skei?

21 MR. SKEI: I have no further questions.

22 MS. KATZENSTEIN: Mr. Sylvester?

23 MR. SYLVESTER: No questions.

24 MS. KATZENSTEIN: Councilwoman Quinn?

25 MS. QUINN: I just have one question at

1 this time: So I know that, at the end of -- at the end
2 of the last session, we gave you the questions and I
3 appreciate the fact that you answered them but, in the
4 interest of all transparency and the interest of being
5 able to get this information out to anyone that's
6 interested, is it possible for you to put in writing
7 the answers that you gave us here so that it can be
8 posted with the application so that anyone that has
9 concerns or anyone that's not here this evening can
10 access the answers to those questions from our Planning
11 Board site so it can be added as, you know, part of the
12 package moving forward?

13 MR. GOUIN: Yes. So yeah. So we -- we
14 do have a court reporter. We're going to get
15 transcripts of both, the first hearing made and this
16 hearing, and we'll submit those to the Board.

17 MS. QUINN: All right. I just to make
18 sure. I wanted to ask. Just make sure we get it on
19 the site so that people have access to the answers that
20 you provided based on --

21 MR. GOUIN: Sure. Absolutely.

22 MS. QUINN: And I -- that's all I have at
23 this point.

24 MS. KATZENSTEIN: Dr. Parker?

25 MR. PARKER: No questions at this time.

1 I'll wait until later.

2 MS. KATZENSTEIN: Mr. Gall?

3 MR. GALL: No questions.

4 MS. KATZENSTEIN: Mr. Toscano?

5 MR. TOSCANO: I have just a couple of
6 questions.

7 Just to confirm, Mr. Ford, there's not
8 going to be any hazardous material of any kind stored
9 on this site, right?

10 MR. FORD: No hazardous material, no.

11 MR. SKEI: And is there any way, you
12 know, of verifying that to the tenants that may come on
13 that that won't occur? Is that part of the process or
14 something that's part of...

15 MR. FORD: Yeah. That's -- that's --
16 they need to meet with the fire department as well
17 before they, first of all, approve their operation.
18 You know, there are different aerosols, those type of
19 things, used in different types of packaging and stuff
20 and it will also be approved by the fire department,
21 100 percent, for the tenants that will have occupied
22 the building and they have regular inspections of that
23 as well.

24 MR. SKEI: Very good. I just wanted to
25 get clarity on that.

1 MR. FORD: Just -- just as much as
2 Councilman Murphy talked about the fire suppression
3 system, the fire system and the top of the rack, that's
4 something that the fire department regularly reviews,
5 approves of their design and manages for -- for a
6 safety issue. I have seen it where some warehouses
7 have tried to stack it too high. It's causing problems
8 to sprinkle that. The head cannot work in a correct
9 fashion but the fire department has regular access to
10 ensure that, you know, no hazardous and we, as owners,
11 do not want any hazardous materials of any form or
12 fashion stored on the property.

13 MS. QUINN: And just to be clear, the --
14 any applicant that comes that wants to use, you know,
15 the proposed warehouse --

16 MR. FORD: Yes.

17 MS. QUINN: -- they cannot just call you
18 up one day and say, "Hey. I'm bringing my stuff"
19 because they need to go through every single thing in
20 front of the Board with all the reports, with
21 everything and they all need to be individually
22 approved so I just want to be clear. There is a whole
23 other process and every single -- we have warehouses
24 all over White Lake and all of them follow the exact
25 same procedure so they don't just build a warehouse

1 out, you know, like, everyone -- they don't just build
2 them and invite people in?

3 MR. FORD: No.

4 MS. QUINN: Every single tenant has to
5 come through the Board.

6 MR. FORD: They need to complete -- I
7 read the Sparta ordinance. In the rules and the
8 regulations, they need to meet with the police
9 department, the fire department, the water department,
10 all utilities or have a group forum to discuss all
11 these things. They need an operating plan. They can't
12 just walk in and say "We have no operating plan. We're
13 just going to throw the stuff in the warehouse." They
14 need to come with an operating plan to present to you
15 ahead of time. That is very -- it's 100 percent common
16 and typical in most communities and I know it exists
17 here.

18 MR. SKEI: And then, can you just clarify
19 the hours of operation for the trucking end and, again,
20 on the rail side of the business?

21 MR. FORD: So -- so the rail, once again,
22 presently, NYS&W, is all I can go by, what they do
23 right now. They only switch in and out a maximum of 16
24 cars in and out for our specific facility here, would
25 be from 5:00 p.m. until 5:00 a.m. and this is not

1 designed nor intended to be a 24-hour operation.

2 There's always a possibility -- I can't until we
3 identify the tenant and bring it before you, bring that
4 tenant before you, to identify whether you're going to
5 have one shift, two shifts or, you know, proposed, a
6 24-hour operation which most warehouses don't do. They
7 can't find the people to work. They can't find them.
8 They don't want people working -- there's no more such
9 thing as a graveyard shift for the amount of wages they
10 pay.

11 MR. SKEI: That's all the questions I
12 have.

13 MS. KATZENSTEIN: Chairman Reina?

14 CHAIRPERSON REINA: No. I think, at this
15 time, I don't have any additional questions for Mr.
16 Ford, anyway, so I appreciate your testimony and, you
17 know, with regards to the operations which, again, I
18 know is limited right now in terms of what we've got
19 site-wide in terms of the types of tenants or things
20 like that so I appreciate your testimony.

21 MR. FORD: Thank you, Chairman.

22 CHAIRPERSON REINA: So what I would
23 probably propose, at this point -- so it's 8:50 now and
24 you want to Lee, at least, a minimum of an hour. Why.
25 Don't we take a five-minute break. Let everybody

1 recess and stretch their legs for 5 minutes and then
2 we'll reconvene and open it up to the public.

3 MR. COHEN: Mr. Chairman, the procedure
4 that's been followed in the past, as indicated by Mr.
5 Collins, was that the two attorneys that made
6 appearances would get to ask -- we have not
7 cross-examined, neither myself nor Mr. Dash.

8 Mr. Ford, I'd like that opportunity. I
9 don't know if that's going to be part of the public, if
10 that's going to be separate or how the Board wants to
11 handle it?

12 MR. DASH: Mr. Chairman, if I -- if I
13 can? And I --

14 MR. GOVIN: Mr. Collins, sorry if I'm
15 jumping in but we certainly intend to make all of the
16 witnesses available for cross-examination, specifically
17 for Mr. Cohen and Mr. Dash. Our intention, we want to
18 give the public an opportunity but, probably, after we
19 give the public an opportunity to speak, there's going
20 to be hearing where we just go through cross-
21 examination of people who have not been cross-examined.
22 I believe our architect has not been cross-examined
23 either so we are making them all available but,
24 certainly, Mr. Cohen, I don't want to deprive you the
25 opportunity. We're intending to make them available.

1 MR. EISENBERG: Mr. Chairman? Tom
2 Eisenberg, Sparta resident.

3 You mentioned this hearing, this meeting,
4 will end at 10:00. I think most of the questions are
5 going to be about traffic and so the proposed -- the
6 proposed --

7 MR. COLLINS: Sir? Sir? We closed, sir.

8 MR. EISENBERG: Look at a traffic report.

9 MR. COLLINS: Sir? Sir? Sir?

10 MR. EISENBERG: What?

11 MR. COLLINS: You're not an attorney so
12 please raise your right hand.

13 T H O M A S E I S E N B E R G, first having been duly
14 sworn, testified as follows:

15 MR. COLLINS: And please state your name
16 and address.

17 MR. EISENBERG: Tom Eisenberg, 128 Sussex
18 Mills Road, Sparta, New Jersey.

19 I'm wondering; can we extend this meeting
20 tonight to 1030 and give them the next half hour to
21 present the traffic report because most of the
22 questions are going to be traffic and they're just
23 going to say, "Oh. Hear our traffic. Wait to hear
24 it." I think, in the interest of efficiency, it might
25 make sense to do that, sir. Just my suggestion.

1 Thank you.

2 MR. KOLLAR: That's not going to be
3 enough time from the traffic because I have lots of
4 questions about it. The Board cannot get through the
5 traffic report in less than an hour with allowing the
6 public time to speak.

7 MR. EISENBERG: Okay. You're on the
8 Board?

9 MR. KOLLAR: Yes.

10 MR. EISENBERG: Okay.

11 MR. KOLLAR: So we decide to go your way,
12 then the public will not be allowed to speak tonight.

13 CHAIRPERSON REINA: Yeah.

14 MR. KOLLAR: I don't think that's a good
15 solution.

16 MR. EISENBERG: Okay. I understand.
17 Thank you. Well, that's good. You should ask a lot of
18 traffic questions.

19 CHAIRPERSON REINA: So, Mr. Cohen, I
20 guess, directing it back to your question with regards
21 to cross-examination, I would agree. I think -- we're
22 not going to have time this evening for the direct
23 cross-examination. I absolutely do want to open it up
24 and -- and we are more than happy to have yourself Mr.
25 Dash, any of the attorneys, cross-examination any of

1 the witnesses. What I'd like to recommend is maybe,
2 you know, we -- we start that at in next meeting? I
3 just -- I want to be cognizant of the --

4 MR. COHEN: Mr. -- Mr. Chairman, I have
5 no problem with that. I just -- I know this Board and
6 I don't know how many of you have been long-time
7 members. This is an application that's going to take
8 many meetings.

9 CHAIRPERSON REINA: Agreed.

10 MR. COHEN: I don't know if the Board is
11 considering any special meetings. I just raise that
12 issue but, you know, you're talking about probably
13 another half a dozen meetings.

14 MR. EISENBERG: I have another
15 suggestion, Chairman, if I may.

16 MR. GOUIN: We need to break --

17 MR. EISENBERG: Given all the people here
18 and outside, can the next meeting perhaps be at the
19 elementary school auditorium next to the library?
20 Because it can handle more people and there's a lot of
21 citizens outside that probably would like to be inside
22 so, if you could possible move it to a bigger forum,
23 that would be greatly appreciated.

24 Thank you, sir.

25 (Recess taken)

1 A N T H O N Y R A G N O, first having been duly
2 sworn, testified as follows:

3 MR. RAGNO: Anthony Ragno, R-A-G-N-O, 35
4 North Church Road, Sparta.

5 MR. COLLINS: Please go ahead.

6 MR. RAGNO: So the question was just to
7 clarify more about the operation of the railroad from
8 5:00 p.m. to 5:00 a.m. I think that the question for a
9 lot of people is: Is that the only time that the
10 tractor-trailers would be coming in and out or is that
11 going to be 24 hours?

12 MR. FORD: No. The tractor-trailers
13 typically would come in and out during the day.

14 MR. RAGNO: Right. So then -- okay.

15 MR. FORD: Yes.

16 MR. RAGNO: Okay. Just wanted to clarify
17 that question.

18 Thank you.

19 CHAIRPERSON REINA: Thank you, Mr. Ragno.

20 MS. QUINN: Next up: Scott Fadden.

21 MR. JOSEPH H.: Yes. Hi.

22 My name is Joseph --

23 MS. QUINN: Are you Scott Fadden?

24 MR. JOSEPH H.: He's handsomer.

25 MS. QUINN: Excuse me, sir. Sir? What's

1 your name? I'll add you to the list. What's your
2 name?

3 MR. JOSEPH H.: Joseph H.

4 MR. COLLINS: Sir, please raise your
5 right hand.

6 S C O T T F A D D E N, first having been duly sworn,
7 testified as follows:

8 MR. COLLINS: And please state your name,
9 spell your last name and give us your address.

10 MR. FADDEN: Scott Fadden, F-A-D-D-E-N, 3
11 Terry Lynn Drive, Sparta, New Jersey.

12 MR. COLLINS: Please go ahead.

13 MR. FADDEN: Okay. I'm just having a
14 hard time understanding. We're building a warehouse
15 with 190 bays and we have no idea who the tenant is,
16 what the product is and any of that. I mean, how could
17 you answer any question here tonight without knowing
18 any of those answers to -- to who -- to who the tenant
19 is and what the product is?

20 MR. FORD: And once again, this is a pre-
21 approval for the shell and core of the warehouse
22 operation. There's other processes to come that are
23 managed by the Board, the city and the others, before a
24 tenant occupies, before the type of exact product they
25 use and all that. That is all a future approval

1 process so this is just the beginning of the process.

2 The reason why, in the warehouse business
3 across the country, we need to build a speculative type
4 development, building, we need to get the main part of
5 it up is because, by the time that the warehouser,
6 operator, consumer, company, makes a decision they need
7 warehouse space in this location for a certain reason,
8 we don't have enough time to -- to -- to build it and
9 deliver that product so we need to do a spec warehouse
10 just like in residential, just like in retail. When
11 you did the retail center across 15 north of Wilson
12 Road. The developer didn't know every -- every, you
13 know, operator of the restaurant and those type of
14 things. You need to be approval ahead of time, have
15 the speculative building available and then work with
16 the city on the next steps of identifying who that --
17 that tenant may be, the type of product and get that
18 approved at a -- at a future date so, part of that is,
19 those who are in the trade and understand it is that,
20 the lead time nowadays, because of supply and balances
21 of getting steel, are way longer than -- that it used
22 to be than we did even a year ago. It takes almost
23 twice as long to get steel, roof decking, bar joists,
24 those type of things and roofing materials, you know,
25 TPL, insulation, those kind of things, the lead times

1 on getting that, because it's not available in the
2 market across the country, are drastically longer so we
3 needed to get all that approved so it's, once again, a
4 step-by-step process so, one of which, we're here
5 asking you tonight, is a preliminary site plan approval
6 and then there are three more processes -- actually,
7 more than that, ultimately, with all the DOT approvals,
8 with the DEP approvals that we need to get, it's just a
9 puzzle. It's a step-by-step and just like -- just
10 like, you know, the operation, I talked about the
11 warehouse; it's like -- like a ballet. It's a very
12 intricate, you know, plan that will be presented in a
13 big manual to this Board before anything is approved
14 and actually allowed to move in so I am risking
15 millions and millions of dollars to build this and not
16 even having approval that they would approve the
17 potential tenant. We want to put the building but
18 that's what, unfortunately, we have to do in our
19 business nowadays because of the fact that, as I -- I
20 hope nobody works for Procter & Gamble in the room but
21 I use that as an example, Councilwoman, because they're
22 a big consumer goods company. They make a lot of
23 things that we use every day in healthcare, beauty
24 care, that type of stuff.

25 When they are ready to say "We need a

1 warehouse," they get contacted through our marketing
2 group, our brokerage for us, direct through a direct
3 relationship, and say "We need it in two months" or
4 "three months." Well, to build this, as you know, it
5 going to take 15 months once we actually get our fourth
6 approval, the building permit, before it can even
7 actually break ground and that is also not indicative
8 of the DEP process we need to go through for stormwater
9 management, for -- for -- for all the different aspects
10 of the project, in general, so this is way early on
11 before we identify exactly, you know, who it is but
12 that will be...

13 MR. FADDEN: Yeah. But you're answering
14 these questions tonight as if you know that is true,
15 you know, all your answers to the questions tonight. I
16 mean, you don't know and when you're desperate to rent
17 it to a tenant, you're going to rent it to whoever, you
18 know, you can. You know, it's a gamble building two
19 warehouses with 191 bays and then, when you gamble and
20 you lose, you get desperate and you start renting out
21 to anybody you want, anybody you can and that's the --
22 you know. That's the worry for us is we don't know.
23 The biggest worry in life is the great unknown.

24 MR. FORD: Sure.

25 MR. FADDEN: Right or wrong?

1 MR. FORD: Totally agree.

2 MR. FADDEN: So that's our problem.
3 We're out here. We don't know and guess what? We've
4 got to live with all this. We've got to live with is
5 every day.

6 (Applause)

7 MR. FADDEN: And that's the truth.
8 That's the only answer that was true tonight.

9 Thank you.

10 (Applause)

11 MS. QUINN: Next person up is Bill Rizzo.
12 Bill Rizzo?

13 MR. COLLINS: Mr. Rizzo, please raise
14 your right hand. You're right hand, please.

15 MR. RIZZO: I'll raise my left.

16 MEMBER OF THE PUBLIC: Oh. Jesus.

17 MEMBER OF THE PUBLIC: My God.

18 B I L L R I Z Z O, first having been duly sworn,
19 testified as follows:

20 MR. COLLINS: And please spell your last
21 name and give is your address.

22 MR. RIZZO: R-I-Z-Z-O, 45 Mill Brook
23 Road, New Vernon, New Jersey.

24 MR. COLLINS: I'm sorry. Please state
25 your name.

1 MR. RIZZO: Philip Rizzo.

2 MR. COLLINS: Thank you.

3 Please go ahead.

4 MR. RIZZO: I think it's important, as I
5 sit and I listen to this, I'm a former resident of
6 Sparta for 11 years. I lived in an area near the
7 Sparta Athletic Club which was south of the proposed
8 area. Our main business office is up in Hamburg and,
9 even though I moved out of Sparta now, even five years
10 ago plus, many times I found myself going past the high
11 school and snaking back through that way to get out to
12 Route 94 because of the bottleneck traffic that was
13 already existing from going from two lanes to one lane
14 and this is even pre the Shop Rite development that's
15 been built there and so I've watched this happen along
16 the time and so, three generations in, I am not
17 antidevelopment.

18 That is our family's business as well.
19 The three industrial buildings at the base of Route 15
20 and Route 80 where Grainger was, for a number of years,
21 our family built back when I was just born and so I'm
22 not opposed to development and things like that but, as
23 I watch this and as a former resident understanding the
24 traffic, I think what the major concern here is -- just
25 going to be echoed now -- like the other gentleman just

1 spoke before me, is the great unknown and I feel that
2 the pulse in the room tonight is the anxiety of not
3 knowing what this is going to do to families.

4 People move out to Sussex County,
5 including myself when we moved out here in '04, for
6 space, for green, for this town and I guess my question
7 is not in a derogatory way but -- but what would be the
8 purpose, in a community like Sparta as this being the
9 identified location, when there are a lot of areas off
10 of Route 80, even from 15 towards Pennsylvania, a more,
11 you know, open thoroughfare than up Route 15 and near
12 Route 94 with all this residential where there's
13 already a congestion issue? I guess that's my -- my
14 basic question for tonight: How did we identify this
15 location?

16 (Applause)

17 MR. FORD: Number one is: Because the
18 use had been approved for years.

19 MEMBER OF THE PUBLIC: Nope.

20 MR. FORD: It has been and it's been an
21 existing, you know, construction materials operation
22 for, what I have been told, you know, well over 50
23 years. It used to be, actually, a mine as well so when
24 you think about the amount of truck traffic, which our
25 expert will get his traffic impact study, that amount

1 of truck traffic that presently comes in and out and
2 with other users but I'll be specific to our property
3 and the area, with, you know, dust and sand and those
4 type of things, we truly believe that this is a much
5 more cleaner and efficient operation to -- to the
6 community. We believe that it's going to create a
7 great tax base for the community. It will create, you
8 know, jobs and opportunities for the community so I --
9 I'm the first to understand and I've been doing this
10 for so long that, you know, the unknown is scary.
11 Total acknowledge and admit that and understand it but
12 that's how I feel as a person, an individual as well,
13 totally understand that change is scary for people.
14 It's scary for me too in life but, as you said, you
15 know, your business and your family, we understand
16 that, you know, it's effective of what we, as
17 consumers, how we buy, how we spend and all those types
18 of things, an evolution of supply chain.

19 So, ultimately, to answer your question
20 about the type, the type is because I am a big believer
21 that rail is a big benefit for reduction in traffic and
22 emissions and those types of things. You know, our
23 federal government alone has mandates that are coming
24 out. We can't control those. I can't. Your Senator,
25 your Congressperson can control this but there are

1 mandates coming out about -- about the emissions
2 reduction standards, those types of things, and I have
3 worked with the railroads for over 30 years and I'm a
4 big believer that they are a benefit for reduction in
5 our -- you know, the dire need for roads being rebuilt,
6 widened, all those type of things and you're right. At
7 points, I drive it all the time now, presently, since
8 the past year, you know, that I've been involved is
9 that understanding that -- that we get further down
10 south towards 80, it gets worse. You're right.

11 MR. RIZZO: Sure.

12 And so -- so just, the rail, is the
13 ultimate answer to that question is the rail and you
14 mentioned the federal and so, as you mentioned that,
15 I'm currently a candidate to run for Congress in the
16 7th District which coverers Sparta and this area and so
17 I -- I would like to keep a close watch on this, not
18 only because it's going to affect my commute to the
19 Hamburg office that we have, not so much as a resident
20 anymore but to look out for my future constituents.

21 So thank you for that. I appreciate it.

22 (Applause)

23 MS. QUINN: Next is Jill Snyder [sic] --

24 MS. SYDOR: Sydor.

25 MS. QUINN: Sydor. Sorry. S-Y-D-O-R.

1 I'm so sorry.

2 MS. SYDOR: It's okay. Yep.

3 MR. COLLINS: Please raise your right
4 hand.

5 J I L L S Y D O R, first having been duly sworn,
6 testified as follows:

7 MR. COLLINS: Please state your name and
8 spell your last name and give us your address.

9 MS. SYDOR: Jill Sydor, S-Y-D-O-R, on 25
10 Fox Hollow Road, Sparta.

11 MR. SYLVESTER: Just a little closer to
12 the microphone.

13 MS. SYDOR: Is that better? Should I
14 repeat that or are we good?

15 CHAIRPERSON REINA: No, I think you're --
16 you're good.

17 Specific question?

18 MS. SYDOR: Yes.

19 The historical traffic flow from that
20 area versus what the forecasted traffic flow is for
21 that area, is that information -- I would think,
22 historical, we would have an idea, like, the volume
23 that goes through that area historically?

24 CHAIRPERSON REINA: Yeah. Those -- so as
25 part of the traffic assessment, as part of the traffic

1 study, we'll hear, in the future evidence, both, from
2 the Sparta Police Department with regards to traffic
3 flow expectations as well as the impact study that was
4 done for -- for this project.

5 MS. SYDOR: Okay.

6 CHAIRPERSON REINA: So that -- that is
7 our next -- our next witness, the traffic component,
8 so, if it's a traffic-related question, I would ask you
9 to hold off just until we get to the evidence of it so
10 is your question: Do we have an existing idea of what
11 that traffic looks like today or is it more implied
12 towards what this will look like if this project were
13 to be included?

14 MS. SYDOR: The next question is the
15 delta on traffic volumes so, yes, do we understand what
16 historical has been and do we have a line of sight into
17 what is forecast? Because I would think forecasting
18 would be one of the underlying assumptions for design
19 and that's my question.

20 And, yes, you mentioned that we had to
21 wait for a traffic study so I thought, if we had the
22 people here, I might as well, you know, take the
23 opportunity.

24 Thank you.

25 MR. KOLLAR: The traffic study is

1 available on our website in PDF form so the public can
2 read it.

3 MS. SYDOR: I -- I have gone through the
4 traffic study and I'll tell you; it is dense and that's
5 why it's helpful; if the people are here, I take the
6 opportunity.

7 CHAIRPERSON REINA: There is -- there is
8 an updated one. I would ask -- so it's a great
9 question and I think it's a question we all have with
10 regards to what is the traffic impact going to be today
11 versus what it is in the future if this goes through?

12 MS. SYDOR: Right.

13 CHAIRPERSON REINA: And it's a lot of --
14 a lot of the questions that have been raised throughout
15 the community, I know, we've have a ton as it relates
16 to the Board in terms of how is the impact analysis
17 done? What does it mean? What does that mean for the
18 residents? That then leads into the environmental
19 component so, respectfully, I would ask that if -- if
20 we're going to talk about the traffic component of it,
21 let's raise those questions after we had an opportunity
22 for the witnesses to present their evidence.

23 MS. SYDOR: Okay.

24 Thank you.

25 MS. QUINN: Okay. Next up: Beth

1 Broderick.

2 MR. COLLINS: Beth, will you raise your
3 right hand?

4 B E T H B R O D E R I C K, first having been duly
5 sworn, testified as follows:

6 MR. COLLINS: Please state your name,
7 spell your last name and give us your address.

8 MS. BRODERICK: Sure.

9 Beth Broderick, B-R-O-D-R-I-C-K, 18 North
10 Shore Trail, Sparta.

11 My question is: We keep hearing that you
12 don't know who the tenants are going to be and what's
13 going in there but my question is: Why are you
14 building a warehouse if you don't know what's goes in
15 and what happens if you don't fill it? Are we going to
16 be stuck with a big, ugly eyesore right on Route 15
17 right in the middle of farmlands that have been there
18 since dating back to when I moved here in 1979.

19 CHAIRPERSON REINA: So, Ms. Broderick, I
20 would say that's -- so it's a general question with
21 regards to whether or not or what's the purpose which,
22 I think, Mr. Ford had addressed in the previous
23 question.

24 MS. BRODERICK: But if it's going to stay
25 vacant, are we going to be looking at this big, ugly

1 thing that's going to turn into a big graffiti
2 collection and God knows what else. I mean, we --

3 CHAIRPERSON REINA: I don't know that
4 anybody could make that argument or assessment right
5 now without knowing -- I don't suspect Mr. Ford or
6 anybody would invest in this sort of a property without
7 having an idea or looking to actually get it so it's a
8 useable piece of property.

9 I think, if -- if the question is: Is
10 there potential for this to be left as an abandoned
11 property where there is graffiti or things like that?
12 I -- I don't think that would be the case and that
13 would be an issue, obviously, for the town as well.

14 MS. BRODERICK: So then, does the town
15 have a plan to say "Hey"? You know, is there a vested
16 interest? Like, "Okay. We're going to make sure that
17 this doesn't become an eyesore if this big 880-
18 whatever --

19 MR. COLLINS: Mr. Ford, why don't you try
20 to answer Ms. Broderick's general question.

21 MR. FORD: Mr. Chairman, I think that's
22 completely fair and thank you, Counselor Collins.

23 Number one is that, in our business,
24 fully understand that there is demand tenfold of this
25 type of space for just this immediate area and in this

1 part so we're very committed to and very much so
2 confident that it will not stay vacant in nature but it
3 does go on the tax roll when it's complete immediately
4 so that starts, number one.

5 And then, number two, I am new to this
6 community so, if anybody wants to say, you know, I'm
7 from somewhere else, that's true. That's a fact.
8 Okay? My partners are not, though, and I think that a
9 lot of people view this as an open field, a cornfield,
10 whatever it might be or a cornfield. This has been,
11 for dozens and dozens of years, an existing, ongoing
12 mining operation. Our property -- thank you.

13 MR. GOUIN: For the record, this is --
14 this is --

15 MR. FORD: Our proposed property for
16 development --

17 MR. GOUIN: Hold on one second.

18 For the record, we're referring to A-1
19 which was marked at the previous hearing.

20 MR. FORD: The property that we are
21 looking to develop, right, is a quarrying operation
22 with an existing Redi-Mix plant. My partner is here.
23 Okay? That is -- before he and his partners even began
24 operating there was, for years for -- what was the
25 gentleman's name in the operation? Bob Walden, who was

1 a resident of this community forever, ran the same
2 operation for years and years and years. This has been
3 a permanent, ongoing operation in the form of
4 construction materials so, really, it's a distribution
5 point that's been forever and, when our traffic
6 engineer, at a future date, Mr. Chairman, can explain
7 all those details, you will understand that I am a firm
8 believer, to everybody, in fairness, in this room, that
9 change is scary but we will show you --

10 MEMBER OF THE PUBLIC: Oh. Stop.

11 MR. FORD: -- that -- that --

12 Can I finish, please? She asked a
13 question and I'm answering her question.

14 There are plenty of trucks and activity
15 that's happened for years and years and years that some
16 of you or not all of -- maybe not all of you actually
17 see or recognize that has been occurring here for a
18 long time.

19 MEMBER OF THE PUBLIC: This is pandering,
20 sir.

21 CHAIRPERSON REINA: Excuse me. Could you
22 please wait your turn?

23 MR. FORD: This is, once again, our
24 property, the only property that's in question here and
25 it's been an ongoing operation. It's not an open

1 field. There are open field ahead of it. That, I
2 understand. Okay. That is farmland that's closer to
3 15. That's not our property we have no rights of that,
4 we have no discussion over that. Whatever happens to
5 that property is up to this Board. It's not up to us.
6 We have no control over that and we're not asking for
7 any of that whatsoever.

8 MS. BRODERICK: Okay. So can I ask a
9 follow-up question then? Since you've stated that
10 you've done this, you've been doing this for quite a
11 while, how long does it usually take for you to fill a
12 building? Because you're going to build this and then
13 tell us, well, it's going to take, you know, extra time
14 to get the steel and extra time to do this and then,
15 when you finally get tenants in there, it's going to
16 modifications but it's still a big building and we
17 don't know how long it's going to take and it's -- is
18 this going to benefit the town and the taxes and stuff
19 like that but it's still a big empty building and you
20 don't know what's going to go in there and how long
21 it's going to take.

22 MR. FORD: Well, once again, the -- the
23 type use, as I said, consumer goods, that type of
24 stuff.

25 MS. BRODERICK: Is it going to be Amazon?

1 Do you think?

2 MR. FORD: No. I'll be honest with you;
3 I -- I -- I worked with Amazon in other parts of the
4 country. I do not want them as a tenant for an
5 investment in this building.

6 MR. HERTZBERG: Can we also be clear that
7 it's not a permitted use?

8 MR. FORD: It is.

9 MR. HERTZBERG: So it would not be
10 allowed.

11 MR. FORD: I will state to everybody, as
12 a developer, I'll publicly state to everybody: This is
13 will not be an Amazon use with hundreds of vans coming
14 to your house or whatever. That's elsewhere or
15 whatever they allow to do that. I don't even know
16 around here where the last-mile facility is.

17 MS. QUINN: Not here.

18 MR. FORD: Okay. So I would --

19 MR. HERTZBERG: A lot of questions are
20 surrounding it and I just want to say it again and be
21 very clear: Are not going to any approve tenant to
22 point to sale warehouse.

23 MR. FORD: Right.

24 MR. HERTZBERG: Storage, where things sit
25 there for however long time, that's all that's allowed.

1 That's all that's in a permitted use so, if any
2 warehouse was approved, it's got to be storage and it's
3 got to be wholesale. Any point of sale, UPS
4 warehouses, Amazon warehouses --

5 MR. FORD: Not permitted.

6 MR. HERTZBERG: -- that's not going to be
7 permitted, not going to be allowed.

8 MS. BRODERICK: Or like a Walmart
9 distribution center or anything like that?

10 MR. COLLINS: They're not allowed. Those
11 are not allowed in the ordinance.

12 MS. BRODERICK: Okay. Great. Because I
13 don't know. I work in healthcare. I don't know any of
14 this stuff so...

15 MS. QUINN: Right. So that's why we want
16 to make sure that everyone feels -- it is not permitted
17 by our current ordinances. It's not allowed.

18 MS. BRODERICK: All right. I know you
19 guys have a lot of other questions.

20 MS. QUINN: Next up is Shirley Miller.
21 Shirley?

22 MR. COLLINS: Shirley, please raise your
23 right hand.

24 S H I R L E Y M I L L E R, first having been duly
25 sworn, testified as follows:

1 MR. COLLINS: Please state your name and
2 address and spell your last name, please.

3 MS. MILLER: Shirley Miller, M-I-L-L-E-R,
4 392 West Shore Trail, Sparta.

5 So a couple of questions just, in that, I
6 feel like I've heard and I realize that's it's
7 speculation. You don't know who the tenant is. I feel
8 like I've heard some conflicting answers tonight to
9 various testimony so one question would be: I know
10 we've said that, you know, the fact that part of the
11 movement of goods would be by railroad is the great
12 panacea, better for the environment, etc. Is it a
13 guarantee that a tenant coming in, while the rail,
14 obviously, being right there is attractive, is that a
15 requirement for the tenant that they have to use rail
16 or could it be truck both directions?

17 MR. FORD: It is -- no, it is by the
18 ordinance. No, there could be inbound truck and there
19 could be outbound truck but it is by the ordinance
20 guaranteed that there has to be a rail use for this
21 property so that limits -- once again, I'll give you an
22 example.

23 Somebody asked about Amazon. I'll give
24 you all the -- to understand this. Amazon does not
25 move any of their freight last-mile, storage, packaging

1 any of that kind of stuff, by conventional rail. They
2 move by trailer truck which some people call "inner
3 motorail." Okay? But it's an intermodal truck
4 movement. This is not an intermodal facility. It's
5 not approved. It's not approved for those type of
6 operations --

7 MS. MILLER: Okay.

8 MR. FORD: -- but, that's, by the
9 ordinance, it's required that any tenant that goes in
10 this building has to use the rail.

11 MS. MILLER: And is there a percentage of
12 goods that have to move by rail?

13 MR. FORD: No, there's not a percentage
14 that --

15 MS. MILLER: So they could do one rail
16 car every six months and they would make the
17 requirement?

18 MR. FORD: And, once again, when we get
19 to the point of introducing a tenant to staff and to --
20 to the Council, that is up to their approval to -- to,
21 you know, to walk through that operation and understand
22 the amount of rail volume.

23 MS. MILLER: Okay. Thank you.

24 I also heard, at some point during the
25 testimony, that it was highly unlikely that this would

1 be a three-shift operation but, yet, the railcars
2 operate from 5:00 p.m. to 5:00 a.m.

3 MR. FORD: That's right.

4 MS. MILLER: And the trucks will move
5 during the day.

6 MR. FORD: That's correct.

7 MS. MILLER: So it's hard for me to see
8 how it won't be a 24-hour operation.

9 MEMBER OF THE PUBLIC: Because he's
10 lying.

11 MR. FORD: Well, the railroad that
12 switches, as a said, from, like, 5:00 p.m. to 5:00
13 a.m., as I've mentioned, that's typically a two-man
14 crew. Now, in certain circumstances, maybe they have a
15 third person on for safety whatever it might be.
16 That's up to the rail to determine but, when the
17 railroad is taking the empty cars out and moving the
18 new ones in, there's nobody even in the warehouse.
19 They don't need access to the inside of the building.
20 They don't need a manager whatever to count those cars.
21 They have an agreement with the railroad and, very
22 often, they -- switch them when nobody is even present
23 on the premises whatsoever.

24 MS. MILLER: Okay. And that -- I
25 understand but if there's an increase in rail traffic

1 as a result of an additional 880,000-square-foot
2 facility, that increase is going to be between 5:00
3 p.m. and 5:00 a.m. and then we'll have the truck that
4 are delivering the goods or taking the goods during the
5 day.

6 MR. FORD: That's my -- my experience is
7 typical, correct.

8 MS. MILLER: Okay. One other
9 clarification that got touched on with the last
10 question. Does a logistics center or a fulfillment
11 warehouse meet the spec of the ordinance or is that a
12 -- fall under a different definition?

13 MR. FORD: No. Fulfillment warehouse
14 would be Amazon and it does not fall under -- it is not
15 approved and does not fall under the definition of a
16 "warehouse."

17 MS. MILLER: Okay. Well, there's a lot
18 of other types of fulfillment centers besides Amazon.

19 MR. COLLINS: The ordinance does not
20 allow any -- any -- anything other than warehouse and
21 wholesale distribution and does not allow retail
22 distribution so there can be no delivery to the retail
23 purchaser, the home, etc., from any warehouse in Sparta
24 including this.

25 MS. MILLER: Okay. So it couldn't be --

1 it couldn't be UPS tractor-trailers --

2 MR. FORD: No.

3 MS. MILLER: -- filling up --

4 MR. FORD: Correct.

5 MS. MILLER: -- to move goods.

6 MR. FORD: No. No.

7 MS. MILLER: Okay.

8 So -- and then, the other thing that I
9 just want to --

10 MR. COLLINS: Can we go back, madam --
11 ma'am? You asked a question that implied an answer
12 that I don't think Mr. Ford intended. You asked and
13 answered of whether there'd be increased rail traffic
14 and his prior testimony was, actually, that he's just
15 going to use the existing rail shipments and they will
16 be stored on the nearby Sparta Junction and moved to
17 his site as need. He didn't actually state earlier
18 that there would be new, additional train trips to the
19 area so, if you thought he was saying that, I'd like to
20 hear Mr. Ford confirm that he does not expect new,
21 additional train trips to Sparta as a result of his
22 warehouse.

23 MS. MILLER: Okay. I -- that's not what
24 I heard him say.

25 MR. COLLINS: Okay. So you agree that he

1 didn't -- so -- I'm sorry. I want to make sure what
2 you ask him so...

3 MS. MILLER: Yeah. What I'm trying to
4 understand is --

5 MR. COLLINS: What you asked him implied
6 additional train trips to the area and I never heard
7 him say there will be additional train trips to the
8 area so maybe he could elaborate on how he --

9 MS. MILLER: Okay. My question was: If
10 we don't know the tenant, potentially, there could be.
11 We don't know the answer to that.

12 MR. FORD: Could be what?

13 MS. MILLER: Additional trains.

14 MR. COLLINS: She means additional trains
15 moving on the rail to Sparta from another place just
16 because you have a warehouse there.

17 MS. MILLER: I'm asking -- I don't -- I
18 don't -- do we agree it's not a question that we can
19 answer if we don't know who the tenant is.

20 MR. FORD: The way this facility is
21 designed and what its capabilities are is not for full
22 train loads. It's not. That -- that's hundreds of
23 cars. The -- the job of the railroad is to move a
24 "full-unit train" as they may call it, or a full train
25 which is comprised of hundreds of cars, different types

1 of cars, boxcars, hopper cars, well cars, cars for
2 grain, cars for corn syrup that's a, you know, closed
3 tank, whatever it may be, cars for the propane that
4 switches presently right now, cars for anything so all
5 that is all manifest trains. It's all different types
6 of car make up. That train is built elsewhere,
7 Syracuse, down by the port, whatever it might be, built
8 elsewhere. It's switched from, typically, the bigger
9 railroads, like the CSX Newark, then it gets to the
10 NYS&W. That is a transfer yard switch location which
11 is not here. There are no --

12 MS. MILLER: Right.

13 MR. FORD: -- interchange points at the
14 CSX or the NYS&W in Sparta, period. Then, they bring
15 that large group of cars -- grouping of -- of cars,
16 hundreds typically in nature. They bring it to Sparta
17 Junction yard or a close-by facility, depends on the
18 volumes, whatever that traffic may be, to serve
19 multiple customer. We're only one of that -- of those
20 customers.

21 Then, at night, from 5:00 p.m. to 5:00
22 a.m., they break down that train into the cars in the
23 form of a maximum of 16 because that's what we have
24 room for. They pull the empties out. They put the new
25 ones in and, until all those 16 are empty, they don't

1 come back with a live load and, in fact, the reality is
2 that, this type of operation, in my 30-year career of
3 doing this, this isn't like a daily train coming to our
4 building. This would be a weekly type train, maybe
5 biweekly. I'm being completely transparent. You know,
6 this is not, like, daily you're seeing full trains
7 because of this development crossing anywhere on that
8 track, crossing Demarest, crossing Lime Crest, crossing
9 15, that's, in effect, coming from us because that's
10 how the railroad operates. It brings in a big train
11 that's broken down to individual units. Some go to the
12 propane guy right next door, have been for years; some
13 go to the sugar operation, have been for years, and
14 some would come to us and -- and have been for years in
15 a smaller capacity and, once again, once we get an
16 operating plan from a proposed tenant that's part of
17 the operating plan. It's a big manual they have.
18 Bring -- bring the manual and -- and it's proposed to
19 this Board. They understand that but it's got to get
20 approved by life safety, so you've got the Fire
21 District and the fire involved, police department,
22 everybody involved.

23 CHAIRPERSON REINA: So, Mr. Ford, I just
24 want to be sensitive to the other questions.

25 MS. MILLER: Yeah.

1 CHAIRPERSON REINA: Does that address
2 your question?

3 MS. MILLER: Yeah. But around that --
4 so, to that point, I know you mentioned, a couple of
5 times, I think, tonight about you have a tenant who has
6 bottles that have been sitting for over a year. Would
7 you agree that, again, it's tenant-dependent and I did
8 a quick search on Google that says, in most industries,
9 warehouse turn would be four to six times per year, not
10 the goods -- not the goods --

11 MR. FORD: I'm not sure I understand.

12 MS. MILLER: If your goods are sitting
13 for a year, it doesn't sound like you have a healthy
14 business or a healthy tenant.

15 (Applause)

16 MS. QUINN: I'm going to also just ask
17 you to be mindful, with no disrespect, but, just to be
18 mindful, we have 14 more people --

19 MS. MILLER: Sure.

20 MS. QUINN: -- that are in line so I
21 don't know if this is going to be something that will
22 really be able to be answered or not but I just wanted
23 to take quick break. You know, I want a little bit of
24 a place of where we are. We're trying to give
25 everybody the floor and we have 14 people left to

1 speak.

2 MS. MILLER: Okay.

3 MS. QUINN: So, I mean, I mean no
4 disrespect --

5 MS. MILLER: Nope. That's fine.
6 Thank you.

7 MS. QUINN: -- but I don't want to run
8 out of time but thank you.

9 (Applause)

10 MS. QUINN: Okay. Next up is Ron
11 Peoples.

12 MR. COLLINS: Ron, please raise your
13 right hand.

14 R O N P E O P L E S, first having been duly sworn,
15 testified as follows:

16 MR. COLLINS: Thank you, Mr. Peoples, and
17 please state your name, spell your last name and give
18 us your address.

19 MR. PEOPLES: Ron Peoples, P-E-O-P-L-E-S.
20 I live in Fiddlers Hollow, 35 Fiddlers Way, Lafayette,
21 New Jersey.

22 So I have comments and then a couple of
23 questions.

24 CHAIRPERSON REINA: So if we can
25 concentrate on any questions because, again, this is --

1 the purpose of this portion of it is --

2 MR. PEOPLES: The comments are directly
3 tied in with the questions so it's -- it's setting the
4 stage.

5 CHAIRPERSON REINA: As long as it's
6 questions.

7 MR. PEOPLES: Absolutely.

8 So just -- just so you know, I -- I --
9 you know, living in Fiddlers Hollow, I guess, one of
10 the concerns that, you know, I just want to state is
11 that it is getting to the point where traffic is
12 increasing and it is getting dangerous and the people
13 in Fiddlers Hollow, which is half Sparta and half
14 Lafayette, there're people now who are telling their
15 kids, including me, and telling my wife: There's no
16 way that you need to take a left out of Fiddlers Hollow
17 and go in to go towards Demarest to 15 because you
18 cannot get out, no way, at parts of the day. The
19 traffic is getting that bad. You cannot take a left
20 onto 15 going north. You cannot do it. It's -- it's a
21 safety hazard.

22 But my biggest concern is that the safety
23 hazard coming north up 15 trying to take a left onto
24 Demarest. Now, my concern is that you can't take a
25 left because people will try and go around you. I tell

1 my wife: If you do this 1,000 times, you're going to
2 get hit from behind once. All right? So we'd say,
3 "Look. Go around, go to Lime Crest, go around, go to
4 the light, at least you have a light where you get on
5 which leads me to my question.

6 I hear that there's been -- you know,
7 there's been, you know, traffic studies. Is -- is
8 there a traffic study that has been done by Sparta or
9 is Sparta just going to -- or are they going to conduct
10 one or are they going to listen to someone else who has
11 a vested economic interest --

12 (Applause)

13 MR. PEOPLES: -- and take their word for
14 a traffic study?

15 And in addition to that, two parts, is
16 there going to be a safety assessment? Because, since
17 -- since the you know the grocery store has come in,
18 there's been significant amount of additional traffic.
19 I'm just seeing it now. It's getting to the point
20 where there's got to be a safety assessment done, not
21 just, you know, a traffic study. They're focused on
22 safety aspects.

23 So I'll pause there for -- and those are
24 answers -- those are questions to the Board.

25 CHAIRPERSON REINA: Thank you.

1 So, Mr. Peoples, let me address the -- I
2 guess, the first question as it relates to the traffic
3 study so, the question with regards to do we conduct a
4 traffic study, it may very well be this Board requires
5 a separate, independent traffic study.

6 (Applause)

7 CHAIRPERSON REINA: We had not had an
8 opportunity to listen to the traffic study. We have
9 not heard the testimony from it. Again, I think
10 there's a lot of questions, similar to the audience,
11 that we've got as it relates to the traffic study and
12 -- and if the Board feels as though there are missing
13 pieces or it's not an adequate study, we will, in fact,
14 issue or require a separate study.

15 (Applause)

16 MR. HERTZBERG: Can I add to that?
17 Because it's not just the Board. You know, we're put
18 on here as representatives of the people to look at
19 this stuff. We have our own traffic experts, trained
20 traffic experts, to look at it. Just like Drew said,
21 they'll go through the report -- somebody have a
22 comment?

23 MEMBER OF THE PUBLIC: I do. I do.

24 MR. HERTZBERG: So -- so they'll --
25 they'll go through this and, like Drew said, if there

1 is inadequacies in the report, our experts will point
2 that out and, if we require to look at it, we will.

3 MR. PEOPLES: Would the Town of Sparta
4 consider an independent third party to come in and
5 actually do the traffic study?

6 (Applause)

7 MR. HERTZBERG: I think we already
8 answered that question.

9 CHAIRPERSON REINA: Yeah.

10 MR. PEOPLES: The answer is yes?

11 CHAIRPERSON REINA: Yeah. The answer is:
12 If we find that there's deficiencies and that we're not
13 satisfied with the traffic study that was completed and
14 we're not satisfied with the testimony, we do have the
15 authority I believe --

16 Tom, correct me if I'm wrong.

17 -- to order or to request an independent
18 traffic study.

19 MS. QUINN: I think this is separate and
20 apart. If I'm understanding what you're saying,
21 though, you're saying, right now, currently -- and
22 believe me. I'm on Route 15 too, same thing. You
23 know, I understand what you're saying. Right now, we
24 can -- you know, you're saying that the traffic on
25 Route 15 is problematic, it's dangerous and whatnot.

1 That has nothing to do with this.

2 MEMBER OF THE PUBLIC: Oh. Yes.

3 MEMBER OF THE PUBLIC: Oh. Yes. It
4 does.

5 MS. QUINN: Just a minute, please. Right
6 now, today --

7 MEMBER OF THE PUBLIC: Trucks coming in
8 there.

9 MS. QUINN: Hold on a minute.

10 Right now, today, I'm hearing him say
11 that there are issues with Route 15 that are dangerous
12 so what I'm saying here is that Route 15 is not -- so
13 not to defend or anything like that. If you have
14 concerns you absolutely should bring them forward
15 today. Don't wait for this application. Don't wait
16 for anything else to get built. Talk to the state.
17 Talk to maybe Steve's office. Don't wait for more
18 stuff to happen. Your concern is right now. You know
19 what I mean?

20 MR. PEOPLES: I do understand what you're
21 saying.

22 MS. QUINN: So I'm saying, you know --

23 MR. PEOPLES: I guess -- I guess, just to
24 expand on that, I -- I understand what you're saying.
25 I, 100 percent, agree.

1 The one, just, point of clarification is
2 when you were talking about a traffic assessment or,
3 you know, a safety assessment. I know that the Board,
4 the town, can, all right, bring out, you know, hire a
5 third party for a traffic assessment. I guess I'm
6 asking: Will you? Given the number of people who have
7 concerns about what's going on with traffic and things
8 along those lines, will you?

9 CHAIRPERSON REINA: Yeah. Mr. Peoples,
10 again, I fully agree and understand what you're saying.
11 I think you're asking if there's going to be an
12 independent and if we have the authority do to it and
13 my commitment to you and, I think, on behalf of the
14 Board is: We need to get through the testimony. We
15 haven't heard any of the testimony around the traffic
16 yet so it's -- it's impossible for us to say yes or no
17 until we have an opportunity to go through, cross-
18 examine and have that opportunity to go through the
19 traffic report with, you know, with the defendant or
20 with the -- with the applicant. It's impossible to
21 answer so is your question: If -- if we're not
22 satisfied with it, will we order one? Yes.

23 MR. PEOPLES: So just to make sure that
24 I'm clear, I guess I'm not looking for if Sparta is
25 satisfied with it. I think it's so important that,

1 when you're making a decision of this magnitude, it's
2 not if I'm satisfied and I've read it and I've looked
3 at it and I've had my experts look at it. I think
4 it's, like, this is a no brainer to support the
5 community. It's got to be done.

6 (Applause)

7 MR. PEOPLES: And so I want -- do you
8 agree with that, that this so important that this
9 shouldn't be an if or then or a potentially. It should
10 be: Yes, we as the Board will support so the town
11 needs to support it. That's what I'm looking for but
12 -- I mean -- so...

13 (Applause)

14 MEMBER OF THE PUBLIC: That's it, Ron.

15 MS. QUINN: That's what he said. That's
16 what's he just said.

17 MEMBER OF THE PUBLIC: He said if he's
18 not satisfied. He didn't say yes. Just say yes;
19 you'll get an independent study.

20 MEMBER OF THE PUBLIC: You have the
21 report.

22 MS. QUINN: He said he has to hear the
23 testimony.

24 MEMBER OF THE PUBLIC: It doesn't matter.
25 You should still get one for us anyway.

1 MEMBER OF THE PUBLIC: The taxpayers want
2 a study.

3 MR. PEOPLES: So I can see that that's
4 not going to get answered; however, I do have another
5 question.

6 CHAIRPERSON REINA: Well, I want to be
7 clear so I have answered it several times so, if you're
8 -- if you're asking me for a yes-and-no answer --

9 MR. PEOPLES: Yes.

10 CHAIRPERSON REINA: -- when we not
11 received any -- we have not gone through any testimony
12 so, Mr. Peoples, I understand what you are saying and I
13 understand your frustration but also have to look at it
14 in the context of these proceedings. This is not me,
15 as an individual, saying, "Yes. I want a traffic
16 study." This is the Board, after testimony, putting
17 certain conditions and certain reviews upon -- after
18 the evidence is presented so this is not me, as an
19 individual, or anybody else on this Board saying yes or
20 no. They all have their own independent. I can tell
21 you my position and I'm -- I'm happy to have a
22 conversation with you after this and share with you,
23 you know, that piece of it but, at the end of the day,
24 I will not give a yes -- I can't give you a yes-or-no
25 answer because I have not heard any testimony yet.

1 MR. PEOPLES: Okay.

2 I guess the -- my follow-on question to
3 that is: The roads that are going to be accessing this
4 warehouse. Right now, the Redi-Mix, they come in
5 through Lime Crest. They can't come in through
6 Demarest, my understating is, because there's a sign,
7 as soon as you take a left on to Demarest, that it's X
8 -- X tonnage cannot go through which any 18-wheeler is
9 going to exceed.

10 Are the only access points going to be
11 Lime Crest coming from both sides to this or are they
12 going leverage Demarest or change Demarest or anything
13 like that to -- or Wilson or whatever.

14 CHAIRPERSON REINA: So my understanding
15 is the access points are Demarest, Route 15 -- I'm
16 trying to think -- Houses Corner you have out there so
17 you've got Lime Crest so if you're asking: Will we
18 change Wilson Drive or maybe I'm not fully
19 understanding the question?

20 MR. PEOPLES: Or Demarest. Are they
21 going to be expanded or anything so that there's
22 another way that those trucks can access this -- that
23 building?

24 MS. QUINN: Wilson? No. 15 is.

25 MR. COLLINS: Why don't you let the

1 applicant answer the question?

2 MR. GOUIN: Yeah, we can answer that.

3 MR. COLLINS: Well, why don't you let
4 your engineer answer it?

5 MR. GOUIN: Yeah. I will. I'm going to
6 let our engineer answer it. I'm going to put up our
7 Exhibit A-2 is and I'll bring up Tony Diggan to answer
8 the question.

9 Tony?

10 MR. COLLINS: Mr. Diggan, you are still
11 under oath. Do you understand that?

12 MR. DIGGAN: I do.

13 So can you clarify the question? The
14 access points?

15 MR. FORD: Point of ingress, egress.

16 MR. DIGGAN: So the main points of
17 ingress, egress, we are, obviously, off Demarest Road
18 to Lime Crest to Route 15.

19 MR. PEOPLES: So Demarest would be
20 leveraged to get trucks to the -- to this warehouse?

21 MR. DIGGAN: Demarest Road, absolutely,
22 would have to be used to get trucks to this warehouse?

23 MR. FORD: Stop. Stop. I will answer
24 the question.

25 MR. COLLINS: No, no. Mr. Diggan should

1 answer.

2 MR. FORD: Okay. Fine.

3 MR. COLLINS: Mr. Diggan, though, Mr.
4 Peoples is asking you: Will Demarest Road be used out
5 to Route 15 by the residential development that he
6 lives in or will it honor the same restriction that
7 apparently applies to Redi-Mix for their concrete
8 trucks and not use Demarest Road from Route 15 to the
9 site along -- in front of Mr. Peoples' residential
10 development that he described to you earlier so can you
11 answer that? Is it -- is it -- are you going to be
12 sending trucks to and from Demarest to Route 15 by Mr.
13 Peoples' residence and his residential neighborhood.

14 MR. DIGGAN: No, we will not. We will
15 honor the patterns that are there today.

16 Thank you for the clarification.

17 MR. PEOPLES: Thank you.

18 And my final part of this question is
19 directly across from the Sparta Shop Rite, if you go
20 directly across it, there is an opening that looks like
21 it's potentially built for a road. Do we have any
22 knowledge? Does the Board have any knowledge or the
23 applicant any knowledge that that is going to be
24 developed to open up a road that goes between Lime
25 Crest and Wilson to go directly to this location?

1 MR. FORD: Our application has nothing to
2 do with it. That's not our property. We have no
3 intention of it being a form of ingress or egress to
4 our property.

5 MR. DIGGAN: Thank you.

6 CHAIRPERSON REINA: There's -- there's no
7 pending application for any such...

8 MR. PEOPLES: Thank you very much for
9 your time. I appreciate it.

10 CHAIRPERSON REINA: Thank you, Mr.
11 Peoples.

12 MS. QUINN: Next up is Kim Song. Kim
13 Song?

14 MR. COLLINS: Kim please raise your right
15 hand.

16 K I M S O N G, first having been duly sworn,
17 testified as follows:

18 MR. COLLINS: Kim, please state your name
19 and address and spell your last name too.

20 MS. SONG: My name is Kim Song, S-O-N-G,
21 like "sing a 'song.'" I live at 434 Houses Corner Road
22 in Sparta.

23 At this point, I would like to give up my
24 time to the Burns Family whose property borders the
25 property we're talking about because they're paying an

1 attorney to be here so I'd like to give up my time to
2 their attorney.

3 CHAIRPERSON REINA: Is there a question?

4 MS. SONG: Actually, Mr. Cohen.

5 MS. QUINN: This is public. This is
6 public.

7 CHAIRPERSON REINA: There's no time that
8 you need to -- to give, Mrs. Song.

9 MR. SONG: But the Burns are part of the
10 public and we are paying this man as a part of the
11 public to help us.

12 MR. COLLINS: He already asked questions
13 but Mr. Cohen will be allowed to ask questions but it
14 will be at the next meeting and it will be after all
15 the public has asked questions today and, if he's
16 representing you, technically, he should ask the
17 questions for you. I'm not going to make a big deal
18 about that right now but, basically.

19 MR. COHEN: I indicated who I'm
20 representing.

21 MR. COLLINS: Yeah. I'm confused by -- I
22 don't really -- I'm not bringing that up. If you don't
23 have a question, you should sit down and the next
24 person, who is not an attorney, should get up, per the
25 list, and ask their question. Okay?

1 MS. SONG: Okay.

2 MR. COLLINS: We don't defer time to
3 people.

4 MS. SONG: I bought my house 25 years
5 ago --

6 CHAIRPERSON REINA: Question?

7 MS. SONG: -- and I know that you just
8 described where Houses Corner Road is across from Lime
9 Crest and Route 15. I bought it because it was a nice
10 little rural community. Since I moved there, the Shop
11 Rite has been put in there, people now, because of the
12 bottleneck we talk about on 15, don't come onto Route
13 15 because of the traffic from the Shop Rite. They go
14 up West Mountain Road and the traffic has increased on
15 my little rural road by 5 to 10 times between trucks
16 and cars people coming over that road to the point
17 where I can't stand out at my mailbox without fear of
18 getting hit by a car or truck doing 70 miles an hour
19 past my house.

20 So my question is: Is there going to be
21 any consideration about speed limits in that entire
22 area where all the cars and all the trucks are going to
23 be going through? Because it's dangerous for all of us
24 that live there. My house is, literally, 15 feet away
25 from the road. I've already had to replace windshields

1 from rocks hitting my windshield in my driveway. I
2 have a chip in my picture glass window in my kitchen.
3 I want to know if any of the speed limit changes are
4 going change in that entire area for the safety of the
5 residents?

6 CHAIRPERSON REINA: So I think your --
7 your question is about the safety of the area. We need
8 to address that, specifically, with the safety officers
9 and the police department. That's not a Board
10 component.

11 I think, in terms of your --

12 MS. SONG: It doesn't have anything to do
13 with approving the increased traffic?

14 CHAIRPERSON REINA: We don't approve the
15 roads or we don't -- this Board does not mandate the
16 speed limits so I'm not sure I can or anybody on this
17 Board can address that.

18 MS. SONG: Okay. So we'll move on to the
19 next question.

20 MR. HERTZBERG: You know, I'll just
21 address that as a Council member. That is something
22 that we could request our police department, our
23 traffic expert on the police department. They do do
24 traffic studies on particular roads if there's
25 complaints from residents.

1 MS. SONG: Okay.

2 MR. HERTZBERG: So, you know, for your
3 particular road, if you're feeling that there are a lot
4 of cars speeding through there, that it's increased, we
5 could have them look at it and do a traffic study and
6 assess that.

7 MS. SONG: Okay.

8 My next question is in response to a
9 question that was asked earlier and I just want to
10 follow through on it.

11 So you're saying, now, that the trains
12 are going to be running only from 5:00 p.m. until 5:00
13 a.m. and that the trucks are going to be running during
14 the day. Are the trucks going to be running from 8:00
15 in the morning to 5:00 p.m. or are they going to be
16 running 24/7? Because, right now, in front of my
17 house, I am awake at 4:00 in the morning and the trucks
18 run until 8:30 at night, at least. Is there going to
19 be any form of ruling on when these trucks can be
20 running in that area? Any kind of ordinance or
21 anything like that? But are they going to be 24/7?

22 CHAIRPERSON REINA: Yeah. I mean, I
23 don't know if there's a condition that could be placed
24 or, you know, if you're asking: How do we limit the
25 train and the traffic times?

1 MS. SONG: So this is really in regards
2 to the noise ordinance, for instance. I know there's
3 certain decibels. I know there's certain times,
4 there's certain times you can do construction. Certain
5 times on Saturday, certain times on Sunday. You can't
6 have your stereo blasting past 9:00 at night. There's
7 noise ordinances. I can imagine, when they're taking
8 these containers off of these trains, from 5:00 p.m. to
9 5:00 a.m., that I'm not going to hear that when they're
10 taking containers off the trains because they already
11 just knocked down thousands of trees across the street
12 from my house --

13 MR. COLLINS: Mr. Ford --

14 Take a minute and let Mr. Ford answer the
15 question which is: Will there be containers, boxcar
16 container, railroad cars being unloaded between 5:00
17 p.m. and 5:00 a.m. or the nighttime hours that you said
18 the trains are brought to the site?

19 MR. FORD: Well, it's not containers to
20 be clear. First off, there's no lift on, lift off of
21 containers. It's cars. It's railcars of unloading and
22 that, as I said, could be food product, like corn syrup
23 --

24 MS. SONG: So they're opening doors and
25 they are taking pallets out or --

1 MR. COLLINS: He never said that.

2 MR. SONG: I'm asking you a question.

3 MR. FORD: But -- no. The railcars are
4 not unloaded overnight. They're switched in and out
5 overnight. Meaning that the empty ones, once they're
6 emptied are pulled out --

7 MS. SONG: Okay. Excuse my naiveness. A
8 train comes in. It's got 30 or 40 cars on it. It's
9 full of stuff.

10 CHAIRPERSON REINA: It 16.

11 MR. SONG: However many because I can't
12 imagine that there's only going to be one train being
13 unloaded at each one all day in a 12-hour span because
14 you told us it takes eight hours to unload one of those
15 which means you can get two of them in at different
16 times.

17 But, anyway, so, now, I got this
18 container. I happen to be -- work for a manufacturer.
19 I get containers shipped to me. I know there's
20 containers and then there's trains where you open the
21 doors and you pull things out or the whole box comes
22 off the train and gets put down.

23 MR. FORD: And we don't do that.

24 MR. SONG: Okay. I'm asking you what you
25 do do.

1 MR. FORD: We are not an intermodal-based
2 rail operation. Intermodal is the lift-on trailer or
3 container. You're absolutely right. You understand
4 your business. The lift-on, lift-off, that does not
5 occur in this facility.

6 MS. SONG: Okay. So the doors open and
7 human beings go in and take pallets out and put them in
8 the warehouse.

9 MR. FORD: Right. There's a covered
10 canopy system with an outdoor dock area --

11 MS. SONG: Uh-huh.

12 MR. FORD: -- okay, with a forklift, an
13 electric forklift. They open the doors during the day
14 of the railcar --

15 MS. SONG: Okay.

16 MR. FORD: -- those pallets or whatever
17 goods are in there, could be paper, could be plastic,
18 could be --

19 MS. SONG: Okay.

20 MR. FORD: -- bottles of water, could be
21 beer. It could be food. It could be --

22 MR. SONG: Okay. We don't need to go
23 there. I -- I want -- I want to utilize my time.

24 MR. COLLINS: Let's make sure he's clear.
25 Let's make sure he's --

1 So what you're saying, Mr. Ford, is, the
2 loading and unloading of the boxcar on the property
3 will occur during the daytime hours, not during the
4 nighttime hours. Is that what you're saying? That's
5 what she wants to know.

6 MR. FORD: Yes.

7 MR. SONG: So you're saying that trains
8 are going to arrive there from 5:00 p.m. to 5:00 a.m.
9 and they're just going to sit there and nobody is doing
10 anything with them?

11 MR. FORD: They're -- they're -- the
12 physical cars just, you know, arrive in and out during
13 those hours. That's the standing operating procedure
14 for the NYS&W Railroad.

15 MS. SONG: I'm sorry. The attorney just
16 said that they're just going to sit there and that
17 nothing happens with them. They're not going to be
18 emptied, unloaded and loaded?

19 MR. FORD: Until -- until the operations
20 manager and the employees for the warehouse get there
21 the next morning, turn the lights on, open the
22 operation.

23 MS. SONG: Okay. So at 2:00 in the
24 morning? 3:00 in the morning? 4:00 in the morning?

25 MR. COLLINS: No.

1 CHAIRPERSON REINA: So, no. I think what
2 I heard you say -- correct me, Mr. Ford, if I'm wrong
3 -- there will be not operations for loading or
4 unloading the railcars between those hours.

5 MR. FORD: The cars are moved in and out
6 from 5:00 p.m. to 5:00 a.m. The unloading -- the
7 unloading of them occurs at the same time that a
8 trailer on the other side would be loaded or unloaded
9 which is, typically, day hours.

10 MS. SONG: So there will be activity.

11 MR. MURPHY: May I add that you also
12 identified that these will be electric forklifts --

13 MR. FORD: Yes.

14 MR. MURPHY: -- throughout the whole
15 complex which will cut down on the noise.

16 MR. FORD: Yes. We don't use propane.
17 We use batteries. We -- we -- we've installed -- as
18 part of our LEED process, we installed battery charging
19 stations for the electric forklifts.

20 CHAIRPERSON REINA: Thank you, Mr. Ford.

21 Thank you, Mrs. Song.

22 MS. SONG: Okay. I've -- I've got a
23 couple more real quick ones.

24 CHAIRPERSON REINA: I think we've got
25 about five minutes left. I want to get an opportunity

1 to, at least, hear from one other --

2 MS. SONG: I know. I've got a couple
3 real quick ones.

4 One, just so you all know, that truck
5 sitting at the side of the road sleeping is a real
6 thing. We had to call the police. There was two 18-
7 wheelers parked on our road.

8 CHAIRPERSON REINA: Ma'am, please. If
9 there's specific questions --

10 MS. SONG: You said that you were going
11 to use this, possibly, as a 3PL. I know what a 3PL is
12 because I do this as a profession.

13 MR. FORD: Sure.

14 MS. SONG: A 3PL does sell retail. The
15 wholesaler sends it to your warehouse, they package it
16 and they send it to the consumer. Your warehouse
17 cannot be used as a 3PL.

18 MR. FORD: Well, then my definition is --
19 is different than 3PL to yours but it's a third-party
20 logistics company.

21 MS. SONG: I know what third-party
22 logistics is. I do it for a living.

23 MR. FORD: But, once again --

24 MS. SONG: So I take stuff out of my --

25 MR. FORD: I have not had to say it

1 because the Board has told you: This is not a retail
2 operation.

3 MR. SONG: Right. But I take products
4 out of my vendor and I put them in the 3PL and then I
5 ship them directly to the customer. That's the same as
6 UPS, FedEx, Amazon, Walmart, etc., etc.

7 MR. FORD: There's no retail.

8 MS. SONG: That's selling retail.

9 MR. FORD: I don't --

10 CHAIRPERSON REINA: Retail is not allowed
11 in the facility.

12 MS. SONG: So I'm confirming that this
13 building will not be a 3PL; it will not be a third-
14 party logistics location.

15 MEMBER OF THE PUBLIC: What's the
16 difference?

17 CHAIRPERSON REINA: I'm not sure I
18 understand the question.

19 MS. SONG: Okay. So a "3PL" is a third-
20 party logistics so I'm a vender. I'm a vendor and I
21 make something here. I ship it into my third-party
22 warehouse by the container load, by the pallet load and
23 then I send them orders and they open those orders and
24 they ship one to Mr. Smith, one to Mr. Jones, one
25 across the street.

1 CHAIRPERSON REINA: So I think that's
2 retail which we designated is not a permitted use.

3 MS. SONG: He said before; it's possible
4 that this would be a 3PL. That's why I'm asking the
5 question.

6 CHAIRPERSON REINA: So just to be clear,
7 we've identified that retail is not a permitted use.

8 MR. SONG: Okay. So I'm -- I just want
9 -- because that's not what he said before. It could be
10 a 3PL so I just want to clarify that.

11 MR. FORD: 3PL, in my definition of
12 "3PL," is a third-party logistics firm who operates a
13 warehouse. That's a 3PL in my definition.

14 MS. SONG: Okay. One more: What are we
15 going to do about the displacement of all the animals?
16 Since the Shop Rite has gone in, I have more rodents, I
17 have more bear, I have more deer and, if he's going to
18 store food in that warehouse, what are we going to do
19 about rats, insects and all of the displacement of the
20 natural animals and all the ones that are going to come
21 to eat the garbage?

22 (Applause)

23 MR. COLLINS: Mr. Ford should answer.

24 MR. GOUIN: Well, I -- I -- I don't know
25 --

1 Could you answer that question?

2 I was going to say I don't know that
3 that's a question for Mr. Ford but we do have an
4 environment expert who can potentially answer that. He
5 hasn't been sworn in and has not testified but we can
6 certainly add that to the testimony we'll provide.

7 MR. SYLVESTER: Can you ask him to
8 comment on that in his testimony?

9 MR. GOUIN: Yeah. Well, yeah. We're
10 going -- we're going to swear him in at a future
11 meeting. He can comment on that.

12 MR. SYLVESTER: Thank you.

13 MR. GOUIN: Sure.

14 MS. QUINN: Next one up is Kate Salerna.
15 Kate Salerna?

16 MEMBER OF THE PUBLIC: She's here.

17 K A T E S A L E R N A, first having been duly sworn,
18 testified as follows:

19 MR. COLLINS: Please state your name and
20 spell your last name and give us your address.

21 MS. SALERNA: Kate Salerna, S-A-L-E-R-N-
22 A, 236 Sparta Avenue.

23 My first quick question is: I just want
24 some clarification, if nobody can answer this, if there
25 were any violations of the Open Meetings Sunshine Act

1 with the overspill outside of the chamber and the fact
2 that not everybody was able to be present for the
3 meeting? Can anybody answer that question?

4 MR. COLLINS: Yes. There were no
5 violations of the Open Public Meetings Act. Everybody
6 can try to come into the meeting room or the vestibule
7 and the -- the meeting is open to the public so --

8 MS. SALERNA: So the fact that there were
9 too many people to be able to fit into the chambers and
10 --

11 MR. COLLINS: There was no objection.
12 There was no objection by anyone to being unable to get
13 in the way they wanted to.

14 MS. SALERNA: Into the room or into the
15 building?

16 MR. COLLINS: Into the building.

17 MS. SALERNA: So that -- so they don't
18 need -- they don't need to be into -- in the room; they
19 could be --

20 MR. COLLINS: The vestibule has the video
21 cameras and the audio and is compliant with the Open
22 Public Meetings Act.

23 MS. SALERNA: Okay.

24 Second question, real quick, is about the
25 aquifer which I'm -- I'm assuming just have -- like, I

1 just heard you have the environment experts coming in
2 but yeah.

3 I just want it to be on the record in
4 case there is anybody listening or paying attention out
5 there that the aquifer is serving 40 percent of our
6 community right now. The building that happened for
7 the Shop Rite and the housing, obviously, is already
8 putting a strain on that.

9 And I would like clarification over the
10 fact that the warehouse project itself has a capacity
11 for 400 employees potentially but your waste, you know,
12 management plan is set up for 2,000. I know that this
13 is going to fall under the category of all the myriad
14 of questions that you can't answer right now because
15 you have no idea who is going to be occupying this
16 giant building that's going to be an eyesore in our
17 community and regardless of anybody who's going to be
18 in there.

19 CHAIRPERSON REINA: Mrs. Salerna, I'd ask
20 you if you'd please stop just for a moment. I -- I
21 respect everything that you're trying to address in
22 this and I know you've got a short amount of time to --

23 MS. SALERNA: Yeah. Clearly.

24 CHAIRPERSON REINA: I mean, I understand
25 that, you know, some of the questions are specifically

1 related to the environmental component and we haven't
2 heard that testimony.

3 MS. SALERNA: Yeah. So just, if my
4 question is on the record so that that could be
5 answered, what is the plan for that should the tenant
6 exceed the 100-employee capacity limit and assuming
7 that, you know, it's going to come to the Board, what
8 are the restrictions? Like, what -- what are the
9 guarantees that this won't just be approved should the
10 100-capacity limit be breeched and, also, what is the
11 plan to deal with that when that happens? So you don't
12 have to answer that now because, blah, blah, blah, and
13 more testimony, all of that.

14 But my last question is about -- which
15 has been asked several times over and I think the
16 community would really like to get any sort of
17 clarification on this -- some specifics as to what the
18 actual, tangible benefits are to the community at this
19 point considering we don't know any --

20 (Applause)

21 CHAIRPERSON REINA: So another great
22 question and I think, in terms of the tangible
23 benefits, it's what every single one of us are
24 weighing. What's the cost benefit of this -- of this
25 project to the town? How do we look at that? Again,

1 and I don't mean this to be a repetitive answer but we
2 have not heard testimony yet in terms of all the
3 benefits and what this entire project entails. I
4 think, with you, very similarly --

5 MS. SALERNA: Yeah. Just one would be
6 nice.

7 CHAIRPERSON REINA: So you -- you've
8 heard one from them this evening in terms of what it is
9 from a ratable perspective or what expectation is so,
10 again, this is not -- this is not an answer for the
11 Board in terms of approval or denial for a condition on
12 the property but I would tell you, with regards to: Is
13 something a benefit or, you know, what's the cost or
14 benefit? That's the whole part of these proceedings,
15 is to get through and understand: What is the cost
16 benefit? What's the cost benefit? You know, what's
17 the impact on our citizens every day, those that live
18 near it? What's the impact for the town? What's our
19 ability for the Planning Board or for -- for the, you
20 know --

21 MS. SALERNA: And will the applicants be
22 responsible should we need -- have a need for emergency
23 services for building roads or things that become a
24 burden to the taxpayers as opposed to ratables to them?

25 (Applause)

1 CHAIRPERSON REINA: Everything --
2 everything you're describing is -- is -- needs to be
3 looked at.

4 MS. SALERNA: And answered, hopefully.

5 CHAIRPERSON REINA: Again, that's why we
6 have this entire process in place is to go through and
7 actually address all these questions and make sure that
8 we've got all questions answered before there is any
9 sort of discussion or approval from the Board.

10 MS. SALERNA: I look forward to getting
11 those answers, please.

12 Thank you.

13 (Applause)

14 CHAIRPERSON REINA: Me too.

15 Yeah. So I think what we'll do is -- so
16 we've surpassed our time now. It's now 5 after 10:00.
17 I think we have, approximately -- how many?

18 MS. QUINN: Twelve.

19 CHAIRPERSON REINA: All right. So we've
20 got twelve individuals that -- what I'd like to do is,
21 at our next meeting, continue this. This is going to
22 be a continuation so our next meeting is going to be
23 continued on May 4th. At which time, what we'd like to
24 do is, now that we've been through Mr. Ford's
25 testimony, we'd like to then proceed to the traffic

1 portion.

2 MR. GOUIN: Well --

3 CHAIRPERSON REINA: So what we'd like to
4 do is move this forward. Similarly to this proceeding,
5 we will open up components for the public. We'll allot
6 an hour for everybody to be heard. We'll start at the
7 top of this list.

8 And I just want everybody else to
9 recognize that, again, at -- at the end of these, of
10 the witness testimony, this will be fully back up and
11 opened up for all of the public so this is not a closed
12 system. This is not your only chance to ask questions
13 but we're -- we're doing this out of precedent and kind
14 of unprecedented to make sure that, you know, we can
15 try to address questions as they come up and, at the
16 end of the proceedings, we will, obviously, continue to
17 allow everybody to have a voice, comments, opinion,
18 anything else that has not been addressed or anything
19 that has not been answered during the course of these
20 proceedings.

21 MR. COHEN: Mr. Chairman, may I ask a
22 question?

23 MS. QUINN: Also, there's a gentleman in
24 the back.

25 Lou? Lou? Lou? The gentleman next to

1 you, I need his last name, please.

2 Last name?

3 MR. HERTEL: H-E-R-T-E-L.

4 MS. QUINN: Okay. So just to be clear, I
5 have the list for the next time and there are twelve
6 people on it. I now have the last remaining last name
7 that I needed to complete the list. I'll keep it for
8 next time.

9 MR. COHEN: Mr. Chairman, I have a
10 question that will take about one minute.

11 MR. KOLLAR: We are already 8 minutes
12 over. Some of us work in the morning and I'm already
13 done. I'm already toast.

14 CHAIRPERSON REINA: Go ahead. We'll wrap
15 up.

16 MR. COHEN: The issue about the traffic
17 consultant for the Board was asked and you said you're
18 going to wait for the traffic testimony. Remember that
19 the discussion we had at the beginning of this meeting
20 was that there's a certain amount of the time. Unless
21 the applicant grants extensions, the Board is not going
22 to have an opportunity to hire its own traffic
23 consultant if it deems it necessary and you don't get a
24 traffic report overnight. It takes time, obviously, so
25 I just ask the Board to consider, if they are planning

1 to retain other experts at the expense of the applicant
2 pursuant to their escrow, they should do that sooner
3 than later.

4 Thank you.

5 (Applause)

6 MR. SYLVESTER: Thank you.

7 Mr. Chairman, I'd like to make a motion
8 to adjourn tonight's meeting.

9 MR. COLLINS: And the matter will be
10 carried without additional notices to 7:00 p.m. on
11 March -- what is the date? I'm sorry. It's May 4th at
12 7:00 p.m. at this meeting hall.

13 (The hearing concluded at 10:08 p.m.)

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C E R T I F I C A T E

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I, ALISON GULINO, a Certified Court Reporter,
Registered Professional Reporter and Notary Public of
the State of New Jersey, do hereby state that the
foregoing is a true and accurate verbatim transcript of
my stenographic notes of the within proceedings, to the
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