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BOROUGH OF FAIR LAWN  
ZONING BOARD  
MONDAY, NOVEMBER 23, 2015  
COMMENCING AT 8:44 P.M.

.....  
IN THE MATTER OF: : TRANSCRIPT  
: OF  
APPLICATION #2015-27, VR II, 20-19 : PROCEEDING  
Fair Lawn Ave, LLC :  
20-19 Fair Lawn Avenue :  
Block 4701.01, Lot 1, Zone B-1 :  
:

.....  
B E F O R E:

THE BOROUGH OF FAIR LAWN ZONING BOARD  
THERE BEING PRESENT:

- RICHARD SEIBEL, CHAIRMAN
- JAMES LOWENSTEIN, BOARD SECRETARY
- YELENA PERCHUK, MEMBER
- BRIAN BLECHER, MEMBER
- JEANNE BARATTA, MEMBER
- AVI NAVEH, ALTERNATE II
- MARC ZHARNEST, ALTERNATE III
- SAMUEL RACENSTEIN, MEMBER (Recused)
- KEVIN PUZIO, VICE CHAIRMAN (Recused)

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CATHY BOZZA  
PAUL AZZOLINA, Board Engineer  
PETER VAN DEN KOOY, Board Planner  
FRANK MISKOVICH, Board Traffic Engineer

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1 MS. PECK: Mr. Chairman, I'd like to  
2 just put on the record that Mr. Naveh arrived late on  
3 September 24th, he did listen to that part of the CD.  
4 And Mr. Lowenstein also was out on the 24th, he did  
5 certify. So all of the members sitting tonight are  
6 eligible.

7 CHAIRMAN SEIBEL: Okay. That's good.  
8 Now, I want to remind everybody that we have a hard  
9 stop at 10:00. We have other business that we have  
10 to take care of.

11 So let me just read, this is commercial  
12 business carried, Application #2015-27, VR II, 20-19  
13 Fair Lawn Ave, LLC, 20-19 Fair Lawn Avenue, Block  
14 4701.01, Lot 1, Zone B-1. Proposal to remove  
15 existing building and replace with a new 24-hour  
16 7/Eleven convenience store.

17 Maybe what I can do is, let me swear in  
18 my experts while I have you guys here. If you'll  
19 state your name and your address for the record.

20 MR. VAN DEN KOOY: Sure. Peter Van Den  
21 Kooy, 442 Route 35, Eatontown, New Jersey, Matrix New  
22 World Engineering, Zoning Board Planner.

23 MR. MISKOVICH: Frank Miskovich, French  
24 & Parrello Associates, Wall Township, New Jersey,  
25 traffic consultant.

1 MR. AZZOLINA: Paul Azzolina, Azzolina  
2 & Feury Engineering, 30 Madison Avenue, Paramus, New  
3 Jersey, Zoning Board Engineer.

4 MS. PECK: Ann Peck, assistant zoning  
5 officer for the Borough of Fair Lawn.

6 CHAIRMAN SEIBEL: If you all will raise  
7 your right hand to swear you in. Do you swear or  
8 affirm that the testimony you will give is true and  
9 accurate?

10 MR. AZZOLINA: I do.

11 P A U L A Z Z O L I N A,

12 Having been duly sworn, testifies as follows:

13 MR. MISKOVICH: I do.

14 F R A N K M I S K O V I C H,

15 Having been duly sworn, testifies as follows:

16 MR. VAN DEN KOOY: I do.

17 P E T E R V A N D E N K O O Y,

18 Having been duly sworn, testifies as follows:

19 MS. PECK: I do.

20 A N N P E C K,

21 Having been duly sworn, testifies as follows:

22 CHAIRMAN SEIBEL: Counsel, the floor is  
23 yours.

24 MR. ALAMPI: Thank you.

25 Mr. Chairman, once again, my name is

1 Carmine Alampi, A-L-A-M-P-I, attorney for the  
2 applicant. We were here last at the October, I  
3 think, 23rd meeting and we were carried over to  
4 tonight. We had marked in as exhibits up to A-11.  
5 And the last being the traffic study, dated October  
6 7, 2015.

7           Since the last meeting, given the  
8 discussion and the presentation, it appeared to us  
9 that the design of the site plan, the layout of the  
10 site plan was creating more issues with regard to our  
11 attempt to relocate the driveways, especially the  
12 driveway that was on Pollitt Drive coming too close  
13 to the intersection. So the clients determined that  
14 they needed to rethink the layout of the application  
15 and so we submitted more than 10 days ago  
16 hand-delivered to your secretary, your land  
17 administrator, a revised site plan that everyone  
18 should have. The site plan was last revised November  
19 13, 2015. You'll see the revisions in the block at  
20 the bottom of the plans. We intend to mark this in  
21 as A-12. This is an engineering and architectural  
22 site plan that is -- how many sheets? There are 11  
23 sheets altogether, Chairman. That would include the  
24 boundary and topographical survey, the building plans  
25 and elevations and all the engineering plans.

1                   So we have re-called Mr. Calisto Bertin  
2                   who testified extensively over the site plan as a  
3                   civil engineer and also as a traffic engineer,  
4                   qualified on both categories, gave testimony in both  
5                   areas. An associate in his office had given  
6                   testimony regarding the architectural plans. Mr.  
7                   Bertin tonight will also develop the testimony on the  
8                   architectural plans, since it was his firm that put  
9                   the architectural plans together.

10                   Essentially, what this plan calls for  
11                   is to work with the existing building and make some  
12                   modifications to that building in its width, but to  
13                   reduce the length of it and to try to preserve the  
14                   driveway that's about 120 feet back from the  
15                   intersection on Pollitt Drive.

16                   And with that, I'd like to re-call Mr.  
17                   Bertin and we're marking his -- the plans itself.  
18                   Now we're going to mark these separately, but the set  
19                   of plans that have been revised as A-12, I'll just  
20                   ask Mr. Bertin briefly to authenticate those and then  
21                   we'll go to the mounted exhibits.

22                   (Whereupon, engineering and  
23                   architectural site plan, last revised November  
24                   13, 2015, 11 sheets is received and marked  
25                   Exhibit A-12 for identification.)

1 MR. RANDALL: Mr. Bertin, you're still  
2 under oath.

3 MR. BERTIN: Yes.

4 C A L I S T O B E R T I N,  
5 66 Glen Avenue, Glen Rock, New Jersey 07452,  
6 having been previously sworn, testifies as  
7 follows:

8 DIRECT EXAMINATION

9 BY MR. ALAMPI:

10 Q. Thank you. So Calisto, your firm  
11 prepared the new set of site plans, architectural  
12 drawings and retained the boundary and topographical  
13 survey, correct?

14 A. Yes.

15 Q. There's no change to the survey, is  
16 there?

17 A. Correct.

18 Q. And with regard to the remaining plans,  
19 all of them are dated November 13, 2015, is the last  
20 revision?

21 A. Yes.

22 Q. Okay. Can you highlight for us -- now  
23 I see that you mounted some exhibits as well.

24 A. Yes.

25 Q. Are these the same, these exhibits are

1 exactly the same as what we marked as A-12, except  
2 that their colorized?

3 A. Well, the exhibit that's up, just to  
4 refresh everyone's memory, is the site plan that we  
5 discussed at the last meeting and that's Exhibit  
6 A-10. I have it up so that you remember the  
7 arrangement.

8 Q. And this you're going to mark as A-13?

9 A. As A-13 and I've already marked it.

10 (Whereupon, landscape plan and site  
11 plan, revised November 13, 2015 is received and  
12 marked as Exhibit A-13 for identification.)

13 CHAIRMAN SEIBEL: So in effect you're  
14 going with a different concept now; is that correct.

15 MR. ALAMPI: Yes.

16 MR. RANDALL: I know you're probably  
17 going to ask this, but just clarify for the record  
18 the A-13 corresponds to what page of A-12.

19 THE WITNESS: It's a separate exhibit  
20 called Landscape Rendering and it's revised November  
21 13, 2015. It's a combination of the landscape plan  
22 and the site plan without the notes.

23 So the obvious change between this plan  
24 and the last plan is that we moved the building where  
25 the prior application the building was along the

1 north property line. Now the building is moved to  
2 the corner, the street corner in the -- well, the  
3 southwest corner of the site with the rear of the  
4 building along Pollitt Drive.

5 So in moving -- well, strike that.

6 First, we took the building, located it  
7 at 90 degrees and slid it down towards Fair Lawn  
8 Avenue where the prior plan has a driveway restricted  
9 to right turn in and out on Fair Lawn Avenue, that  
10 has been retained. But the big change by moving the  
11 building was that we could take the driveway on  
12 Pollitt Drive and move it back to where it's  
13 currently located as far away from the street  
14 intersection as possible near the north property line  
15 or near the train station.

16 Q. Calisto, that A-13 exhibit, is there a  
17 date on that?

18 A. Yes. It's a revision date of 11/13/15.

19 Q. The question --

20 CHAIRMAN SEIBEL: So you're -- oh, I'm  
21 sorry. Go ahead.

22 Q. The question asked by counsel was: Was  
23 this A-13 one of the sheets contained in A-12 or is  
24 it different in some way?

25 A. It's -- as I mentioned before, it's a

1 combination of the site plan and the landscape plan  
2 without the notes and colored.

3 Q. So that would be different?

4 A. It's different because it's colored.

5 Q. Now, do you want to testify from the  
6 A-13 exhibit?

7 A. Sure. So I've indicated that the  
8 driveway on Pollitt Drive was moved. The other thing  
9 is now that we have a longer driveway on the site,  
10 the other driveway is shorter, we were able to add  
11 two more parking spaces. So we now have 14 parking  
12 spaces, which is what is required by the ordinance.  
13 Before we had 12 parking spaces. The trash encloser  
14 still remains in the northeast corner of the site.

15 Now, the one drawback to this plan is  
16 that we could not create a designated and separate  
17 loading zone. That's one of the reasons why we had  
18 the other plan. So now with this plan, although  
19 we've addressed some concerns, we don't have a  
20 designated loading zone, but we've created a drop-off  
21 area along the north property line, which is about 5  
22 feet deep. So for the 15 minutes the delivery truck  
23 is there, he can park there with a minor encroachment  
24 into the drive aisle. We'll go through those truck  
25 path plans later on. But a truck can park there and

1 still allow vehicles to move around it.

2 Q. The length of the area that you would  
3 use for loading would be adequate in length to host  
4 the sized vehicle that we have established on the  
5 turning template?

6 A. Yes. So we have -- that loading space  
7 there is 50 feet long.

8 Q. Okay.

9 A. Now, I'll just go through the change in  
10 the bulk regulations that are on the sheet. But  
11 there's no change obviously with the lot area, the  
12 lot width, the lot depth or the yard, the front yard  
13 length or the building coverage, because the  
14 building's the same as before. But we did change  
15 some of our setbacks. In the prior plan the building  
16 was 9 feet off of Pollitt Drive and 2 feet off the  
17 north property line by the train station. So we had  
18 two variances. This plan is 4 feet off of Pollitt  
19 Drive, but we also -- we meet the front yard setback  
20 and we meet the rear or the side, the north setback  
21 and obviously we meet the east setback. So we only  
22 have one setback variance where the prior plan had  
23 two. The other thing is that the lot coverage has  
24 changed. We still are conforming or within the  
25 limitations, but we went from 80 percent to 85

1 percent in round numbers. Obviously, there's more  
2 pavement, so there's less landscaping on this plan.  
3 It's not a variance, but that's just one of the other  
4 changes.

5 Q. The height of the building remains the  
6 same?

7 A. Yeah. I'll show you -- we've been --  
8 our staff has been working with the historic  
9 commission on the new design, so we haven't finalized  
10 that, but I brought an elevation of the building with  
11 a mansard roof. It's a little bit higher now. It  
12 would be 26 feet, but we're allowed to go up to --  
13 oh, we're allowed to go up to 26 feet. It's 25 feet.  
14 Before we were at 22 feet. That hasn't been  
15 submitted because we haven't finished with the  
16 environmental -- I mean, the historic commission.

17 Q. So to summarize there is one setback  
18 variance instead of two in the previous application?

19 A. Correct.

20 Q. You meet now the required on-site  
21 parking, but you don't have a properly designated  
22 loading area, correct?

23 A. Correct.

24 Q. The other issues remain of course a (d)  
25 variance for the nature of the use and that carries

1 over from the application, correct?

2 A. Correct.

3 Q. But on the bulk elements, you reduced  
4 the number of variances. And have you determined  
5 where the proposed driveways are compared to the  
6 existing ones?

7 A. The driveways are in roughly the same  
8 location as the existing driveways. The Pollitt  
9 driveway width is wider, because the existing  
10 driveway is meant for one-way traffic. The center  
11 line distance from the stop line, the Pollitt Drive  
12 stop line is the center of the proposed driveway is  
13 now about 120 feet.

14 Q. And driveway's function on Fair Lawn  
15 Avenue, is that the existing driveway for the current  
16 property?

17 A. Well, it's a modification of the  
18 existing driveway.

19 Q. It's location.

20 A. The location's in the same spot, yes.  
21 And as I mentioned earlier, the driveway is  
22 restricted and that's why I put this mountable  
23 island. A truck can drive over it, but someone in a  
24 car would be discouraged, because it's a good chance  
25 you're going to hit your fender or the bottom of the

1 car, the transmission.

2 Q. So the drive pattern in the Fair Lawn  
3 Avenue driveway allows for ingress only for westbound  
4 traffic?

5 A. Yes.

6 Q. And exiting the property allows for  
7 only turning -- right-hand turns going in a westerly  
8 direction?

9 A. Yes.

10 Q. There will be no crossover to the other  
11 side of Fair Lawn Avenue?

12 A. No, no. I mentioned that we had  
13 discussed this plan with Bergen County and on the  
14 onset, we knew that we would not have a right turn --  
15 I mean, left turns in or out of the Fair Lawn Avenue  
16 driveway, would be prohibited. The County did give  
17 us feedback on the prior plan and they wanted to  
18 confirm that we would have no left turns on Fair Lawn  
19 Avenue. They did raise the concern that the board  
20 raised about proximity of the Pollitt Drive driveway  
21 to the intersection, referring that it be back  
22 further and so it all comes together and now we moved  
23 that Pollitt Drive driveway back as far as possible  
24 to allow for more cars -- well, we'll have cars that  
25 we testified to that will stack on Pollitt Drive as

1 they head south towards the intersection, but now the  
2 driveway will be behind the stack most of the time.

3 Q. Okay. Now, this exhibit A-13, is just  
4 to show the board a cleaner version of the site plan  
5 and the site plan features, correct?

6 A. Correct.

7 Q. Do you have the other exhibit that you  
8 want to go through?

9 CHAIRMAN SEIBEL: I'll ask you a couple  
10 of questions. Are you going to demolish the existing  
11 building.

12 THE WITNESS: Yeah, we're going to  
13 demolish the walls. What happens with this plan is  
14 that we're able to keep some of the foundation and  
15 some of the pad. So there will be some reuse of the  
16 existing building. Not the walls, but the foundation  
17 and the pad.

18 CHAIRMAN SEIBEL: And the entry, exit,  
19 ingress, egress out of -- onto Pollitt is going to be  
20 widened and moved.

21 THE WITNESS: It's widened. Oh, moved  
22 from the prior application, yes.

23 CHAIRMAN SEIBEL: No --

24 THE WITNESS: From it's current  
25 location, that's where it is now. It's going to be

1 wider than it currently is today.

2 CHAIRMAN SEIBEL: Okay. All right.  
3 Anybody have any -- yes.

4 MR. ZHARNEST: Just out of curiosity,  
5 last time you mentioned in regard to the light to try  
6 and help with the traffic. Do you have any intention  
7 of not following through with what you stated you  
8 would do to the light adjustment on the street and I  
9 believe you said one over towards Fair Lawn Ave? Is  
10 that still going to be taking place, speeding up the  
11 waiting time? I know you didn't get to that yet.

12 THE WITNESS: We're here to answer your  
13 questions. We have presented that to the County and  
14 it's going to be part of our application. We'll  
15 request it. They may want input from the town and I  
16 guess if this application were to be approved, we  
17 would request that, you know, the board ask the  
18 police department or someone to write a letter  
19 endorsing what we say, because who are we? You know,  
20 we're just an applicant. It's better if it comes  
21 from the town. But we will pursue that, yes.

22 CHAIRMAN SEIBEL: Yes.

23 MR. NAVEH: Mr. Chairman, I have a  
24 question.

25 So the proposed convenience store was

1 2800 square feet?

2 THE WITNESS: Yes.

3 MR. NAVEH: Now it is reduced to 2736  
4 or is that 38.

5 THE WITNESS: That's 2736. So it's  
6 just a touch smaller.

7 MR. NAVEH: And that was because of the  
8 location and setbacks or.

9 THE WITNESS: Well, actually we had to  
10 cut a little bit on the -- in the short direction  
11 because we needed to get -- we wanted to get a  
12 24-foot drive aisle, the 18-foot parking space and  
13 6-foot sidewalk. I mean, the property is only what  
14 it is, so we had to cut just a touch of the building.

15 MR. NAVEH: Thank you.

16 CHAIRMAN SEIBEL: Anybody else.

17 MR. LOWENSTEIN: Yes.

18 Mr. Bertin, so the proposed driveway on  
19 Pollitt Drive, that's a two-way; is that correct?

20 THE WITNESS: Correct.

21 MR. LOWENSTEIN: Now, what's the width  
22 of each aisle compared to the width of the driveway  
23 now? So each aisle and the total width.

24 THE WITNESS: The current driveway is  
25 16 feet wide and it's an exit driveway now.

1 MR. LOWENSTEIN: Exit only.

2 THE WITNESS: Yeah, it's supposed to  
3 be, because as you come in from Fair Lawn Avenue the  
4 parking spaces are angled. So it's 16 feet and we're  
5 making it 24 and a half feet for two-way traffic and  
6 the back up aisle for the cars that are parked there.

7 MR. LOWENSTEIN: Is that the standard  
8 for width of a dual directional driveway.

9 THE WITNESS: When there's parking on  
10 it with cars backing up, yes, it would be 24 feet.  
11 If it was just a two-way driveway with no parking, it  
12 could be reduced to 20 or 22 feet. So this is a  
13 standard layout.

14 MR. LOWENSTEIN: And you're proposing  
15 that vehicles be permitted to turn into that driveway  
16 from Pollitt Drive, whether they are north or  
17 southbound; is that correct.

18 THE WITNESS: Correct.

19 MR. LOWENSTEIN: And cars exiting from  
20 that driveway be permitted to turn either right or  
21 left coming out of there.

22 THE WITNESS: Correct.

23 MR. LOWENSTEIN: Thank you.

24 CHAIRMAN SEIBEL: Anyone else? Perhaps  
25 our experts have a question. Not yet.

1 MR. MISKOVICH: Not yet.

2 MR. ALAMPI: Mr. Chairman, Mr. Bertin  
3 was about to go into the turning templates and the  
4 turning maneuvers, which I think that's what the  
5 board --

6 CHAIRMAN SEIBEL: All right. Put your  
7 seat belts on.

8 THE WITNESS: Did pretty good so far.

9 Q. Now, Calisto, is this in your exhibit  
10 package A-12?

11 A. Yes. This is drawing 2.5 in the set.  
12 That's not changed. I have to modify -- actually, I  
13 should of blown it up so you can see it.

14 Q. And that's the sixth sheet in the  
15 exhibit?

16 A. Yes.

17 Q. There are no changes to that, except  
18 that you mounted it?

19 A. Correct.

20 So we show three paths on this exhibit.  
21 We start with the left diagram. We show the tractor  
22 trailer truck entering the site. If you recall at  
23 the last meeting, the operator agreed that we would  
24 limit to the size of the truck for this location or  
25 in this area to a, what we call, WB-50 -- I'm sorry,

1 a WB40 truck.

2 Q. So now our applicant and our user had  
3 agreed to reduce to a size 40 truck, correct?

4 A. Correct. And we did that at the last  
5 meeting, I'm just reiterating.

6 Q. And that's the vehicle -- your  
7 testimony was that it would be delivery only two  
8 times in a seven day cycle, two times per week?

9 A. Yes, one or two times a week. And this  
10 truck is controlled by 7/Eleven. They control when  
11 it comes and make its delivery. We also said we  
12 would stipulate that deliveries for this truck would  
13 be off-peak, which they're going to be anyway, but we  
14 can even have them after hours, we can have them 8:00  
15 and 9:00 at night or 5 in the morning when there's  
16 less traffic on the street. So that's -- we're  
17 offering that.

18 What we decided to do this time was to  
19 bring the truck coming in from McBride Avenue through  
20 the industrial zone and then come south on Pollitt.  
21 We did that because it's a much easier turn for the  
22 truck coming southbound to make the left turn into  
23 the site and then maneuver through the site to get to  
24 Fair Lawn Avenue and make the right turn out and head  
25 back towards 208.

1                   As we show on this diagram, the truck  
2 makes the turn in and that we have the truck actually  
3 parking -- we have him backing up and parking up  
4 against the trash enclosure. So that truck, which  
5 would be off off-peak hours would park in the  
6 driveway still leaving room for cars to get around it  
7 should a car come in, but parking in that spot and  
8 make deliveries from there into the store. When he  
9 leaves, again, he comes out onto the driveway, onto  
10 Fair Lawn Avenue and makes the turn out, makes a  
11 right turn out. Now, he does cross lanes. He's  
12 staying in the westbound lanes, he needs to have two.  
13 That's not uncommon. If you watch a tractor trailer  
14 truck come out of any driveway, it's going to do  
15 something like that. And, again, we're willing --  
16 he's going to be off-peak hours, but we're willing to  
17 further restrict it to, you know, even nighttime or  
18 early morning hours. So that should not be a  
19 problem. And it's not into opposing traffic.

20                   Now, the second or the middle diagram  
21 is just a truck. We're showing a box truck and that  
22 would come in from Route 208 and make a left turn  
23 into Pollitt Drive and then a right turn into the  
24 site. Now, I mentioned there is an area along the  
25 north property line that we cut out an extra five

1 feet to serve as a parking space for that truck which  
2 would allow 15 or 17 feet for a car to drive around  
3 it or two cars to drive around it if it's parked up  
4 against the trash enclosure. Now, the intent is that  
5 the truck would pull right up against the trash  
6 encloser, but in order to leave, it's got to back up  
7 and that's why there's a couple of truck pictures  
8 shown in that one spot, because then the truck would  
9 back up enough to clear the trash enclosure and then  
10 pull out and, again, make that same right turn back  
11 towards Route 208. The truck could come in from  
12 Pollitt Drive, but we anticipate that it would come  
13 in from Fair Avenue and thus have afforded that  
14 little area there for them to park.

15 The third diagram to the right is the  
16 garbage truck. A front-loading truck is what we  
17 anticipate that the truck would make the right turn  
18 in from Fair Lawn Avenue and head right to the trash  
19 enclosure. If this were a rear-loading truck, it  
20 would be the same thing as the diagram in the center  
21 where the truck could pull into the site and then  
22 back up to the trash enclosure. So the trucks are  
23 somewhat the same size. Anyway, in this case if it's  
24 a front-loading truck, it would pull right up to the  
25 trash enclosure, pick up the trash, back up a little

1 bit and then move -- drive out onto Pollitt Drive  
2 again and head south and then towards Route 208. I  
3 guess it could make a left onto Fair Lawn Avenue, but  
4 we just assumed it's going back to 208. We have a  
5 double trash enclosure, because we have both trash  
6 and we have recycling. So once a week we'll have  
7 recycling picked up and once or twice a week we'll  
8 have trash picked up.

9 Q. Now, the intermediate-sized truck, the  
10 30-foot truck, the testimony was that two -- two  
11 times a day or three times a day that truck would be  
12 on-site to make various -- different vendors would  
13 come throughout the day?

14 A. Yeah. The representative from 7/Eleven  
15 said last time about two a day.

16 Q. Anything further with the circulation  
17 plan?

18 A. No. That's basically how we designed  
19 the site. So any questions?

20 Q. Do we have any other issues that have  
21 changed since the earlier two meetings, Calisto?

22 A. No. There were a couple of comments  
23 that Mr. Miskovich brought up in his letter just  
24 about the location of the parking spaces.

25 Q. Just a second. Which letter?

1           A.       Oh, I'm sorry, it was a letter dated  
2 November 23, 2015 from French & Parrello.

3           Q.       And that's now the third review letter  
4 by French & Parrello?

5           A.       Correct.

6           MR. ALAMPI: And, Chairman, we received  
7 this -- I assume the board has a copy, it came in  
8 today.

9           Q.       And, Calisto, you were able to review  
10 that letter with me earlier today?

11          A.       Yes.

12          Q.       And could you just highlight it and let  
13 Mr. Miskovich talk for himself, but highlight the  
14 issues there.

15          A.       I think I covered most of them. Just  
16 how the traffic -- the trucks come through the site.  
17 He raised a comment about the parking spaces. The  
18 parking is somewhat closer to the street than it was  
19 in the prior plan. Before there was no parking along  
20 Fair Lawn Avenue or you'd have to come into the site  
21 and then we have one space 5 or 7 feet off of Pollitt  
22 Drive. Now we have one space, it's a little closer  
23 to Pollitt Drive, but the space on Fair Lawn Avenue  
24 is about 25 feet away from the street is that exact  
25 number. Bergen County has a standard that the first

1 parking space be set 20 feet from the right-of-way  
2 line. As I recall, this was 21 feet. I'll measure  
3 it. So it's 21 feet from the right-of-way line, but  
4 from the curb line it's 26 feet.

5 The reason for the 20 feet setback that  
6 Bergen County imposes is that should a car back up  
7 and block the driveway, a car could still move in and  
8 be out of the right-of-way on the site while they're  
9 waiting for a car to maneuver in that parking lot.  
10 So that's a standard we use for Bergen County and the  
11 county roads are usually busier than the municipal  
12 roads. So that's why, again, we put the first spot a  
13 little bit closer to Pollitt Drive. There's plenty  
14 of visibility to see that spot. If there's a concern  
15 about movement in and out of the spot, we could  
16 designate that as the employee parking spot.

17 In prior testimony we have a rapid  
18 turnover in parking. So if we put the employee  
19 there, there's no turnover in that spot. At least  
20 one employee would park there. We could do that.

21 Q. Now, Calisto, the comment letter of  
22 French & Parrello, Item No. 6 on page 3 says,  
23 supporting calculations have not been submitted  
24 regarding the traffic signal timing modifications.

25 But you did discuss this with Mr.

1 Miskovich?

2 A. Yeah. Someone from my office e-mailed  
3 them to him today. I thought that they were in the  
4 report, but, anyway, if you don't have any --  
5 something more you want, I'll get it for you.

6 MR. MISKOVICH: Okay.

7 Q. But you've provided those, too?

8 A. Yes.

9 Q. And I think that -- the issue is -- and  
10 lastly, with regard to Item No. 5 on page four, the  
11 applicant should confirm this route for the tractor  
12 trailers. You did that with your testimony.

13 How were you able to confirm that with  
14 7/Eleven?

15 A. Well, we've discussed this. Before we  
16 could present the plan to you we had to make sure  
17 7/Eleven signed off on the plan. They're the  
18 operators. If it doesn't work for them, no sense us  
19 coming here.

20 So 7/Eleven has already agreed to this  
21 layout and to the truck coming in, as I said, they're  
22 coming from McBride Avenue and driving that way to  
23 get to the site (indicating).

24 MR. ALAMPI: I have nothing further of  
25 this witness.

1                   CHAIRMAN SEIBEL: Before I forget, with  
2 regard to the garbage truck, the garbage truck is  
3 going to come over to that center median.

4                   THE WITNESS: No, the garbage truck  
5 will not go over the median, will encroach slightly  
6 into the center westbound lane.

7                   CHAIRMAN SEIBEL: I mean, when he comes  
8 onto the site, it looks like the garbage truck is  
9 going to go over that median.

10                  THE WITNESS: Oh, yes. The mount on  
11 the curb, yeah, trucks can easily drive over that.  
12 An SUV can drive over that.

13                  CHAIRMAN SEIBEL: And the reason he's  
14 coming in this way is because he's front loading. If  
15 he was a rear loader, he could come in off of Pollitt  
16 Drive.

17                  THE WITNESS: Correct.

18                  CHAIRMAN SEIBEL: Is there a reason why  
19 front loader instead of rear loader?

20                  THE WITNESS: We just show you either  
21 case and it depends on the carter.

22                  CHAIRMAN SEIBEL: Are these parking  
23 spaces standard size.

24                  THE WITNESS: Yes. They're all 9 by  
25 18.

1 CHAIRMAN SEIBEL: And --

2 THE WITNESS: Except for the handicap.

3 CHAIRMAN SEIBEL: The 40-foot truck  
4 still has to take out two lanes when he comes out  
5 onto Fair Lawn Avenue and that's conceivably the only  
6 way that this truck can get into the site; is that  
7 correct.

8 THE WITNESS: What, the tractor  
9 trailer?

10 CHAIRMAN SEIBEL: Yes. Unless he comes  
11 in off of Fair Lawn Avenue.

12 THE WITNESS: Well, we don't want him  
13 -- no, to -- he could come in from Fair Lawn Avenue.  
14 He would have to swing wide to make that right turn  
15 in, but he'd be coming from the east. I think we  
16 discussed that he'd most likely be coming off of 208  
17 unless he stops someplace else, but we just  
18 anticipate this is the way he'll travel.

19 CHAIRMAN SEIBEL: And, lastly, the  
20 front of the building is -- actually, the rear of the  
21 building is going to be facing Pollitt.

22 THE WITNESS: Yes.

23 CHAIRMAN SEIBEL: So that's going to be  
24 all brick or all block.

25 THE WITNESS: I can show you, we have a

1 -- no, we were going to put false windows on that  
2 side and we have been working, but I can show you  
3 that now.

4 CHAIRMAN SEIBEL: We'll get around to  
5 it, because I'm sure folks up here are going to have  
6 some questions.

7 MS. BARATTA: Good evening. Welcome  
8 back.

9 THE WITNESS: Thank you.

10 MS. BARATTA: Let's talk about the WB40  
11 truck that you're saying is going to come off 208, go  
12 through McBride Avenue, come all the way up Pollitt  
13 Drive and make that right turn.

14 I would believe it more if you told me  
15 drones were going to be doing deliveries. I know  
16 that's not going to happen. I can't imagine that  
17 happening if they're going to come down 208, they're  
18 going to get off of Fair Lawn Avenue and they're  
19 going to go down Pollitt Drive or worst case, they're  
20 going to make another turn. So...

21 CHAIRMAN SEIBEL: Which other turn.

22 MS. BARATTA: They're going to turn  
23 from Fair Lawn Avenue right into the site or into  
24 Pollitt, either one. I don't see that scenario  
25 happening, but you testified to it, so I'm going to

1 listen to your testimony. When the truck is in that  
2 spot to do its delivery, they load from the back of  
3 the truck. Is there enough room there to get the  
4 deliveries off the truck when it's up against the  
5 back part of the property?

6 THE WITNESS: Yeah. Oh, okay, we show  
7 the truck backed up all the way up to the trash  
8 enclosure, but it could be a couple of feet off.

9 MS. BARATTA: So there will be enough  
10 room for people --

11 THE WITNESS: Yes, yes.

12 MS. BARATTA: -- to unload?

13 And when that truck is in that  
14 position, can someone enter and exit from that  
15 property at the same time?

16 THE WITNESS: Yes. The truck will be  
17 -- the front of the truck will be about 80, 80 feet  
18 from the curb line over here. So from the curb line  
19 on Fair Lawn Avenue, the front of the truck is about  
20 80 feet back. So the parking spaces are open.

21 MS. BARATTA: No, I'm talking about  
22 when it's parked.

23 THE WITNESS: When it's parked, that's  
24 what I'm saying. So we still have --

25 Q. Calisto, listen to the question, on the

1 backside of the property, the north property line.

2 MS. BARATTA: When it's unloading, when  
3 the driver is unloading making its delivery, and the  
4 truck is parked in that area back there, can a car  
5 exit and enter?

6 THE WITNESS: Yes. There's enough  
7 room. We show 10 feet.

8 MS. BARATTA: When this tractor trailer  
9 leaves, he is leaving onto Fair Lawn Avenue, correct?

10 THE WITNESS: Correct.

11 MS. BARATTA: And he's making the right  
12 turn?

13 THE WITNESS: Correct.

14 MS. BARATTA: And he's going to go over  
15 -- what are we calling that now?

16 THE WITNESS: We can call it a pork  
17 chop.

18 MS. BARATTA: He's going to go over  
19 that. Trucks are going to go over that.

20 THE WITNESS: "Mountable island" is the  
21 more technical term.

22 MS. BARATTA: And we just have to hope  
23 that nobody else is coming around that.

24 THE WITNESS: Well, correct. I mean,  
25 if the truck is pulling out, someone would have to

1 wait for the truck to get out in order to turn.

2 MS. BARATTA: But it is -- you know, we  
3 discussed it is a special area, for lack of a better  
4 word, because we got the railroad tracks, we got a  
5 lot of things going on there. So, you know, on a  
6 regular street I can understand, but we do have some  
7 special circumstances.

8 THE WITNESS: That was one of the  
9 reasons why we said we would restrict the truck to  
10 off hours, 10:00 at night, for example.

11 MS. BARATTA: Okay. All right. That's  
12 it for now. Thank you.

13 CHAIRMAN SEIBEL: Working off of what  
14 she said -- do you have a question.

15 When the truck -- if I don't say it,  
16 I'll never remember. When the truck is parked and  
17 it's unloading the goods, cars can back out, there's  
18 enough room?

19 THE WITNESS: Right where the truck  
20 would be parked, it would be difficult for the  
21 parking spaces, the three parking spaces north of the  
22 handicap spot, it would be difficult for them to back  
23 out. So if they happen -- if someone happens to be  
24 parked there when he comes, before he starts  
25 unloading, you walk in the store and who's parked

1 there.

2 CHAIRMAN SEIBEL: Yes.

3 MR. LOWENSTEIN: Thank you, Mr.  
4 Chairman.

5 Mr. Bertin, looking at C2.5, you have  
6 three diagrams of trucks. Above the garage truck you  
7 have a line that says 32.64. Am I correct in  
8 understanding that's stem to stern in feet?

9 THE WITNESS: That's for that  
10 particular truck, yes.

11 MR. LOWENSTEIN: And then moving to  
12 left, the next one says SU.

13 THE WITNESS: SU, single unit truck.

14 MR. LOWENSTEIN: 30 feet stem to stern,  
15 right.

16 THE WITNESS: Correct.

17 MR. LOWENSTEIN: And then the left most  
18 one, WB40, I don't see a total length on there.

19 THE WITNESS: That's the wheelbase. We  
20 measure from the center of the axle to the center of  
21 the axle. So that's how they -- that's how tractor  
22 trailers are designated.

23 MR. LOWENSTEIN: Okay. But as drawn,  
24 stem to stern, what's the total length.

25 THE WITNESS: 45 feet is what we

1 depict, thereabouts.

2 MR. LOWENSTEIN: Next question, please.  
3 If a vehicle is coming off of 287, gets onto 208  
4 heading southbound and wants to enter your property,  
5 how would it physically do that.

6 THE WITNESS: This tractor trailer  
7 truck?

8 MR. LOWENSTEIN: Any one of these  
9 three. Well, let's say the tractor trailer truck.

10 THE WITNESS: He couldn't do that,  
11 because that's not the designated route to come here,  
12 because he can't make a left onto McBride Avenue from  
13 208 anymore. So he wouldn't come from 287. He'd  
14 have to come from Route 17 or Route 80, something  
15 like that, for the tractor trailer. The other trucks  
16 can come however they want.

17 MR. LOWENSTEIN: And who's going to  
18 control the logistics of sequencing those truck  
19 deliveries, where they come from immediately prior to  
20 arriving at this site.

21 THE WITNESS: 7/Eleven controls the way  
22 those trucks make their deliveries.

23 By the way, in a prior life when I used  
24 to work for Exxon, I was in the dispatch center, so  
25 we dispatched the tractor trailer trucks to go to

1 each station. It's the same type of thing. They  
2 know -- they're going to load the truck for each  
3 store and they're going to set the route for that  
4 truck and -- so 7/Seven is in complete control of  
5 that truck.

6 MR. LOWENSTEIN: And part of your  
7 application, there will be some submission,  
8 representations made by that -- by 7/Seven that this  
9 is the only way in which a WB40 truck could service  
10 this facility, is that accurate?

11 THE WITNESS: Yes. We'll make it a  
12 condition of the approval.

13 MR. ALAMPI: Mr. Lowenstein, an earlier  
14 witness, who I think is here again tonight?

15 (Whereupon, an off the record  
16 discussion is held.)

17 MR. ALAMPI: An earlier witness who is  
18 sitting behind me testified at the first hearing.  
19 He's with 7/Seven. And I think he explained it, but  
20 he's here tonight if there are any particular  
21 questions as to how they control the routing of these  
22 vehicles.

23 MR. LOWENSTEIN: Thank you.

24 CHAIRMAN SEIBEL: Anybody else? Yes.

25 MR. NAVEH: Just I wanted to make sure

1 I got the numbers right. The single unit truck is  
2 two times a day.

3 THE WITNESS: Yes, correct.

4 MR. NAVEH: And the WB40 is coming how  
5 many times a week.

6 THE WITNESS: One to two times a week.

7 MR. NAVEH: One to two times off-peak  
8 hours, sometime in the evening.

9 THE WITNESS: Yes.

10 MR. NAVEH: Perfect. Thank you.

11 CHAIRMAN SEIBEL: Anyone else?

12 (No response.)

13 CHAIRMAN SEIBEL: I had a question.

14 The garbage truck, front loader, in the diagram  
15 below, that's a rear loader.

16 THE WITNESS: We don't show that -- we  
17 don't show the forks on the truck or the mechanism.  
18 We just show a truck. It could come -- as I  
19 mentioned, it could come either way. More and more  
20 trucks are front loaders. It's easier for the driver  
21 to pick up the dumpster inside the trash enclosure  
22 with a front loading truck, rather than back up and  
23 do it. So more and more carters are turning to front  
24 loading trucks. It's easier for them to operate.

25 CHAIRMAN SEIBEL: All right. No one

1 else has any questions? Nothing.

2 MS. BARATTA: Experts.

3 CHAIRMAN SEIBEL: Experts.

4 MR. MISKOVICH: I think -- Frank  
5 Miskovich. I think the board raised a lot of good  
6 questions regarding the truck maneuvering and  
7 delivery area, which was a concern for this site.

8 Stepping back one, the concern we had  
9 with the driveway at Pollitt Drive has been corrected  
10 by the fact of moving it back to the existing  
11 location. So it is as far away from Fair Lawn Avenue  
12 as you can get it. There is -- it reduces our  
13 concern for the queueing and blocking that driveway,  
14 because the existing calculations show that there  
15 will still be an average that it will be queued up to  
16 that point during the peak period, but obviously to a  
17 lesser -- much lesser extent than where it was on the  
18 prior plan.

19 The testimony at the last meeting was  
20 that with the timing changes that the applicant  
21 proposed, that the queuing or backing up on Pollitt  
22 Drive would be substantially reduced. So if those go  
23 into place, the driveway -- the impact of queuing of  
24 that driveway should be diminished.

25 Having said that, the issue comes down

1 with the truck turning template with the WB  
2 deliveries, the fact that we raised how do you  
3 control those routes and if the applicant is  
4 stipulating that the route as they depicted is the  
5 route, I guess that has to be a condition of  
6 approval. Hours of delivery and when they can  
7 deliver would be a key component, because if that  
8 truck is on-site loading and unloading, it's going to  
9 be very difficult to maneuver on that site. Cars  
10 would not be able to get around the truck. It's  
11 going to take up most of the parking aisle. Although  
12 it would probably open up the parking that's to the  
13 north on the train station side, those would probably  
14 be clear and be somewhat a diminished operation as  
15 far as parking, but the spaces that will be in the  
16 front of the store, if you are parked there, if the  
17 truck's there, it's going to be very difficult to  
18 back out or even for a car to get around them. So  
19 the board has to weigh those time periods and how  
20 long that truck is there, whether that is a  
21 significant detriment or not.

22 The same could be said with the single  
23 unit deliveries, because I don't know how you can  
24 show those coming in off-peak hours. Maybe the  
25 applicant can provide testimony on that, because I

1 remember that they're providing some dry goods and  
2 those certain products that might be there early in  
3 the morning. I don't know. But if they park on that  
4 northern bumped out area, it is going to restrict  
5 maneuvering into those spaces, those four or five  
6 spaces on the northern part with the truck parked  
7 there.

8           Again, the question is for how long  
9 would that truck be parked there and to what level of  
10 concern the board may have as to when those spaces  
11 might be blocked. It probably would restrict two-way  
12 movement on that driveway when that truck is there,  
13 but, again, it relates to how long the vehicle is  
14 there and to what extent you're willing to experience  
15 some type of congestion, for lack of a better term.

16           And the templates on this plan and on  
17 the prior plan show some of those requiring to use --  
18 encroach onto the through lanes. It's a much better  
19 plan to not encroach and go over the center lane, but  
20 as with most sites and 24-foot drive where it's very  
21 hard for some of these trucks to pull out and stay  
22 into a curbed lane without some encroachment. Again,  
23 it goes down to the time, the number of deliveries  
24 per week, and how long they're going to be there  
25 doing these maneuvers is a concern for the board to

1 consider. It's not an unusual situation, but this is  
2 -- with this site, you can't avoid it unfortunately,  
3 but -- with these types of trucks.

4 CHAIRMAN SEIBEL: Thank you. Is that  
5 it.

6 MR. MISKOVICH: Yes.

7 MS. BARATTA: Mr. Chairman, I have a  
8 question for our expert.

9 CHAIRMAN SEIBEL: Sure.

10 Ms. BARATTA: Do you -- I'm trying to  
11 look at this and the scale of it. A WB40 truck, is  
12 there enough room in that area, because there's a  
13 couple of bump-outs, like on the exit area, and do  
14 you think that that truck is going to fit there  
15 comfortably, so comfortably it will be unloaded,  
16 etcetera? It's going to be tight; isn't it?

17 MR. MISKOVICH: Well, if he's coming in  
18 from the north on Pollitt as it's shown, he'll be  
19 able to, by the templet, pull up and go along that  
20 easterly property line and back up. He's probably  
21 not going to pull all the way up to that dumpster.

22 MS. BARATTA: Right.

23 THE WITNESS: But if he has some area  
24 behind there, and if you look at where it might be,  
25 probably to at least that stripped handicap spot or

1 the one that shows the symbol of the handicap, that's  
2 probably where they'd be blocking those spaces.  
3 Maybe another one. But gives him about 70 feet from  
4 the dumpster -- I'm going to go to where that  
5 handicap picture is, the symbol. So that's enough to  
6 put, you know, a 50-foot, 45-foot trailer truck in  
7 that area.

8 MS. BARATTA: But that's not where he's  
9 unloading. He's unloading --

10 MR. MISKOVICH: That's what I thought  
11 the testimony was. They would pull in parallel to  
12 the tracks and kind of back up towards the dumpster.  
13 The WB-50s would be unloading in that end. But what  
14 I was pointing out, when that is there, those spaces,  
15 I guess that's the northeast corner, if someone is  
16 parked there, it's going to be difficult for them to  
17 get out. And with these tractor trailers being 8 and  
18 a half feet wide, 8 feet wide, you might get one car  
19 to bypass what's left in the drive aisle, but you're  
20 not going to get two-way traffic. So the concern is  
21 if they're there off-peak, how much of a detriment is  
22 that to the operation of the site? That's something  
23 the board is going to have to determine, but I would  
24 definitely suggest that that has to be an off-peak  
25 restriction so that whatever interference on-site is

1 minimized.

2 MS. BARATTA: That clarifies it for me.  
3 I misunderstood it from the testimony.

4 MR. MISKOVICH: Well, I think the  
5 templet is showing the maneuvers, not necessarily  
6 where they would be parked. I think that's the  
7 concern I had with the single units, because looking  
8 on the top I saw the two trucks and I thought what  
9 was that for.

10 MS. BARATTA: Okay. Thank you.

11 CHAIRMAN SEIBEL: Let me ask Mr.  
12 Bertin, when there is a truck on the site, can you  
13 get two-way traffic through the site.

14 THE WITNESS: Right where the truck is,  
15 for example, if we're talking about the single-unit  
16 truck.

17 CHAIRMAN SEIBEL: Any truck.

18 THE WITNESS: When the single-unit  
19 truck is parked up along the north property line, it  
20 is possible to get two-way traffic going very slow  
21 between it and you have 17 or 18 feet, it's tight.  
22 Most likely someone will wait for the other car to  
23 pass. A tractor trailer truck parked along the east  
24 property line, not really, because you have a 24-foot  
25 aisle and if it uses up 10 feet of it, we're down to

1 12 and you really -- if he -- yeah, it's going to be  
2 difficult to have two-way traffic. That's why we're  
3 restricting it to non-peak hours, but this is not  
4 uncommon at least for the single units. And some of  
5 those trucks are small enough to pull in a parking  
6 spot, some of these one per day or two per day trucks  
7 could park in a parking spot.

8 CHAIRMAN SEIBEL: But it's when the  
9 truck is on the site it hampers the traffic flow.

10 THE WITNESS: Correct.

11 CHAIRMAN SEIBEL: Do you agree with  
12 that?

13 MR. MISKOVICH: Yes.

14 CHAIRMAN SEIBEL: Anybody else? Any  
15 other experts? Anything.

16 MR. AZZOLINA: I just wonder, will  
17 there be testimony regarding the proposed re-use of  
18 the existing building, are you going to offer some  
19 testimony on that.

20 THE WITNESS: Just what I've mentioned.

21 MR. AZZOLINA: In that regard, I  
22 question -- my question is: The existing building  
23 has a lower level, so does that change the usable  
24 area of this building? The prior submission  
25 reflected a slab construction. So now theoretically

1 you have a basement area.

2 THE WITNESS: It will be a slab  
3 construction still, because the basement is in the --  
4 from what -- my understanding is, it's on the  
5 northerly section where it's going to be demolished.  
6 So there will be no basement. This will be slab on  
7 grade.

8 MR. AZZOLINA: That answers my  
9 question.

10 CHAIRMAN SEIBEL: How about our  
11 planner.

12 MR. VAN DEN KOOY: Nothing for this  
13 witness. Thank you.

14 CHAIRMAN SEIBEL: Ann, anything.

15 MS. PECK: No.

16 CHAIRMAN SEIBEL: Nobody else.

17 (No response.)

18 CHAIRMAN SEIBEL: I'll open it up to  
19 property owners within 200 feet, if you would like to  
20 question the witness.

21 (No response.)

22 CHAIRMAN SEIBEL: Seeing none, I'll  
23 open it up to the general public. Come on up and  
24 state your name. Name and address.

25 MR. BIENSTOCK: Good evening,

1 everybody.

2 CHAIRMAN SEIBEL: Wait. You can move

3 --

4 MR. BIENSTOCK: It's okay like this.

5 CHAIRMAN SEIBEL: Yes.

6 MR. BIENSTOCK: Claude Bienstock. My  
7 home address is 39-11B Broadway, Fair Lawn.

8 First, I just want to clarify that I'm  
9 speaking as a private citizen. I happen to be a real  
10 estate agent with 42 years experience, but I'm not  
11 representing the Association of Realtors or the Union  
12 of Realtors of Bergen County. I'm representing  
13 specifically myself.

14 CHAIRMAN SEIBEL: Okay.

15 MR. BIENSTOCK: Okay. So I don't want  
16 any misunderstanding about that.

17 My personal viewpoint --

18 CHAIRMAN SEIBEL: Questions.

19 MR. BIENSTOCK: Oh, questions.

20 CHAIRMAN SEIBEL: Questions, yeah.

21 We'll take opinions at the very end. Do you have a  
22 question for the witness.

23 MR. BIENSTOCK: Yes, I have a question  
24 for the witness. I think that that --

25 CHAIRMAN SEIBEL: Question.

1                   MR. BIENSTOCK: Do you feel that this  
2 new store there will increase a lot of traffic there  
3 at that location.

4                   THE WITNESS: It will have more  
5 driveway traffic than the doctor's office that's  
6 there now. There will be some slight increase in  
7 traffic on the street, but a convenience store draws  
8 a lot of its traffic from the existing traffic on the  
9 street. So it's not going to make a substantial or  
10 significant change in the traffic that's already on  
11 Fair Lawn and Pollitt Drive.

12                  MR. BIENSTOCK: That's what I was  
13 concerned about. Oh, I have another question also  
14 that concerns me and I think the public, will there  
15 be enough parking for people who drive their cars and  
16 want to buy soda or milk and to park there, because  
17 it's so close to the railroad station and those  
18 railroad stations are reserved for only commuters who  
19 use the station. I'm talking about people that are  
20 coming there to the store, will there be enough  
21 parking spaces or will that be a problem there.

22                  CHAIRMAN SEIBEL: Okay. Yeah.

23                  THE WITNESS: It meets the parking  
24 requirement. Yes, there will be enough parking  
25 on-site.

1 MR. BIENSTOCK: Okay. So that's the  
2 only questions I have.

3 CHAIRMAN SEIBEL: Beautiful.

4 MR. BIENSTOCK: Thank you very much for  
5 giving me the opportunity.

6 CHAIRMAN SEIBEL: Thank you.

7 MR. BIENSTOCK: Thank you.

8 CHAIRMAN SEIBEL: Where am I? That was  
9 open to the public. Anyone else from the public.

10 (No response.)

11 CHAIRMAN SEIBEL: Seeing none. Do you  
12 have another expert.

13 MR. ALAMPI: We have our planning  
14 consultant.

15 CHAIRMAN SEIBEL: Beautiful.

16 MR. ALAMPI: We had the architectural  
17 plans. We want to represent to the board that we  
18 thought we'd call the planning consultant. We became  
19 aware of a letter from Amy Hummerstone, the Historic  
20 Preservation Commission and we're sensitive to the  
21 history of Radburn, the train station and such. So  
22 we've already started to work up facades that you see  
23 obviously in commercial buildings in a historic zone.  
24 It's still going to be a commercial building, but  
25 sensitive to some of the materials used and such. I

1 don't think we finalized that yet.

2 THE WITNESS: No.

3 MR. ALAMPI: We have to confer with  
4 7/Eleven, but we've already generated images and have  
5 circulated with the development team and with the  
6 7/Eleven corporate people. So we will obviously not  
7 have a glass -- glass and aluminum building,  
8 obviously, but we're not there yet.

9 CHAIRMAN SEIBEL: We understand.

10 MR. ALAMPI: With that, we have our  
11 planning consultant who has reviewed the ordinances  
12 and requirements and will outline them for you  
13 concentrating a little heavy on the (d) variances  
14 that are required.

15 CHAIRMAN SEIBEL: Okay. And I'll  
16 remind everybody we're closing in on curfew time.

17 So while your standing, if you'll  
18 please state your name and your address.

19 MR. SPATZ: David Spatz, S-P-A-T-Z. My  
20 business address is 60 Friend Terrace in Harrington  
21 Park.

22 CHAIRMAN SEIBEL: And if you'll raise  
23 your right hand, please. Do you swear or affirm the  
24 testimony you're about to give is true and accurate.

25 MR. SPATZ: Yes, I do.

1 D A V I D S P A T Z,

2 60 Friend Terrace, Harrington Park, New Jersey,

3 having been duly sworn, testifies as follows:

4 CHAIRMAN SEIBEL: How long have you  
5 been a planner.

6 THE WITNESS: I have a master's in  
7 urban planning from New York University in 1981.  
8 I've been licensed as a planner in the State of New  
9 Jersey since 1986. I provided testimony before maybe  
10 50 or 60 boards throughout the state. I, a number of  
11 years ago, provided planning assistance through an  
12 architectural firm for the Planning Board in Fair  
13 Lawn about five or six years ago.

14 CHAIRMAN SEIBEL: I have no problem  
15 accepting him as an expert. Anyone have a question.

16 (No response.)

17 CHAIRMAN SEIBEL: Okay. Fire away.

18 DIRECT EXAMINATION

19 BY MR. ALAMPI:

20 Q. Now, David, you were called by the  
21 applicant early on in this application three months  
22 ago, correct?

23 A. That's correct, yes.

24 Q. And you were able to review various  
25 materials. Could you just outline for us what

1 materials of the Borough of Fair Lawn you reviewed  
2 before you went into the site plan review?

3 A. Well, we reviewed the various  
4 iterations of the site plan, including the most  
5 recent revision. We reviewed the master plan, the  
6 zoning ordinance, as well as case law related to the  
7 variances.

8 Q. And at an earlier time we discussed,  
9 did we not, the ordinances that call for conditional  
10 uses in the zone and the uses permitted in this  
11 particular zone as well?

12 A. Yes, that is correct.

13 Q. And, lastly, the ordinance, Chapter  
14 125-45.3, a 24-hour retail establishment in the  
15 zoning regulations?

16 A. That's correct, yes.

17 Q. And you and I discussed the conditional  
18 use, the permitted uses and things of that nature?

19 A. That is correct.

20 Q. And you then reviewed the case law and  
21 the Municipal Land Use statute and have done an  
22 analysis of the zone, permitted in the zone?

23 A. Yes.

24 Q. The zone that this property is in and  
25 these specific ordinances?

1           A.           That's correct. I have, yes. And I've  
2 looked at the conditional use variance that we're  
3 seeking, as well as the (c) variances that we  
4 require.

5           Q.           And then finally, back in September we  
6 received a review letter from Matrix New World, the  
7 planning consultant for the Borough, that's a  
8 September 17, 2015 review letter that was issued.  
9 It's about five pages long.

10          A.           Yes, I believe that's the last review  
11 letter that we've seen, yes.

12          Q.           So summarizing the report from the  
13 planning consultant at Matrix New World and your  
14 analysis, can you provide us, please, in your  
15 testimony your approach to the review of the  
16 ordinance and your analysis of this application.

17          A.           Yes. Based on our review of the  
18 ordinance, it is our opinion that we are seeking a  
19 conditional use variance. So that we do not meet all  
20 the conditions of -- for the conditional use and  
21 that's related to -- particularly to the size of the  
22 property. Also, there was an issue regarding the  
23 24-hour operation, which may trigger a full (d)(1)  
24 use variance.

25          Q.           And just tell us what your findings

1 are. What zone is it located? What's permitted in  
2 the zone? What variances are we seeking?

3 A. We are in the B-1 zone, which permits  
4 retail uses. The use, the convenience store use that  
5 we're seeking is a permitted use with certain  
6 conditions. And, as I said, there is an issue,  
7 though, regarding the 24-hour operation, which may  
8 not be permitted in this portion of the conditional  
9 use zone. There are several (c) bulk variances that  
10 we're seeking as well. The first one is related to  
11 the lot width. The zone requires 100 foot in width  
12 and the existing lot is 91.2 feet in width. There's  
13 a --

14 Q. Now, David, with regard to the width of  
15 the lot, is there any availability of property  
16 readily available to the applicant to widen the  
17 property?

18 A. No. There is no ability to enlarge the  
19 property in any way to eliminate that width variance  
20 and that also effects some of the other bulk  
21 variances. We are bordered by streets on two sides  
22 and then the other two sides of the property are  
23 bordered by the railroad property and train station.  
24 And there's really no ability to enlarge our site at  
25 all to eliminate that width variance.

1 Q. All right. Because these are New  
2 Jersey Transit and --

3 A. That's correct. The property is  
4 utilized both as right-of-way for the tracks and then  
5 the station, its facility. So there's no ability to  
6 purchase any property certainly to get the  
7 approximately 9 feet that we need to enlarge it.  
8 That is part of the right-of-way for the tracks.

9 Q. Now, the lot, itself, is  
10 13,400-some-odd square feet, correct?

11 A. Correct.

12 Q. And the minimum lot area required is  
13 only 10,000 square feet?

14 A. That's correct. The lot, itself,  
15 exceeds the size limitation.

16 Q. And that's because of the length of the  
17 lot?

18 A. That's correct. The length is longer  
19 than what is required, but it is narrower.

20 Q. And you just articulated that the  
21 9-foot deficiency in the lot width is not something  
22 that the applicant created or could eliminate?

23 A. That's correct. It existed as per the  
24 creation of the lot and as I indicated there are  
25 streets on two sides and the railroad property on the

1 other two sides, so there is no ability.

2 Q. And this application is not triggering  
3 any kind of variance because of the size of the  
4 building or building coverage or impervious coverage,  
5 correct?

6 A. That's correct. The impervious  
7 coverage and the building, itself, conform to the  
8 coverage limitations. The only bulk variance that  
9 we're seeking is minimum street side yard and that's  
10 where you have a property that is a corner lot and a  
11 20-foot setback is required and we're only 4 feet  
12 from Pollitt Drive. We do have a conforming rear  
13 yard, a conforming front yard as it relates to Fair  
14 Lawn Avenue and a conforming side yard as it relates  
15 to the railroad property. Where we are setback from  
16 Pollitt Drive is similar to what currently exists.  
17 We're using -- as the engineer indicated, we're using  
18 a part of the foundation and the slab that's  
19 underneath it.

20 Q. And the current site plan which was  
21 reviewed this evening actually increased the on-site  
22 parking from 12 to 14 spaces, correct?

23 A. That's correct. In our previous  
24 applications we needed a variance. We were short by  
25 two spaces.

1                   The reconfiguring of the building and  
2 parking area, we were able to provide a conforming  
3 amount of parking at 14 spaces.

4                   Q.       And, yet, however, the properly  
5 designated loading area, we're not?

6                   A.       That's right. We're not able through  
7 the property, itself, is not large enough and due to  
8 its configuration and the two access points to  
9 provide a separate loading space, but as the engineer  
10 testified there is ample space to provide loading  
11 on-site during the off-peak hours that are being  
12 proposed.

13                  Q.       And, David, the existing building with  
14 the plans that were submitted with existing  
15 conditions, are you able to analyze the setback on  
16 Pollitt for the existing building and compare it with  
17 the variance that's indicated in tonight's site plan?

18                  A.       It is a similar setback that -- than  
19 what currently exists on the property. We're not  
20 seeking any nonconforming status, even though we are  
21 using a portion of the foundation, but it is a  
22 similar condition than what currently exists on the  
23 site.

24                  Q.       And so the side yard from Pollitt is  
25 only 4 feet. And what is required?

1           A.           20 feet is required. And typically  
2 side yards are required at 10 feet. We are at -- 20  
3 foot is because it's a corner property.

4           Q.           Do you have an opinion with regard to  
5 this site plan and taking into consideration the  
6 existing structure whether or not that site yard  
7 variance can be granted without substantial detriment  
8 to the zone plan and without substantial detriment to  
9 the intent of the zoning ordinance?

10          A.           I believe it can. It does not effect  
11 any adjoining properties. It doesn't reduce light,  
12 air or open space of any adjoining properties. It  
13 is, again, up against the street frontage. Our  
14 building is actually setback a little bit further  
15 from Fair Lawn Avenue than the current building and  
16 there's additional landscaping. So there certainly  
17 are improvements visually and, again, I don't believe  
18 there's anything negative from that setback. It  
19 doesn't have any effect on anything.

20          Q.           The fact that the length of the  
21 building is going to be reduced significantly from  
22 the existing structure and, yet, still has a side  
23 yard setback deficiency, is that a factor in your  
24 analysis?

25          A.           Well, the building itself is reduced in

1 size than what currently exists, which enables for an  
2 increased amount of parking for a wider circulation  
3 aisle and increased landscaping. So the improvements  
4 to the building as was discussed at the previous  
5 meetings, as well as this meeting by orienting the  
6 building as is proposed now, it enables a better  
7 on-site circulation and has less impacts off-site and  
8 with the improved visual conditions, the building  
9 that currently exists is a fairly plain-looking brick  
10 building. The improvements that are proposed as part  
11 of this I think certainly enhances the site.

12 Q. And in order to have proper circulation  
13 around the building and parking around the parameter  
14 of the building, do you think that the side yard  
15 setback is justified, you know, trading off for ample  
16 parking, drive aisle width, etcetera, etcetera, do  
17 you think that's a proper tradeoff for that setback  
18 variance?

19 A. Yes. I think pulling the building  
20 closer to Pollitt Drive, even though we need the  
21 variance, what that allows us to do is to create the  
22 better on-site circulation as was described, as well  
23 as providing a conforming amount of parking. So I  
24 think it certainly benefits the site, as well as the  
25 public to have a better on-site circulation, a

1 conforming amount of parking as well and I think  
2 that's a fair tradeoff for being closer to the  
3 Pollitt Drive street frontage.

4 Q. As a practical matter, if the building  
5 were to be setback the required 20 feet and, yet,  
6 provide the size parking spaces and drive aisle,  
7 would that make any sense? Would that pose a  
8 practical difficulty for this application?

9 A. I'm not sure you could physically  
10 construct a usable building to provide conforming  
11 setbacks from the street frontage, as well as from  
12 the railroad property and get parking. You certainly  
13 wouldn't be able to get as much parking, be limited  
14 to only a one-way parking aisle and most likely it  
15 might even be too narrow to provide any parking or a  
16 normal circulation aisle behind it. It's the  
17 existing pattern to what exists now, although we've  
18 indicated as being enlarged and improvement over the  
19 prior submission, which has a similar setback from  
20 Pollitt Drive and that now we have a much better  
21 circulation pattern that is improved as it relates to  
22 Pollitt Drive and the queuing of cars.

23 Q. Now, David, could you concentrate on  
24 the (d) type variance in the review letter of Matrix  
25 New World and give us the benefit of your input on

1 the (d)(1) variance and I thought the (d)(3)  
2 variance.

3 A. Right. Looking first at the  
4 conditional use standards which are a little bit more  
5 relaxed because you're talking about a use that is  
6 permitted in the zone. As I indicated, the use  
7 itself is permitted in the zone.

8 What we don't meet is the 24-hour  
9 operation in this area, as well as width of the  
10 property is one of the conditions that we don't meet.  
11 I think the deviations are relatively minor. A  
12 24-hour operation is not inconsistent with commercial  
13 districts. There are, in fact, in Fair Lawn several  
14 24-hour operation businesses in our area. So I don't  
15 think that that has anything significant. We  
16 discussed the yard setbacks and the width as  
17 relatively minor conditions as well.

18 Q. So the deviation from the conditional  
19 use has to do with the lot width?

20 A. The width of the property, that is the  
21 one deviation from a conditional use.

22 Q. But does the width of the lot really  
23 have anything to do with the 24-hour operation?

24 A. It does not. The width is one of the  
25 conditional requirements and it's a condition that we

1 are physically unable to meet and as we described  
2 there's no ability to change that in any way.

3 Q. So it's because of the technicality of  
4 not meeting the 100-foot width that it indicates the  
5 deviation from the conditional use?

6 A. That's correct, yes.

7 Q. Now, with regard to the (d)(1) analysis  
8 have you been able to, likewise, review the analysis  
9 as to the special reasons in support of this  
10 application?

11 A. Yes. I think we do meet a number of  
12 the special reasons associated with the provision of  
13 the (d)(1) variance and I think the site itself is  
14 particularly well-suited for what we're proposing.  
15 It is adjacent to the rail station and has the  
16 ability to capture a significant amount of pedestrian  
17 traffic, both coming from the station, as well as  
18 going to the station. Both in the morning and the  
19 afternoon. That will help to reduce some of the  
20 traffic that was described earlier to the property  
21 and that there are people who are already coming to  
22 that site and that area, they'll be parking  
23 elsewhere. They'll be walking from the train picking  
24 up things on the way home or picking up a cup of  
25 coffee and the paper or something to eat on the way

1 to the train. So it's location by that station, I  
2 think, is particularly well-suited. It also -- I  
3 think with the improvements that are being proposed  
4 as it relates to the sidewalk, the traffic light  
5 improvements, other street improvements that are  
6 there, I think also will provide a sort of magnet for  
7 people to cross over in a more controlled way than I  
8 think currently exists to get onto the property to  
9 use the facility and then go to the train station.

10 Q. So you attended the earlier meetings,  
11 did you not?

12 A. I did, yes.

13 Q. And you listened to the testimony of  
14 the other witnesses?

15 A. I did, yes.

16 Q. And, of course, listened to the  
17 concerns of the board dealing with pedestrian  
18 crossover the street and pedestrian activity on Fair  
19 Lawn Avenue, generally pedestrian safety?

20 A. Yes, there was. There was testimony  
21 from our witnesses, there were questions from the  
22 board and comments which brought that out with people  
23 accessing the train from the street at times when it  
24 covers the street, when it's at the station and I  
25 think that this will with the improvements that are

1 being proposed, especially the light will help  
2 improve traffic conditions, but vehicle traffic,  
3 which will help control pedestrians both entering  
4 that area to get to the train station on our side of  
5 the street, yes.

6 Q. So the improvement to the traffic  
7 signalization, the installation of sidewalks, and  
8 other controlled measures is an improvement that  
9 supports this variance?

10 A. I think so. The improvement that we're  
11 doing, the use that's there will be one that will  
12 draw pedestrian traffic onto our side of the street  
13 bringing them closer to the station and I think  
14 helping to control some of what goes on in that area  
15 now. And then improvements as it relates to vehicle  
16 traffic, I think will help protect pedestrians who  
17 are walking in the area as well. So I think --

18 Q. Now, the pedestrian safety and  
19 pedestrian activity, improvements to those issues, is  
20 that enumerated in the Municipal Land Use statute as  
21 one of the purposes of zoning?

22 A. Yes. To --

23 Q. Is that section two?

24 A. I believe it's -- yes, I believe it's  
25 two. We meet other purposes of zoning as well. But

1 that is one of the conditions both balancing public  
2 and private partnership that is our improvements  
3 which will benefit the public as well, as well as  
4 providing a circulation pattern that is safe for both  
5 pedestrians, as well as vehicles.

6 Q. Now, David, with regard to the  
7 variance, the (d) variance, there also is a review  
8 of, what we call, the negative criteria, correct?

9 A. That's correct, yes.

10 Q. And could you just bring us through  
11 what is required of the applicant regarding the  
12 negative criteria and any substantial detrimental  
13 impact?

14 A. Sure. As it relates specifically to  
15 the (d) use variance that we're seeking, the issue is  
16 not whether there is any negative impact, any  
17 variance to some extent has negative impacts, the  
18 question is whether it drives to the level of being a  
19 substantial negative impact and I don't believe that  
20 the use that we're proposing and that variance  
21 creates any significant impact both to the master  
22 plan, the zoning plan, as well as to the general  
23 public. It is a use that in and of itself is a  
24 permitted use within the zone. It's a commercial  
25 district, which permits the convenience store. The

1 only issues relate to the width of the property, as  
2 we stated, as well as the 24-hour nature and that  
3 doesn't, I think, go to the use itself, it goes to  
4 the operation of the use. And I think that's been  
5 described and testified both by the operator of the  
6 facility, as well as by the engineer and architect  
7 how that's going to be handled. I think that the use  
8 promotes health, safety and general welfare. The  
9 deviations from the conditional use are minimal in  
10 nature and I think mitigated by the improvements that  
11 are being made to the property. I think that we are  
12 consistent with the existing development in the  
13 vicinity, both in terms of the commercial uses, the  
14 -- there's a bank, restaurant, gas station across the  
15 street as well, the train station and then further on  
16 you have multi-family housing. I think that what  
17 we're proposing is consistent with that development  
18 pattern as well.

19 Q. Now, regarding the size of the proposed  
20 building compared to the existing building there's a  
21 significant reduction in the footprint of the  
22 building, correct?

23 A. Yes. There's a reduction in the size  
24 of the building from what currently exists and then  
25 as was testified to even a further slight reduction

1 from what was originally proposed as part of this  
2 application. By reducing the size of the building,  
3 we are able to reduce both building and impervious  
4 coverage from what currently exists. Right now there  
5 is very, very limited landscaping a little bit along  
6 -- perhaps along Fair Lawn Avenue, some in the area  
7 between the railroad property and our site, but as  
8 you can see from the plans that were presented,  
9 there's a significantly greater amount of landscaping  
10 being proposed as part of our application than what  
11 currently exists on the site now.

12 Q. And then given these improvements and  
13 the reduction of the building footprint is that  
14 consistent with good planning and good zoning?

15 A. Yes. I think the fact that we have an  
16 existing developed property which has certain issues  
17 and conditions with it and what is being proposed is  
18 a slightly adaptive reuse of the existing building,  
19 certainly with the building footprint, but reducing  
20 it in such a way that both maintains the on-site  
21 circulation pattern to utilize the existing  
22 driveways, to limit any effects on traffic. However,  
23 they are being widened and additional parking is  
24 provided on-site. A trash enclosure is being  
25 provided, which currently does not exist and then a

1 significant amount of landscaping that's there.

2 Q. Lastly, were you recently made aware  
3 that there would be some concerns about the  
4 architectural style of the building as it might  
5 impact the historic preservation or the Radburn  
6 Historic Landmark District?

7 A. Yes. It's my --

8 Q. Are you aware of that?

9 A. It's my understanding that there have  
10 been concerns about that, but also that our architect  
11 and engineer have been working with the historical  
12 commission to design a building that will be  
13 compatible with the existing historic character.

14 Q. And supposing that the applicant  
15 addresses some of these designs and features of the  
16 building to be compatible with the Radburn District,  
17 the Landmark District, is that also an issue that  
18 supports the use variance, the special reasons for a  
19 use variance?

20 A. Yes, it does.

21 Case law, particularly the Burbridge  
22 case discusses special reasons exist when a use  
23 promotes the general welfare and provides a desirable  
24 visual environment and certainly removing a building  
25 which does not have any particular historical

1 character, replacing it with a building that is -- a  
2 new building that can be designed to meet those  
3 historic -- the historic character that's being  
4 requested, I think certainly meets the special  
5 reasons.

6 Q. Thank you.

7 MR. ALAMPI: Chairman, I have nothing  
8 further of Mr. Spatz's direct testimony.

9 CHAIRMAN SEIBEL: Okay. I let you go  
10 over.

11 MR. ALAMPI: Thank you.

12 CHAIRMAN SEIBEL: I think what we'll do  
13 is wrap it up. Right here is a good place to stop.  
14 It will give us time to digest everything, the new  
15 plan and all the testimony that's been given and we  
16 can come back with clear heads and have some  
17 intelligent questions for you, I'm sure.

18 MR. ALAMPI: I know they'll be  
19 intelligent questions.

20 CHAIRMAN SEIBEL: Well, they won't be  
21 coming from me. So --

22 MR. LOWENSTEIN: Can I ask Mr. Alampi a  
23 question, please.

24 CHAIRMAN SEIBEL: Sure.

25 MR. LOWENSTEIN: Mr. Alampi, are you

1 intending to bring your operation person from  
2 7/Eleven back again.

3 MR. ALAMPI: I get the sense,  
4 Mr. Lowenstein, maybe we should. I think we'll bring  
5 him back because I would like to refresh the board's  
6 recollection, even though we have the transcript of  
7 the hearings, I think I'd like to reiterate the  
8 delivery activity, the delivery schedule and the  
9 control. And I'm very confident that Mr. Kimmel's  
10 (phonetic) presentation explained to me how they  
11 deliver their products and I think that when you hear  
12 his testimony -- we'll bring him back at the December  
13 meeting, I think it will satisfy your inquiries.

14 MR. LOWENSTEIN: I for one appreciate  
15 that. Thank you.

16 MR. ALAMPI: Thank you.

17 CHAIRMAN SEIBEL: So without further  
18 ado we'll carry this.

19 MS. PECK: The next regular meeting is  
20 December 21st.

21 CHAIRMAN SEIBEL: December 21st, is  
22 that okay.

23 MR. ALAMPI: (Shakes head).

24 CHAIRMAN SEIBEL: And we don't have to  
25 re-notice.

1 MR. RANDALL: No further re-notice is  
2 required.

3 CHAIRMAN SEIBEL: All right. There is  
4 nothing else.

5 MR. LOWENSTEIN: Do you have a calender  
6 established yet on the residential --

7 MS. PECK: Yeah, I have residential,  
8 but no commercial. There's residential on, but no  
9 commercial.

10 MR. LOWENSTEIN: Do you know how many  
11 residential you have.

12 MS. PECK: I think four or five.

13 CHAIRMAN SEIBEL: All right. Thank you  
14 very much.

15 MR. ALAMPI: Thank you.

16 CHAIRMAN SEIBEL: And we'll see you  
17 soon enough.

18 MR. ALAMPI: Quite honestly, Chairman,  
19 I think it will give us time to work up the visuals  
20 on the facade of the building.

21 CHAIRMAN SEIBEL: That would be great.

22 (Whereupon, the matter is carried to a  
23 later date. Time noted: 10:09 p.m.)

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C E R T I F I C A T I O N

I, CANDICE GALARZA, a Court Reporter,  
and Notary Public of the State of New Jersey, hereby  
certify that the foregoing is a verbatim record of  
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I am not related to the parties  
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My Commission Expires:

8/26/2020

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