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BOROUGH OF FAIR LAWN
MUNICIPAL BUILDING
ZONING BOARD OF ADJUSTMENT
TUESDAY, APRIL 7, 2016
COMMENCING AT 7:08 P.M.

.....
IN THE MATTER OF : TRANSCRIPT
: OF
APPLICATION #2016-02, FAIR LAWN : PROCEEDING
J&S HOLDINGS, LLC :
23-08 Maple Avenue :
Block 5903, Lot 5, 5.01 & 36 :
.....

B E F O R E:

BOROUGH OF FAIR LAWN ZONING BOARD OF ADJUSTMENT

- THERE BEING PRESENT:
- RICHARD SEIBEL, CHAIRMAN
 - KEVIN PUZIO, VICE-CHAIRMAN
 - JAMES LOWENSTEIN, SECRETARY
 - JEANNE BARATTA, MEMBER
 - SAMUEL RACENSTEIN, MEMBER
 - YELENA PERCHUK, MEMBER
 - AVI NAVEH, ALTERNATE II
 - MARK ZHARNEST, ALTERNATE III
 - JOSHUA REINITZ, ALTERNATE IV

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A P P E A R A N C E S :

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Counsel to the Zoning Board of Adjustment

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Counsel to the Applicant

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ANN PECK, Assistant Zoning Officer
CATHY BOZZA, Board Secretary
PAUL AZZOLINA, Board Engineer
PETER VAN DEN KOOY, Board Planner
FRANK MISKOVICH, Board Traffic Engineer

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<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EVID</u>
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1 CHAIRMAN SEIBEL: All right. So,
2 before us today is Application No. 2016-02, Fair Lawn
3 J&S Holdings, LLC, 23-08 Maple Avenue, Block 5903,
4 Lots 5, 5.01, and 36. It's a proposed new Dunkin'
5 Donuts.

6 And, counselor, if you will. The floor
7 is yours.

8 MR. PIROMALLI: Thank you very much,
9 Mr. Chairman.

10 ASSISTANT ZONING OFFICER PECK: Excuse
11 me, Mr. Chairman.

12 CHAIRMAN SEIBEL: Yes.

13 ASSISTANT ZONING OFFICER PECK: Just
14 for the record that Mr. Racenstein and Jeanne Baratta
15 have both read and certified that they've read the
16 transcript so everyone on the dais is eligible.

17 CHAIRMAN SEIBEL: Thank you very much.
18 Everybody's sworn in from the last
19 time.

20 MR. ROSENBERG: Yes. Any witnesses who
21 he intends to call which have been previously sworn
22 is fine. Any new witnesses, Mr. Chairman, need to be
23 sworn before they could properly testify.

24 CHAIRMAN SEIBEL: Very good.

25 Please?

1 MR. PIROMALLI: Thank you very much,
2 Mr. Chairman.

3 Good evening, Mr. Chairman, members of
4 the board, my name's Michael Piromalli of the law
5 firm Gaccione and Pomaco, 524 Union Avenue in
6 Belleville.

7 I'm appearing here tonight on behalf of
8 Fairlawn J&S Holdings, LLC, as applicant regarding
9 the subject property located at 23-08 Maple Avenue.

10 This is our second appearance before
11 the board in connection with this application for
12 preliminary and final site plan approvals, as well as
13 use and bulk variance approvals to demolish the
14 existing office building on the site and construct a
15 new one-story 1,860 square foot building for use as a
16 Dunkin' Donuts restaurant and associated parking,
17 landscaping, and lighting improvements.

18 At the previous meeting this board held
19 on March 8th, 2016, which was a special meeting in
20 connection with this application, the applicant
21 presented testimony from the applicant regarding
22 proposed operations of the site as a Dunkin' Donuts
23 franchise, in addition to architectural and site
24 engineering testimony.

25 However, as was explained at the last

1 meeting, numerous revisions to the site plan then
2 were recommended by the Bergen County Planning Board
3 just a few days prior to the hearing, and while those
4 revisions have been made to the site plan which was
5 presented as an exhibit to the board and explained to
6 the board, we have since been able to provide the
7 board and its expert with revised plans for their
8 full review.

9 Although we have not received written
10 approval from the present version of the site plan
11 from the Bergen County Planning Board, the current
12 form of the site plan that has been submitted
13 represents the combination of ongoing discussions
14 with the county supervising planner, and we believe
15 the plan that is before you will ultimately be
16 approved by the county shortly.

17 Along with those revisions which were
18 made to the original site plan submitted, as
19 requested by the Bergen County Planning Board, some
20 additional revisions were made to the site plans that
21 you have before you right now. Those plans -- I'm
22 sorry -- those revisions were requested by the board
23 engineer, Frank Azzolina. They include reducing the
24 size of the loading space, which allowed for two
25 additional parallel parking spaces to be added, as

1 well as an inclusion of an additional dry well to
2 reduce the runoff directly towards the slope in the
3 rear of the property.

4 The revised drainage calculations were
5 also submitted showing the change in the runoff as a
6 result of the inclusion of that new dry well.

7 Also, since that March 8th meeting, the
8 traffic and parking study was done by professional
9 engineer, Eric Hough of Bertin Engineering and
10 submitted in support of the application. Mr. Hough's
11 here with us tonight to discuss all the revisions
12 made to the original site plan on behalf of Bertin
13 Engineering, and also the traffic and parking report
14 he had prepared to address any concerns the board or
15 the public may have with regards to parking and
16 traffic for the revisions to the site plan.

17 Moreover, in order to provide
18 additional parking for the proposed Dunkin' Donuts, a
19 contingent lease agreement was entered into between
20 the applicant, Fair Lawn J&S Holding, LLC, and the
21 neighboring property owner to the north at 23-20
22 Maple Avenue to lease eight parking spaces during the
23 hours of 5:00 a.m. to 11:00 a.m. daily.

24 In order to notify the public of the
25 availability of these spaces, a sign will be posted

1 inside of the Dunkin' Donuts restaurant.

2 In addition, each individual parking
3 space on the neighboring lot will have a sign to this
4 effect. A copy of that lease agreement has been
5 included with the revised application materials for
6 your review.

7 This type of cooperative parking
8 agreement is expressly permitted by the Fair Lawn
9 ordinance in the B-1 zone. And should the form to
10 the preset lease agreement require revision to
11 comport with the ordinance, the applicant and
12 neighboring property owner are willing to draft and
13 execute a further agreement which would fully comply
14 with those ordinance requirements.

15 The terms of the cooperative parking
16 agreement have been negotiated with the idea that the
17 peak demand of the proposed Dunkin' Donuts restaurant
18 are from 5:00 a.m. to 9:00 a.m. daily. And the
19 additional eight spaces available up to 11:00 a.m.
20 would more than accommodate the peak demand while at
21 the same time not affecting the available parking for
22 the neighboring use, 23-20 Maple Avenue as the Johnny
23 & Hanges restaurant does not open until 11:00 a.m.
24 daily.

25 Both the applicant and the neighboring

1 property owner are here tonight should the board have
2 any questions pertaining to the cooperative parking
3 agreement or any other aspect of their present or
4 proposed use of their respective properties.

5 Lastly, the revised architectural plans
6 were also submitted since the prior meeting which
7 eliminated the seating at the counter area, reducing
8 the number of seats at the proposed Dunkin Donuts to
9 20 seats, as our site architect had testified
10 previously, which was to correct an inconsistency
11 between his architectural plans, between the zoning
12 table on the original engineering site plans. The
13 plans you have before you indicate those 20 seats in
14 the zoning table and the architectural plans also
15 indicate 20 seats as well.

16 At this time, Mr. Chairman, I would
17 like to recall the applicant, Jay Patel. I'd like to
18 revise some of his prior testimony with regard to the
19 anticipated number of daily customers at the site, if
20 that's acceptable.

21 CHAIRMAN SEIBEL: Sure.

22 MR. PIROMALLI: Thank you. I'd like to
23 call Mr. Jay Patel, he's already been sworn.

24 MR. RACENSTEIN: Point of information,
25 Mr. Chairman?

1 CHAIRMAN SEIBEL: Yes.

2 MR. RACENSTEIN: In your talk, you said
3 they were demolishing the office building.

4 MR. PIROMALLI: Correct. The building
5 that's --

6 MR. RACENSTEIN: Because I passed there
7 every other day. It seems will a residential
8 building, not an office building.

9 MR. PIROMALLI: I believe it's
10 currently being used as a medical office.

11 MR. RACENSTEIN: A medical office?

12 MR. PIROMALLI: Correct.

13 CHAIRMAN SEIBEL: It's a converted
14 house.

15 MR. RACENSTEIN: All right. Thank
16 you.

17 CHAIRMAN SEIBEL: Converted from -- it
18 was probably residential many, many years ago.

19 MR. RACENSTEIN: Thank you.

20 J A Y P A T E L,

21 Having been previously sworn, continues to
22 testify as follows:

23 DIRECT EXAMINATION

24 BY MR. PIROMALLI:

25 Q. Mr. Patel, you've already been sworn.

1 I just have one question for you.

2 What is the daily anticipated demand of
3 customers at this location which would comport more
4 with your present application and not as originally
5 testified to?

6 A. I would like to make a correction on my
7 previous testimony. Especially, Mr. Reinitz asked a
8 question, what is the anticipated weekly customer
9 count. I said 9,000.

10 But that is my location in Paterson,
11 which we have a drive-thru Madison Avenue and Getty
12 Avenue. So, that location is extremely busy, one the
13 busiest location in the state. So, I'm comparing
14 this time to Lodi, Main Street and the Lodi, Main
15 Street location, we have average customer come 4,800
16 to 5,000 people a week. So I would like to make a
17 corrections on that.

18 CHAIRMAN SEIBEL: How many per week?

19 THE WITNESS: 4,800 to 5,000.

20 CHAIRMAN SEIBEL: 4,800.

21 THE WITNESS: And we're in the Lodi
22 location since 1992.

23 CHAIRMAN SEIBEL: And that's Main
24 Street, Lodi.

25 THE WITNESS: Main Street, Lodi north,

1 so I would like to make a correction.

2 MR. PIROMALLI: I have no further
3 questions of this witness. If the board has any
4 questions.

5 CHAIRMAN SEIBEL: So, that's about a
6 little more than half?

7 Anybody have any questions for the
8 witness? Yes.

9 MR. REINITZ: Just a follow up on that.
10 So, that's roughly 700 a day. Do you know what the
11 breakdown with these numbers would be peak versus
12 off-peak?

13 THE WITNESS: Sure.

14 Between 5:00 in morning and 12:00
15 lunch, usually 11:00 our business slow down because
16 we're not in the lunch business. So, between 5:00 to
17 12:00, approximately about 450 to 500, we count in
18 the morning. And we collect almost 65 percent of
19 business before lunchtime.

20 MR. REINITZ: Thank you.

21 THE WITNESS: You're welcome.

22 CHAIRMAN SEIBEL: Anyone else?

23 (No response.)

24 CHAIRMAN SEIBEL: Open it up to
25 property owners --

1 MR. ROSENBERG: Sure.

2 CHAIRMAN SEIBEL: -- within 200 feet.
3 Do you have questions for the witness?

4 MR. ROSENBERG: Yes, you have someone
5 in the back, Mr. Chair.

6 CHAIRMAN SEIBEL: Oh, good. Come on
7 forward, and I'll swear you in.

8 If you'll state your name and address
9 for the record.

10 DOCTOR KNAPP: I was sworn in at the
11 last meeting.

12 CHAIRMAN SEIBEL: Oh, sworn in.

13 DOCTOR KNAPP: Dr. Charles Knapp, 23-02
14 Maple Ave.

15 MR. ROSENBERG: He was previously
16 sworn, Mr. Chairman.

17 CHAIRMAN SEIBEL: Go for it.

18 DOCTOR KNAPP: Even if he cuts down the
19 number to 450 a day, how many max parking spots with
20 Johnny & Hanges, 14, 15, 16 spots?

21 THE WITNESS: Not counting Johnny &
22 Hanges, we're leasing eight parking spaces --

23 DOCTOR KNAPP: I just can't see people
24 stopping for a cup of coffee for 15, 20 minutes.

25 CHAIRMAN SEIBEL: We need a question.

1 DOCTOR KNAPP: Where are all these cars
2 going to be?

3 Right now, I get overflow from the
4 chiropractor, which is the medical building next
5 door.

6 THE WITNESS: Yeah.

7 DOCTOR KNAPP: And I get overflow from
8 the child center next door.

9 My patients come --

10 CHAIRMAN SEIBEL: We need a question
11 for the witness.

12 DOCTOR KNAPP: Where are the cars going
13 to go because there's no way that 500 -- between 5:00
14 in the morning and 11:00, somebody stays in the
15 Dunkin' Donuts for a cup of coffee, that spot's taken
16 for 20 minutes.

17 THE WITNESS: I understand your concern
18 and this is one of the reason we went to the next
19 door neighbor and Johnny --

20 DOCTOR KNAPP: Yeah, but they zip
21 through right now, the chiropractor, and they end up
22 in my lot.

23 MR. ROSENBERG: There is a traffic
24 expert available.

25 MR. PIROMALLI: Yeah, the traffic

1 expert is going to --

2 DOCTOR KNAPP: There's no way you can
3 stop it. I just don't see how you can do it.

4 CHAIRMAN SEIBEL: Is that your
5 question?

6 DOCTOR KNAPP: Yeah. I don't think
7 it's doable.

8 CHAIRMAN SEIBEL: Okay. Anyone else
9 within 200 feet?

10 (No response.)

11 CHAIRMAN SEIBEL: Members of the
12 general public.

13 (No response.)

14 CHAIRMAN SEIBEL: Seeing none.

15 MR. REINITZ: Mr. Chairman, may I just
16 follow up with one question?

17 MR. ROSENBERG: Sure.

18 CHAIRMAN SEIBEL: Sure.

19 MR. REINITZ: Mr. Patel, how did you
20 come up with eight spots? I know that restaurant has
21 significantly more than eight, so why eight?

22 THE WITNESS: This eight spaces are
23 right -- located right next to this property, so it
24 is much convenience for the customer to park there,
25 much convenience. In addition we can have our

1 employees or manager have -- can use this parking to
2 keep the rest of the parking lot open for customers.

3 MR. REINITZ: Okay.

4 THE WITNESS: But he has a lot more
5 than eight cars.

6 CHAIRMAN SEIBEL: Anyone else?

7 (No response.)

8 MR. PIROMALLI: With your permission,
9 I'd like to call my next witness.

10 MR. ROSENBERG: Mr. Chairman, maybe our
11 experts might have questions. They should chime in.

12 CHAIRMAN SEIBEL: Any of our experts
13 have questions?

14 (No response.)

15 MR. ROSENBERG: Just of Mr. Patel.

16 Thank you, Mr. Chairman.

17 CHAIRMAN SEIBEL: No?

18 Go ahead.

19 MR. PIROMALLI: We would like to call
20 traffic expert and our professional engineer, Eric
21 Hough. He will need to be sworn, Mr. Chairman.

22 CHAIRMAN SEIBEL: He will?

23 MR. PIROMALLI: Yes.

24 CHAIRMAN SEIBEL: If you'll state your
25 name and your business address for the record?

1 MR. HOUGH: My name is Eric Hough,
2 Bertin Engineering, 66 Glen Avenue, Glen Rock, New
3 Jersey.

4 CHAIRMAN SEIBEL: And you weren't sworn
5 in before?

6 MR. HOUGH: I was not.

7 CHAIRMAN SEIBEL: Somebody was, right?

8 MR. PIROMALLI: At the last meeting,
9 project engineer Jeff Zielinski was here on behalf of
10 Bertin Engineering. He's unavailable tonight.

11 Due to the fact that Mr. Hough is also
12 giving the traffic part of his testimony, we thought
13 that would be best for him to also explain the site
14 plan revisions.

15 CHAIRMAN SEIBEL: If you'll raise your
16 hand, I'll swear you in.

17 Do you swear or affirm that the
18 testimony you're about to give is true and accurate?

19 MR. HOUGH: I do.

20 E R I C H O U G H ,

21 66 Glen Avenue, Glen Rock, New Jersey, having
22 been duly sworn, testifies as follows:

23 MR. ROSENBERG: And I'll qualify you as
24 an expert.

25 Have you ever testified in front of

1 this board before?

2 MR. HOUGH: Not in front of this board.

3 MR. ROSENBERG: How about for anyone in
4 Bergen County?

5 MR. HOUGH: Yes.

6 CHAIRMAN SEIBEL: And how long have you
7 been an expert in this field?

8 MR. HOUGH: I have been working with
9 Bertin Engineering for nearly 10 years, primarily
10 traffic engineering.

11 CHAIRMAN SEIBEL: Anybody have any
12 questions? Otherwise, I will accept him as an
13 expert.

14 DIRECT EXAMINATION

15 BY MR. PIROMALLI:

16 Q. Mr. Hough, before we go into discussing
17 traffic and parking analysis that you're primarily
18 here to discuss, I would like you to go over those
19 revisions that have been made to the site plan and
20 why those revisions were made.

21 A. Okay. Can I use this?

22 Q. Of course.

23 CHAIRMAN SEIBEL: You're probably
24 better off --

25 THE WITNESS: Should I use that one?

1 CHAIRMAN SEIBEL: Yes. For some reason
2 things aren't consistent.

3 THE WITNESS: Okay.

4 CHAIRMAN SEIBEL: But try to get as
5 close to the microphone as you can.

6 THE WITNESS: I'll sit down.

7 All right. After submission, in
8 coordination with Bergen County, the following site
9 plan revisions have been made, the proposed driveway
10 dimensions have been revised. The entrance driveway
11 on the northerly entrance driveway, changed from a
12 driveway width of 25 feet to 20 feet. The exit
13 driveway width changed from 21 feet down to 15 feet.

14 The parking layout has also been
15 modified, as was briefly explained before. There
16 will still be a total of 15 on-site parking spaces
17 provided. The new layout shows eight spaces located
18 on the north side of the proposed building with the
19 handicap space relocated to the east end.

20 This new layout was created to provide
21 more space between the proposed parking and the
22 entrance driveway.

23 Five spaces are now located south of
24 the proposed building, and there will be two parallel
25 spaces that are now located to the west of the

1 proposed building.

2 These two parallel spaces will be
3 employee only spaces (indicating).

4 Another revision that was made, the
5 freestanding sign that was located in front of the
6 proposed building has been relocated to the northeast
7 corner of the site.

8 As far as drainage is concerned, an
9 additional dry well has been added to reduce the
10 runoff directed towards the slope in the rear of the
11 property.

12 Additional landscaping has been
13 provided on site. The previous application contained
14 17 evergreen shrubs. The new plan will now have a
15 total of 29 shrubs. This will -- the impervious
16 coverage of the site, due to the increased
17 landscaping, has decreased from 41.7 percent down to
18 39.5 percent. Basically, these are the site plan
19 revisions.

20 Q. Mr. Hough, what is the status of the
21 county planning board application presently?

22 A. We did the initial submission and we
23 received one review letter. And we have been
24 coordinating back and forth which led to these site
25 plan revisions. And we have verbally reached an

1 agreement that the county will ultimately approve the
2 plan as shown.

3 MR. PIROMALLI: Thank you.

4 Mr. Chairman, I intend to move forward
5 with the traffic and parking testimony. Is there any
6 desire to have the board question him on any
7 revisions made to the site plan before we move ahead?

8 CHAIRMAN SEIBEL: Let me ask, anybody
9 have questions regarding the changes to the site
10 plan?

11 MS. BARATTA: Yes.

12 MR. LOWENSTEIN: Yes.

13 CHAIRMAN SEIBEL: Go ahead.

14 MR. LOWENSTEIN: What's the rationale
15 underlying the narrowing of the lanes.

16 THE WITNESS: The -- Bergen County
17 wanted to narrow the lanes because they did not feel
18 they needed to be as wide. We liked our site plan,
19 previous site plan, but this was per Bergen County.

20 MR. LOWENSTEIN: And as to -- I believe
21 you said you were going to be two set aside parking
22 spaces of employees on the site?

23 THE WITNESS: Correct.

24 MR. LOWENSTEIN: Was there any
25 contemplation of working out some kind of agreement

1 with Johnny & Hanges to have the employees park in
2 the Johnny & Hanges' parking spots?

3 THE WITNESS: There was talk of that.
4 I can get into more about that in my traffic
5 testimony, but we decided to make them employee
6 spaces due to the location of the loading zone. The
7 employees would know when to park there and when not
8 to park there as far as deliveries and trash.

9 MR. LOWENSTEIN: Thank you.

10 CHAIRMAN SEIBEL: Okay. Yes?

11 MS. BARATTA: That was my question. My
12 question was on the two employee spots, they'd be
13 marked employee spots --

14 THE WITNESS: That is correct.

15 MS. BARATTA: -- so no one would park
16 there?

17 Because Mr. Patel, he -- we spoke about
18 the agreement with Johnny & Hanges. He mentioned
19 those spots being used for employees.

20 THE WITNESS: Yes.

21 I believe -- there will be a total of
22 four employees, I believe, at the max, I think. Not
23 always.

24 But there are only two parallel spots
25 so maybe one can park over at Johnny & Hanges --

1 MS. BARATTA: So, are you saying that
2 these spots may not be -- you may not want to have
3 customers park there because of where they're located
4 with trucks coming in and out?

5 THE WITNESS: Correct. That's why
6 they're employee only; that's correct.

7 MS. BARATTA: Okay. Thank you.

8 CHAIRMAN SEIBEL: Yes?

9 MR. REINITZ: The width between the
10 building and those employee spots, that is sufficient
11 for the trucks to get through?

12 THE WITNESS: Yes. It is sufficient.
13 We have a -- it's sufficient when no cars are parked
14 in the employees' spot.

15 MR. REINITZ: So, if there's cars
16 parked there, the trucks couldn't get through?

17 THE WITNESS: That is correct. That's
18 why the employees --

19 MR. REINITZ: So --

20 THE WITNESS: -- have to know when --
21 and that's correct.

22 MR. REINITZ: I know there'd be a lot
23 of people who like their coffee, and if it's raining
24 or it's bad weather or if I got to pick up my kid in
25 10 minutes and the only spot open's the employee

1 spot, what's to say that -- it just concerns me, I
2 guess, that you got spots there that are -- I mean,
3 to me -- and maybe this goes more to parking.

4 THE WITNESS: Yes.

5 MR. REINITZ: And you know, I'll
6 reserve for later on.

7 CHAIRMAN SEIBEL: All right. Anybody
8 else? Anything regarding -- yes.

9 MR. ROSENBERG: They need to be sworn
10 in, Mr. Chairman.

11 CHAIRMAN SEIBEL: They need to be
12 sworn?

13 MR. ROSENBERG: Yes.

14 CHAIRMAN SEIBEL: All right. Raise
15 your hand, state your name and address for the
16 record.

17 MR. AZZOLINA: Paul Azzolina, Azzolina
18 and Feury Engineering, 30 Madison Avenue, Zoning
19 Board engineer.

20 Go down the line or --

21 CHAIRMAN SEIBEL: Yeah, we might as
22 well.

23 MR. MISKOVICH: Frank Miskovich, board
24 traffic engineer, Metuchen, New Jersey.

25 MR. VAN DEN KOOY: Peter Van Den Kooy,

1 Matrix New World Engineering, Zoning Board planner,
2 Eatontown. I'm sorry -- 42 Route 35, Eatontown, New
3 Jersey.

4 CHAIRMAN SEIBEL: If you all raise your
5 right hand, I'll swear you all in.

6 Do you swear or affirm that the
7 testimony you're about to give is true to and
8 accurate?

9 MR. AZZOLINA: I do.

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

11 Having been duly sworn, testifies as follows:

12 MR. MISKOVICH: I do.

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

14 Having been duly sworn, testifies as follows:

15 MR. VAN DEN KOOY: I do.

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

17 Having been duly sworn, testifies as follows:

18 MR. AZZOLINA: A couple of questions,
19 comments on the revisions to the plan. Due to
20 current -- Mr. Hough's summarization of the plan
21 revisions made, one piece of information that was
22 added to the submittal was the preliminary
23 Environmental Impact Statement. Item Number 17
24 identifies an underground storage tank that was
25 abandoned in place on the site. I do not see that on

1 the plan anywhere.

2 Would you know where that's located and
3 if it's within the limits of the building or the
4 seepage pit requiring that it be removed?

5 THE WITNESS: I was unaware of that
6 issue. I don't know if --

7 MR. PIROMALLI: The prior engineer,
8 Jeffery Zielinski was the one who did that plan. We
9 do have a Phase I that was conducted. My
10 understanding is that where that tank is, is
11 acceptable. It's been decommissioned in place
12 successfully by the New Jersey Department of
13 Environmental Protection. They've got their
14 certificate that they need. It does not interfere
15 with the dry well. That's why the dry wells were
16 located in places they were located.

17 I do not have engineering testimony to
18 provide to you at this time, though, to concur with
19 my understanding of that.

20 MR. AZZOLINA: Okay. I would just --
21 if the board were to approve the application, that
22 copies of that certificate be provided as part of the
23 application package as well.

24 MR. PIROMALLI: We do have a copy of
25 Phase I available.

1 MR. AZZOLINA: Yeah, that would be --
2 that would be helpful.

3 MR. PIROMALLI: And I would have
4 submitted that if I thought you needed it.

5 MR. AZZOLINA: Okay.

6 MR. PIROMALLI: My apologies.

7 MR. AZZOLINA: Just a couple of minor
8 comments relative to the landscaping and lighting
9 plan.

10 There are some conflicts between the
11 information presented in the tables relative to the
12 quantity of lighting fixtures as well as the
13 landscaping quantities, all very minor technical
14 issues that can be addressed by the applicant and
15 should be addressed if the board were to approve the
16 application.

17 Other than that, I have no objection to
18 the site plan as revised.

19 MR. MISKOVICH: Mr. Chairman, yes,
20 Frank Miskovich.

21 Just a point of clarification. You
22 said those two spaces in the back would be designated
23 employee parking. So, the sign that you have in your
24 sign legend says "No parking after 10:00 p.m." So
25 that would be changed --

1 THE WITNESS: That would be changed.

2 MR. MISKOVICH: -- to employee parking?

3 THE WITNESS: Correct.

4 MR. MISKOVICH: Thank you.

5 CHAIRMAN SEIBEL: Anything?

6 MR. VAN DEN KOOY: No. No questions of
7 this witness. Thank you.

8 CHAIRMAN SEIBEL: Any other questions?

9 MR. LOWENSTEIN: Yes. Just a follow
10 up. I don't know if it's better directed at Mr.
11 Azzolina or the applicant.

12 But there was something we got from, I
13 think, the Green Team, Shade Tree Commission,
14 somebody, talking about the depth of the mulch. Is
15 that one of those minor matters you referred to, Mr.
16 Azzolina?

17 MR. AZZOLINA: Yes. Most notably, the
18 primary comment in that correspondence was the azalea
19 quantity is not evident. The reason is because it
20 with on the original plan and then they modified the
21 plan per the county. So, there are no longer any
22 azaleas proposed. So, that's -- that's one of the
23 minor technical things that they need to revise.

24 The depth of mulch, that's something
25 I'm sure they can revise the detail to address the

1 environmental or the shade tree committee's --

2 MR. LOWENSTEIN: Are you in accordance
3 with the recommendations --

4 MR. AZZOLINA: Yes.

5 MR. LOWENSTEIN: -- on that point?

6 MR. AZZOLINA: Yes. Yes.

7 MR. LOWENSTEIN: Thank you.

8 CHAIRMAN SEIBEL: Anybody else,
9 questions of this witness regarding this section?

10 (No response.)

11 CHAIRMAN SEIBEL: Nothing. I'll open
12 it up to property owners within 200 feet.

13 Questions for the witness?

14 (No response.)

15 CHAIRMAN SEIBEL: Seeing none, I'll
16 open it up to general public.

17 (No response.)

18 CHAIRMAN SEIBEL: Seeing none, we'll
19 move on.

20 MR. PIROMALLI: Thank you.

21 BY MR. PIROMALLI:

22 Q. Moving on to discuss the traffic and
23 parking issues, you completed your analysis with
24 require to the traffic and parking for the proposed
25 project.

1 What was the result of that analysis?

2 A. The result of that analysis, we did a
3 capacity analysis of both site driveways and they
4 were found to run at adequate level of service
5 conditions.

6 Should I go through my -- my traffic
7 impact statement?

8 Q. Please. Please do.

9 A. Okay.

10 Q. The board would like to hear that.

11 A. Okay. This testimony addresses the
12 traffic impact associated with the development of the
13 proposed Dunkin' Donuts on Maple Avenue.

14 The analysis included manual counts
15 along Maple Avenue to determine the traffic passing
16 the site, an estimate of the new traffic to be
17 generated by the project, and an analysis of the
18 impact of this traffic on local existing traffic.

19 Maple Avenue is a county roadway and it
20 travels in a general north/south direction,
21 containing one travel lane in each direction, with a
22 posted speed limit of 35 miles per hour in the
23 vicinity of the site.

24 The entrance ramp to Route 208 is
25 located approximately 50 feet north of the site's

1 frontage along Maple Avenue.

2 A study of traffic activity was
3 conducted along Maple Avenue during the a.m. and p.m.
4 peak periods. It was found that the majority of
5 traffic on Maple Avenue travels northbound towards
6 Route 208 in both the a.m. peak hour and the p.m.
7 peak hour.

8 As far as the proposed development, the
9 applicant proposes to construct a 1,846 square foot
10 Dunkin' Donuts at the project site. This site will
11 have two access driveways along Maple Avenue. The
12 northerly driveway will be an entrance-only driveway
13 and the southerly driveway will act an exit only onto
14 Maple Avenue.

15 The proposed building is located in the
16 middle of the subject property with parking located
17 around the building to the north, south, and west. A
18 10 by 30 foot loading zone is located at the
19 southwest corner of the property.

20 Parking, there will be a total of 15
21 parking spaces provided onsite as previously
22 described. Eight of these parking spaces are located
23 on the north side of the building, five spaces are
24 located on the south, and two parallel spaces are
25 located on the west side, which will be for employee

1 only.

2 There is an agreement in place with the
3 adjacent restaurant to the north, that eight spaces
4 on the south side of the property can be used by the
5 proposed Dunkin' Donuts from the hours of 5 a.m. to
6 11 a.m. These spaces will be properly signed to
7 indicate the time frame allowed for each use. And
8 signage will be provided at the proposed Dunkin'
9 Donuts to notify customers of the additional parking
10 available.

11 A parking count was done at a similar
12 Dunkin' Donuts in the area. During the morning hours
13 of 8 a.m. and 9 a.m. and during the afternoon hours
14 of 5 p.m. and 6:00 p.m. It was observed that this
15 Dunkin' Donuts is approximately the same square
16 footage as the proposed building. It does not have a
17 drive-thru and it is located on Goffle Road directly
18 off of Route 208. So, we can say that the conditions
19 would be similar.

20 There was a maximum of 20 cars parked
21 in the a.m. peak hour and the maximum of 13 cars
22 parked in the p.m. peak hour.

23 So, using these numbers, when
24 accounting for the eight spaces on the adjacent lot
25 that we would -- that would be provided to us and the

1 15 onsite spaces, there would be a total of 23 spaces
2 available which is more than the 20 car peak demand
3 observed at that similar Dunkin' Donuts in the a.m.
4 peak hour.

5 The amount of traffic to be generated
6 by the proposed development has been determined by
7 data published in the Trip Generation 9th Edition
8 published by the Institute of Transportation
9 Engineers ITE. Land Use Code 936, coffee/donut shop
10 without drive-thru window, was used for the proposed
11 use.

12 The traffic -- this traffic that will
13 be generated by the proposed coffee/donut shop is a
14 combination of new trips to the site and pass-by
15 trips. Pass-by trips are basically customers that
16 are already on the roadway and pass the site on their
17 way from an origin to their ultimate destination.
18 Basically, they're on the road anyway and they are
19 going -- they're currently on the road now existing
20 and they will use the proposed Dunkin' Donuts.

21 This site generated traffic has been
22 disbursed onto Maple Avenue as per the existing
23 traffic distribution. A capacity analysis has been
24 performed to determine the operating conditions or
25 level of service at both site driveways during

1 existing and proposed conditions.

2 It was found that the level of service
3 at both side driveways will operate under acceptable
4 level of service conditions upon completion of the
5 project.

6 Due to the amount of anticipated left
7 turns out of this site, a gap analysis was performed
8 along Maple Avenue. In the a.m. peak hour, there are
9 16 vehicular gaps observed during the 15 minute time
10 interval which would support a total of 28 left turns
11 out of the driveway.

12 If you project this over an hour, there
13 would be 112 left turns supported in the peak hour.
14 It is anticipated that a total of 50 vehicles will
15 make a left turn out of this site during this a.m.
16 peak hour.

17 In conclusion, the proposed development
18 will not have a substantial negative impact on the
19 area for the following reasons: The proposed Dunkin'
20 Donuts is compatible from a traffic generation
21 standpoint with the surrounding properties in the
22 area. And as previously described, the level of
23 service at both site driveways are adequate upon
24 completion of the project and there are an adequate
25 amount of vehicular gaps existing on Maple Avenue to

1 support the projected left turn egress at the site
2 exit driveway.

3 Q. Thank you.

4 Just quickly two points to make, with
5 regard to those employee spaces, why were they
6 decided to be labeled as employee spaces? Basically,
7 what was our concern that made them more suitable as
8 employee spaces rather than general public spaces
9 limited to a certain time?

10 A. Because of their close proximity to the
11 loading zone and trash enclosure. These spaces would
12 be -- if occupied, would be in the way and conflict
13 with deliveries and trash pick up. So, we made them
14 employee spaces because the employee will know when
15 these deliveries and pick ups would take place.

16 Q. And to the board member's concerns, if
17 there were employees parked in those spaces, would
18 customers be able to park there?

19 A. No. They wouldn't be able to park
20 there.

21 Q. Now, with regard to the off-site
22 parking at the Johnny & Hanges restaurant, we see in
23 your analysis, there's a total of 50 vehicles that
24 are anticipated to make a left turn out of the site
25 during the a.m. peak hour.

1 Would it be reasonable to say that by
2 incorporating the Johnny & Hanges parking, that we're
3 now using two driveways as opposed to one driveway to
4 service that need, the anticipated need of cars?

5 A. That's true. So, in the a.m. peak
6 hour, we have the use of two driveways for left turns
7 out of the site basically, yes.

8 Q. So, considering the number of gaps, you
9 feel that would be an appropriate number of gaps,
10 even if we had one driveway, certainly, there's
11 enough gaps with two driveways available?

12 A. That's correct.

13 Q. Have you had an opportunity to review
14 the township expert's report, specifically Mr.
15 Miskovich's traffic report?

16 A. I have.

17 Q. Do you have a copy of it with you?

18 A. I do.

19 Q. Great. I just want to run through a
20 few items in his report with you.

21 Specifically, on Page 3, Item Number 6,
22 this is the simple item, basically a housekeeping
23 issue with regard to the location of the handicap
24 sign.

25 What happened there?

1 A. The previous site plan had the
2 handicapped space in the center of the parking aisle.
3 It has since been revised per the county, and we just
4 have to relocate the sign in the proper location.

5 Q. While we're on the housekeeping issues,
6 what's the proper counts, as far as shrubs were
7 concerned was 29?

8 A. 29, not 32.

9 Q. And to resolve the issue with the Shade
10 Tree Commission, the azaleas are not part of the
11 landscape plan?

12 A. Correct, they are not.

13 Q. That's the reason for the difference?

14 A. Correct.

15 Q. We will correct that as well.

16 Moving onto Item 1 on Page 4 of the
17 Traffic Impact Study. Section 6.4 of your report
18 indicates a traffic count to a similar Dunkin'
19 Donuts, you provided information as to what Dunkin'
20 Donuts that was. So, the comparison you believe is
21 equivalent?

22 A. Correct.

23 Q. Great. As far as Item Number 3,
24 Section 7.2 of your report indicates that the typical
25 weekend p.m. peak hour traffic in the area is less

1 than weekday p.m. peak hours is therefore more
2 critical. But you did not include the volume data to
3 confirm this?

4 A. Yes. We did not count during the
5 weekend because typically Saturday is more spread out
6 and the p.m. peak hour has more volume, correct.

7 Q. So, considering the fact that the
8 volume would be less, you didn't think it was
9 necessary to count?

10 A. (Witness nods.)

11 Q. Item 4, again Page 4, Traffic Impact
12 Report, Section 7.4, of your report indicates the
13 site generated traffic has been disbursed onto Maple
14 Avenue based on the existing traffic distribution.
15 Would you clarify and explain what impact having a
16 higher left turn entering and exiting volume may have
17 on the analysis?

18 A. While there is enough gaps existing on
19 Maple to support all the left turn movements, it is
20 my opinion that due to the pass-by nature of the
21 site, there would -- they'll be more right turns in
22 and right turns out of the site than that are
23 currently shown.

24 So, basically, there is enough gaps on
25 the roadway as depicted now, but more right turns

1 would actually happen in reality, I believe.

2 Q. So, in your opinion, taking the
3 conservative approach with regards to that
4 calculation?

5 A. Yes.

6 Q. Item 5, Page 4, capacity analysis
7 worksheet. The a.m. build scenario at the exit
8 driveway had the southbound volume omitted. This has
9 had an impact on resulting level service and vehicle
10 delay, a revised calculation should be submitted.
11 What happened? Why was that omitted? Was that --

12 A. That was not done on purpose, and we
13 have a revised HCS worksheet with the correct volumes
14 and that we can submit.

15 MR. PIROMALLI: With your permission,
16 Mr. Chairman, we would like to submit the revised
17 worksheet.

18 CHAIRMAN SEIBEL: Sure.

19 MR. PIROMALLI: We would like to mark
20 it as Exhibit G, Mr. Rosenberg? I think we're on
21 Exhibit G?

22 MR. ROSENBERG: Yes, G.

23 (Whereupon, Revised Capacity Analysis
24 Worksheet is received and marked as Exhibit G
25 for identification.)

1 MR. PIROMALLI: It's going to be our
2 Revised Capacity Analysis Worksheet for the a.m.
3 build scenario at the exit drive.

4 THE WITNESS: So, with the revised --
5 with the correct --

6 MR. PIROMALLI: One moment.

7 THE WITNESS: I'm sorry.

8 BY MR. PIROMALLI:

9 Q. You may proceed.

10 A. The revised HCS worksheet now shows
11 that the eastbound movement will be a level of
12 service D with a delay of 28.5 seconds. This is the
13 most critical peak hour, peak period due to the
14 amount of left turns projected. But it still
15 operates at a serviceable level of service and there
16 are enough supporting gaps for these movements,
17 basically.

18 Q. I'm looking at Item Number 6, Page 5.
19 The gap analysis that you performed was performed for
20 peak 15 minute period in the morning and evening peak
21 period and then projected for the entire hour. Why
22 was the gap study not conducted for an entire hour?

23 A. We -- we used the 15 minute peak
24 period. We thought that was the -- the 15 minutes
25 with the most cars, and we projected that for an

1 hour. So, if anything, we feel it is a conservative
2 analysis of the existing gaps for peak hour.

3 Q. Meaning there would be more peaks were
4 you to have counted for the hour time?

5 A. Yes.

6 Q. Item Number 7, an analysis was only
7 performed for the left turn exiting movement. With a
8 total a.m. peak hour exiting volume of 98 vehicles,
9 how would the gap analysis be affected -- I'm sorry.
10 I think I misstated that.

11 If distribution is similar to that in
12 Section 4.0 of your table, the left turn volume could
13 be higher. And the second vehicle in the queue would
14 be impeded at the left or right turn exiting vehicle.
15 How would that affect your gap analysis? My
16 apologies.

17 A. Like I stated before, I believe the
18 left turns out of the site is a pretty conservative.
19 And I believe there will be more right turns out of
20 this site.

21 But there are still enough gaps on the
22 road for the conservative increased amount of left
23 turns that we have in our traffic report.

24 And as you can see on the HCS
25 worksheet, as far as a queue, that would possibly

1 build up on the exiting driveway, the worksheet shows
2 that the 95th percent queue length will be 1.88 cars.
3 So, that is saying that the queue length at the site
4 exit driveway will not exceed two car lengths.

5 Q. And in your estimation, what would the
6 average wait time be for, for one of those two cars
7 or those two cars to make that left turn?

8 A. The average wait time?

9 Q. Correct.

10 A. I would say the average wait time would
11 be anywhere between 10 to 20 seconds, 10 to 20
12 seconds.

13 Q. And what level of service would that
14 be?

15 A. That would be -- that would be a level
16 of service C, but the report has 28.5 seconds which
17 is a level of service D.

18 Q. And is that an acceptable level of
19 service?

20 A. I -- I believe that's acceptable, yes.

21 MR. PIROMALLI: Thank you very much.

22 I have no further questions of this
23 witness, Mr. Chairman.

24 CHAIRMAN SEIBEL: The peak hour factor,
25 I see .93?

1 THE WITNESS: Yes.

2 CHAIRMAN SEIBEL: What does that mean?
3 Just give me a quick --

4 THE WITNESS: That was gathered from
5 the existing traffic counts. We count for two hours,
6 so the peak hour factor is just an estimation of how
7 much it fluctuates over those two hours.

8 Is there a crazy amount of difference
9 in the amount of volume. So, the closer to one, the
10 less fluctuation basically.

11 CHAIRMAN SEIBEL: So -- and if it goes
12 over one, that's bad?

13 THE WITNESS: It can't go over one,
14 yes.

15 CHAIRMAN SEIBEL: Oh, okay.

16 Anybody have any questions? Yes.

17 MR. RACENSTEIN: The traffic
18 congestion on Maple Avenue between rush hours from
19 7:00 to 10:00 and 4:00 to 7:00 bothers me because if
20 cars going out, and make a left-hand turn, you have a
21 large Nabisco there. You have Toyota. You have
22 other commercial places that will tie up the traffic
23 on Maple Avenue.

24 Is it possible to put down no left-hand
25 turns from the hours from 7:00 to 10:00 and from 4:00

1 to 7:00.

2 THE WITNESS: It's possible to do that,
3 but I do feel like it can support the left turns out
4 at -- during those peak hours.

5 CHAIRMAN SEIBEL: Any questions?

6 MR. PUZIO: Yes.

7 CHAIRMAN SEIBEL: Is that you?

8 MR. PUZIO: Yes.

9 CHAIRMAN SEIBEL: Go ahead.

10 MR. PUZIO: As a follow-up to that, how
11 did you determine to use 9 a.m. instead of 7:00 or
12 8:00 when there's more work flow traffic?

13 THE WITNESS: 9 a.m. as far as the --
14 when we counted?

15 MR. PUZIO: Yes.

16 THE WITNESS: It's typical of the peak
17 hours from 7:00 to 9:00 a.m.; that's when we counted.

18 MR. PUZIO: Why didn't you use --

19 THE WITNESS: Is that what you were
20 looking for?

21 MR. PUZIO: Yeah. I mean, typically by
22 9:00, most people are in work.

23 THE WITNESS: That's why --

24 MR. PUZIO: Traffic would lighten up,
25 so why not use 7:00 a.m. and 8:00 a.m. when more

1 people are traveling --

2 THE WITNESS: We counted that whole
3 time.

4 MR. PUZIO: All the way through?

5 THE WITNESS: All the way through.

6 MR. PUZIO: From 7:00 to 9:00?

7 THE WITNESS: Those two hours and that
8 would isolate the peak hour within those two hours.

9 MR. PUZIO: And then you used
10 15 minutes of that?

11 THE WITNESS: Correct. And then we
12 found -- then we determined which 15 minute would be
13 the one to observe the amount of gaps.

14 MR. MISKOVICH: The only caveat to that
15 is in the report, the volumes are only shown from
16 8:00 to 9:00, not from 7:00 to 8:00, so that there's
17 no way to see that comparison. I don't disagree with
18 the fact that the peak usually occurs in that 7:00 to
19 9:00 period, but we didn't have that 7:00 to 8:00
20 volumes to see how that related.

21 Thank you.

22 MR. LOWENSTEIN: Mr. Chairman?

23 CHAIRMAN SEIBEL: Yes.

24 MR. LOWENSTEIN: In furtherance of the
25 questioning about the methodology, I was under the

1 impression that you did the two counts of 15 minutes
2 each, from 8:45 to 9:00 a.m. and 5:30 to 5:45 p.m.

3 THE WITNESS: Yes. I only analyzed the
4 a.m. because that is when we had the most left turns
5 out of the site that would require the gaps.

6 MR. LOWENSTEIN: Okay. If I heard you
7 accurately, you indicated that the majority of the
8 people exiting the site are going to turn right; is
9 that correct?

10 THE WITNESS: I said I think there
11 would be more than indicated in the report. Right
12 now I believe we have a 50/50 split of left turns out
13 of the site, basically. Actually, we have more left
14 turns than right turns out of the site and that was
15 gathered from the existing distribution on Maple
16 Avenue.

17 It is my opinion that it would most
18 likely be more right turns out than left turns out.

19 MR. LOWENSTEIN: Even though your
20 testimony is that the traffic flow in the northbound
21 direction exceeds that in the southbound in both the
22 morning and afternoon rush hour?

23 THE WITNESS: Yes, because I feel
24 like --

25 MR. LOWENSTEIN: How do you explain

1 that? Isn't that contradictory?

2 THE WITNESS: I feel that more people
3 that are traveling southbound on Maple will stop on
4 the site than people traveling northbound because
5 they don't want to make that move. So, that's why I
6 think more people will make the right turns in and
7 right turns out.

8 MR. LOWENSTEIN: Okay. Are you aware
9 of the existence of a bowling alley a couple hundred
10 yards to the south?

11 THE WITNESS: Yes.

12 MR. LOWENSTEIN: Did you factor in the
13 analysis of the traffic flow in and out of that
14 bowling alley and the size of the parking lot in your
15 calculations?

16 THE WITNESS: I did not. I would say
17 that the trips generated from that bowling alley was
18 captured in my report. But we didn't count at night
19 when the bowls alley would be at its peak, correct?
20 Is that what you're trying to say? At night.

21 MR. LOWENSTEIN: I'm not going to offer
22 testimony, but that could well be the case. How
23 about on weekends? Did you conduct a study on
24 weekends?

25 THE WITNESS: We didn't conduct the

1 study on weekends.

2 As I explained before, traffic in the
3 area is generally less isolated during the a peak
4 hour on Saturdays. It's more spread out during the
5 day. So we didn't conduct --

6 MR. LOWENSTEIN: Are you aware of the
7 existence of sport fields, playing fields directly
8 behind the site?

9 THE WITNESS: Yes. I know I am aware
10 of them. I don't know when they are at peak or...

11 MR. LOWENSTEIN: Would it be fair to
12 say that it's the weekends that they get potentially
13 used more than any other time?

14 THE WITNESS: It could be, yes.

15 MR. LOWENSTEIN: Okay. And that's not
16 factored into your analysis of the traffic flow?

17 THE WITNESS: It is not.

18 MR. LOWENSTEIN: Are you further aware
19 of the existence of the site that could be called
20 Pathmark site, also several hundred yards down the
21 road?

22 THE WITNESS: Further -- further south,
23 yes.

24 MR. LOWENSTEIN: Okay. And what's your
25 understanding of the use of that site as we sit here

1 this evening?

2 THE WITNESS: They are a shopping,
3 grocery store further south on Maple Avenue. I
4 believe their peak would be at different times than
5 the Dunkin' Donuts peak, yes.

6 MR. LOWENSTEIN: You're aware that it's
7 vacant, the store is closed, and the entire strip
8 mall is vacant?

9 THE WITNESS: I was unaware of that,
10 yes.

11 MR. LOWENSTEIN: Okay. But it's
12 projected that it will be redeveloped?

13 THE WITNESS: I was unaware of that,
14 so...

15 MR. LOWENSTEIN: Okay. So, would not
16 factor into your calculations of the traffic flow in
17 and out of the site?

18 THE WITNESS: It depends what would be
19 there in the future. I have no idea of what is going
20 on there.

21 MR. LOWENSTEIN: Because that space has
22 hundreds of parking spots there and the traffic, when
23 the Pathmark was open, it was very heavy traffic.

24 My point is this, okay -- and I don't
25 mean this in a disrespectful way. But everybody on

1 this board lives and/or works in this community and
2 have for a number of years and know that area very
3 well. As Mr. Racenstein pointed out, there's certain
4 intensive periods of traffic not just between 8:45
5 and 9:00 in the morning one day in the week.

6 You do have sports teams that use that
7 field. These fields are used very heavily on
8 weekends, many months out of the year.

9 You do have a bowling alley. There are
10 leagues, okay. Lots of people in and out of that
11 site. And based on personal experience of over
12 roughly 20 years, whenever I tried to exit from the
13 southbound side of Maple Avenue and make a left -- I
14 don't know where this gap figure comes from, but it
15 doesn't comport with my experience. Okay.

16 I think you're way, way too optimistic
17 on how easy it's going to be for cars to exit. And
18 I'm just concerned about what I can see as the
19 inadequacy of that.

20 Now, let me just follow up with a
21 couple other things. You talk about a 9.0 gap study.
22 In your report this is on Page 8.

23 THE WITNESS: Yes.

24 MR. LOWENSTEIN: And particularly 9.1.
25 I'm reading here a critical gap for a vehicle making

1 a left turn from a minor road across a
2 two-directional street is five seconds. Then you go
3 on after that second, third cars repeat.

4 I don't see any recital here as to the
5 number of car lengths or the speed at which cars are
6 traveling when you make that calculation.

7 THE WITNESS: That is because it's the
8 physical amount of gap in between when -- it doesn't
9 matter how long the car is. If it's a big truck, you
10 start counting the gap once that truck passes. So,
11 it's the physical amount of time of the gap. So, it
12 doesn't matter the speed or the length of the car.
13 If that makes sense.

14 MR. LOWENSTEIN: But if you're coming
15 from a complete stop and you want to take a left turn
16 into the flow of traffic -- first of all, you have to
17 cross the right -- if you're making a left, you have
18 to cross the right. So you need a gap there. And
19 then you also need a gap on the left bound, the
20 northbound traffic.

21 THE WITNESS: Uh-huh.

22 MR. LOWENSTEIN: Right. And, you know,
23 if the cars are traveling 15 to 20 miles an hour,
24 maybe it's a little easier to accelerate from a dead
25 stop into that, as opposed to if they're traveling

1 40, 45, 50.

2 THE WITNESS: The faster they travel,
3 the less amount the gap would be.

4 MR. LOWENSTEIN: But isn't it the less
5 safe it would be for a car to make a left turn if
6 they're traveling at that rate of speed?

7 THE WITNESS: I would say so, yes.

8 MR. LOWENSTEIN: All right. That's all
9 I have, Mr. Chairman.

10 Thank you.

11 CHAIRMAN SEIBEL: Jeanne?

12 MS. BARATTA: Thank you. I think it
13 might be important to note that the volumes you have
14 going northbound may be higher, did you take into
15 consideration the detours. There's construction
16 going on at the intersection of Maple Avenue and
17 River Road, and I travel through there. There's
18 detours going around. So, that could be why may be
19 he's got bigger gaps than there would normally be
20 because you don't have as much traffic there because
21 they're detouring through some side streets.

22 And most people, I've noticed, just
23 avoid it completely and I believe when you did your
24 report, those detours were in place.

25 THE WITNESS: There -- there was -- we

1 actually had to count twice because the first time we
2 went out there to count there was construction being
3 done so we knew that wouldn't be valid. So, once
4 that construction was cleared, that's when we did our
5 counts, and I don't believe there was any
6 construction.

7 MS. BARATTA: That construction has not
8 cleared.

9 THE WITNESS: I'm talking about the one
10 that was on -- I think they were doing a utility pole
11 on the entrance ramp to 208 north.

12 MS. BARATTA: No. This is construction
13 at Maple Avenue and River Road. They're widening
14 that entire intersection. So, when you turn from
15 River Road to Maple going towards your site, people
16 are detoured through the residential neighborhood.
17 And then they can either go a completely different
18 way or they can choose to go back onto Henderson
19 Boulevard and make the left turn on Maple Avenue.
20 But because that's there, most people are just
21 staying away from that area right now.

22 THE WITNESS: Okay.

23 MS. BARATTA: So, that -- your volumes
24 may go up because, you know, you have detours there.

25 THE WITNESS: I do see what you're

1 saying, yes.

2 MS. BARATTA: I just wanted to point
3 that out. That could be important.

4 Thank you.

5 CHAIRMAN SEIBEL: That's true. And at
6 times, traffic stops all together down there then
7 they may be bringing in a telephone pole or something
8 in there. So, there might not be any cars coming
9 through at all.

10 Anybody else have any questions?

11 (No response.)

12 CHAIRMAN SEIBEL: Frank, I have a
13 question for you. He compared the Goffle Road
14 Dunkin' Donuts to this site, is that a good
15 comparison?

16 MR. MISKOVICH: Well, based on the
17 testimony, he said it's about the same square
18 footage. It's not -- it does not have a drive-thru.
19 I should say the applicant testified. And -- okay.
20 It's on a similar type roadway as Maple Avenue, close
21 to a major county roadway like 208. So, as far as
22 not knowing the number of seats the direct
23 comparison, the fact that it's approximately the same
24 size and no drive-thru, you can make the assumption
25 that probably their seating's are about the same.

1 So, I think that's a reliable
2 comparison. Whether the 20 cars are taken as the
3 norm or the exception, I don't know. But that's one
4 way to do that comparison.

5 They also contained in the study, the
6 ITE counts, which had several locations of a similar
7 size store that shows you about an average of about,
8 I believe, it was 25 spaces would be occupied peak
9 time. So, that's fairly comparable if you look at
10 the 20 and 25. Of course, that's the ITE studies in
11 this. The ordinance has something else, which
12 requires less parking. So, I guess it's a judgment
13 call. I believe, the ordinance says one thing, but
14 the demand you think is higher, how do you balance
15 that? So, it really becomes a balancing act.

16 I do have a couple of questions in
17 following on the distribution and the gap analysis
18 because one of the key components, when you're
19 looking at analysis, is how are traffic that go in
20 and out of the site. There's several ways you could
21 do that. One of the ways we do that is look at the
22 volumes. Figuring that people are going -- people
23 will go in the direction of heavier volumes. So, if
24 I'm heading north in the morning, that's the heavier
25 volume. I would make my turn left into here and I'd

1 continue to make a left out to go on my way. Same
2 thing as coming southbound. So, if you look at the
3 table in the report -- that's what I had in my
4 Comment Number 4 of the traffic -- about 63 percent
5 of the traffic is heading north in the morning. If
6 you do that to the traffic generation, I believe it
7 comes out to be about 63 cars that would be making a
8 left, compared to what they did in the analysis which
9 was 51 percent or 50 cars. So, there's a slight
10 difference there.

11 But that's -- and I asked what impact
12 that may have if we had the higher number. I don't
13 know of a significant decrease or increase in delay
14 or how that would impact it, but that's -- that's one
15 way to look at it.

16 As far as the gap study, when I went
17 through that -- I know they're looking at left turns,
18 but as I pointed in my report, it's a narrow
19 driveway. So, left turn/right turn/straight traffic
20 is all affected by whatever is in front of them. So,
21 you really can't separate, left turns can make this
22 many gaps because if there's a right turning car that
23 can't get out, the left turn cannot get out. So, I
24 think you have to look at the total volume on the
25 driveway, rather than just left turns. So, we had

1 asked what would happen if that was the case in the
2 gap analysis.

3 So, I guess it's a matter of
4 quantifying that number so you have some order of
5 magnitude if you will. And if you look at -- what I
6 did was, I went to the gap study which is in the back
7 of the appendix, they had the actual gap sizes. And
8 if you use his numbers which were five seconds for
9 the first car and I think it was three seconds for
10 the left which, if you look at the AC analysis, it's
11 slightly different. The AC analysis has a higher
12 critical gap for the left turns. And the second
13 vehicle's a little bit higher. But if you assume it
14 takes five seconds, the first number's seven seconds,
15 you can only really get one car out. And if you go
16 gone down there, okay, it's 16 seconds, I could
17 probably get two, maybe three. But if you do that
18 number and go down through each recorded gap, I got
19 21 cars that could exit. In over an hour period,
20 that would probably be about 84 which is getting
21 closer to what's the exiting volume.

22 Granted, that is if you assume that the
23 peak is consistent. If you look at the other
24 45 minutes to the hour, basically what the peak hour
25 says, those are lower volumes which intuitively says

1 you probably should have more gaps. So, it's
2 probably a wash. So, it's probably based upon the
3 count they did, probably enough gaps to satisfy the
4 exiting volume. That doesn't mean it takes a while
5 to get out and it goes into the queuing analysis and
6 what back up. But the back up here is going to be in
7 your driveway. And I guess it's about two cars
8 before you get to the first parking space that might
9 be impacted.

10 The capacity analysis, they did show
11 two cars, the peak time. So, it's probably right in
12 the cusp of being okay with that.

13 But here again, if that number's a
14 little bit off or the gap is slightly different or
15 the volumes are even higher, you know, that would
16 skew the results.

17 CHAIRMAN SEIBEL: Thank you for
18 clearing that up.

19 MR. MISKOVICH: Was that the short
20 answer?

21 CHAIRMAN NEWMAN: I'm trying to
22 envision in my mind, if -- I mean, you could
23 conceivably have people making left-hand turns into
24 Dunkin' Donuts, a left-hand turn into Johnny &
25 Hanges, and making a left-hand turn out of Dunkin'

1 Donuts and a left-hand turn out of Johnny & Hanges at
2 the same time. I mean, it could -- it could happen.
3 You're going to have two exits, right?

4 MR. MISKOVICH: Yes.

5 CHAIRMAN SEIBEL: And two entrances,
6 and the majority of the traffic going north.

7 MR. MISKOVICH: I'm not sure what your
8 question -- that's probably more directed to the
9 applicant's engineer. But what you're saying is I
10 have a lot of turning movements in a very short
11 stretch of roadway, what impact that has. I guess
12 one affects the other.

13 CHAIRMAN SEIBEL: And the highway entry
14 ramp is right there, which means people aren't going
15 to be slowing down. They're going to be going into
16 their high speed drift right there to get onto the
17 highway.

18 MR. MISKOVICH: That's a response for
19 the applicant's engineer to address.

20 CHAIRMAN SEIBEL: Anybody have any
21 questions?

22 (No response.)

23 CHAIRMAN SEIBEL: All right. So, now
24 we have more questions to mull over in our heads.

25 If there's no more questions from the

1 board, I'll open it up to --

2 Oh, yes.

3 MR. LOWENSTEIN: Well, I think Mr.
4 Miskovich is suggesting that Mr. Hough respond to his
5 line of inquiry. And I would like to hear the
6 response.

7 MR. MISKOVICH: I think it's -- yeah,
8 that's important because you're talking a lot of
9 turning movements in a short area and what
10 interaction between the two driveways might have with
11 the turning points. I think that's part of it.

12 But also the fact in my report, we had
13 talked about the different distributions of traffic
14 and what might be that resulted impact. At least
15 that would give the board two measuring sticks, if
16 you will, to judge.

17 THE WITNESS: As far as the movement
18 in, you're saying there would be a maximum of four
19 left turns at a time, that's two driveways in and two
20 driveways out?

21 CHAIRMAN SEIBEL: Correct.

22 THE WITNESS: I -- I -- it is a
23 possibility that could happen at the same time, but I
24 do feel that, as far as the left turns into the site,
25 where our left turns would be on Maple Avenue, there

1 is enough room for cars to pass around.

2 As you can see, the curve is opened and
3 widened a little bit where our left turn would make
4 that left-hand turn, and I think that would help.
5 But it is a possibility that that could happen.

6 MR. MISKOVICH: Mr. Chairman?

7 CHAIRMAN SEIBEL: Yes.

8 MR. MISKOVICH: Just to clarify, are
9 you concerned of the fact that the Dunkin' Donuts
10 proposed driveways interaction, you know, left turns
11 going into their Dunkin' Donuts driveway affecting
12 the exit movement? Is that part of your concern or
13 is it the fact that the entrance drive to Dunkin'
14 Donuts and Johnny & Hanges exit drive?

15 CHAIRMAN SEIBEL: Well, I'm going to --
16 I'll put it this way, whenever I go to Johnny &
17 Hanges and I pick up, you know, a couple of hot dogs,
18 and I make the left-hand turn out of Johnny & Hanges
19 driveway, I kind of hold my breath.

20 As I'm looking, I look for two things.
21 I look for how fast the car is coming at me in that
22 direction, and then I look to see if there's a cop
23 down there because I always feel like this should be
24 an illegal left turn because -- and I'm surprised
25 that there aren't more accidents over there, to be

1 honest with you.

2 I don't know how you quantify that.
3 It's all hypothetical at this point. But I can
4 tell -- I don't know if anybody else has the same
5 experience.

6 MS. BARATTA: Well, because it's not
7 just the traffic that's traveling southbound. It's
8 also the traffic that's exiting from Route 208. So,
9 you got to look at both of those factors, and of
10 course the traffic coming the other direction.

11 CHAIRMAN SEIBEL: There's a lot of
12 things going on there. Yes.

13 MR. LOWENSTEIN: You know how the road
14 -- road there is striped?

15 THE WITNESS: I believe it's separated
16 by a double yellow solid line, yes.

17 MR. LOWENSTEIN: So, is it fair to say
18 it's illegal, violative of the traffic control to
19 make a left turn if you're heading north? Well,
20 heading either way, you're turning left in or left
21 out.

22 THE WITNESS: A left turn to cross the
23 yellow line?

24 MR. LOWENSTEIN: Yes.

25 THE WITNESS: Do you suggest

1 re-stripping -- the county re-stripe the roadway?

2 MR. LOWENSTEIN: Well, I'm just asking
3 because, you know, from the time I was 17 --

4 THE WITNESS: Yeah.

5 MR. LOWENSTEIN: -- I knew do not cross
6 a double yellow. You just don't cross it. Okay,
7 there's no gap.

8 THE WITNESS: We can coordinate with
9 the county to figure that out.

10 MR. LOWENSTEIN: But as we sit here
11 this evening, if that's technically an illegal turn,
12 right? I mean, I'm voicing -- echoing the Chairman's
13 concern. You could easily get a moving violation.

14 VICE CHAIRMAN PUZIO: Mr. Chairman?

15 CHAIRMAN SEIBEL: Yes.

16 VICE CHAIRMAN PUZIO: I would suggest
17 maybe one of our experts would know the answer to
18 that question.

19 CHAIRMAN SEIBEL: Yes.

20 MR. MISKOVICH: I don't want to play
21 attorney.

22 Yeah. I think the way it's written is
23 a little strange, but you're allowed to make a left
24 turn across a double yellow into a driveway, same
25 with exiting. It's meant you cannot cross in the

1 same direction, meaning pass another car in that --
2 because if you were to do that, try to open for every
3 driveway, you can have all these gaps. It's not
4 going to work, so...

5 VICE CHAIRMAN PUZIO: Right.

6 MR. LOWENSTEIN: I asked.

7 MR. MISKOVICH: Yes.

8 CHAIRMAN SEIBEL: I asked, I did. I
9 asked a cop.

10 MR. LOWENSTEIN: The same answer.

11 CHAIRMAN SEIBEL: Yes, he said.

12 MR. LOWENSTEIN: Why didn't you tell
13 us?

14 MR. MISKOVICH: I asked.

15 CHAIRMAN SEIBEL: Because I was waiting
16 to see if the cop knew what he was talking about. I
17 didn't ask regarding this. It was another left turn
18 somewhere. I forget where it was, yes.

19 Yes.

20 MR. RACENSTEIN: I'm going back to my
21 original statement. And I want to ask a question.

22 ASSISTANT ZONING OFFICER PECK: Can you
23 use your microphone?

24 CHAIRMAN SEIBEL: Speak into the mic.

25 ASSISTANT ZONING OFFICER PECK: Mr.

1 Racenstein, can you use the microphone?

2 MR. RACENSTEIN: I'm going back to my
3 original statement, would you entertain the idea of
4 no left-hand turns because everybody we're talking
5 about on the board is left-hand turns. Would you
6 entertain the idea of no left-hand turns during rush
7 hour, from 7:00 to 10:00 and from 4:00 to 7:00? And
8 that would eliminate a lot of problems.

9 MR. PIROMALLI: Unfortunately, this is
10 a question for the applicant to ultimately make a
11 decision as to whether or not -- it's a business
12 decision to be made. And, Unfortunately, part of the
13 arrangement with Dunkin' Donuts is that they require
14 the ability to make left turns out of that site.

15 So, if we were restrict left turn
16 movements and if we condition this application on
17 restricting left movements or if we were to stipulate
18 to that restriction, there would be no Dunkin' Donuts
19 at that location. That's part of the arrangement
20 with Dunkin' Donuts, that we're allowed to egress
21 that site to the left.

22 With that being said, the county in
23 their infinite wisdom has seen it fit not to restrict
24 any of the turning movements on that county roadway,
25 Maple Avenue. I understand the board's concerns.

1 Ultimately, the county has, for some reason,
2 disagreed up till now. We have been having these
3 ongoing discussions with the county and that is one
4 of the things that we've been talking to them about.

5 And specifically, they have not
6 mentioned or they have not said that we would need to
7 not make left turns out of that drive.

8 With that being said, that's ultimately
9 where we are. If we could stipulate to that, I'm
10 sure the applicant would. If we were, in any way,
11 able to alleviate some of the board's concerns, the
12 applicant can stipulate to potentially a trial
13 period, a year's trial period whereby left turning
14 movements were allowed and if -- if, for whatever
15 reason, the board -- there was some accidents or
16 there was issues that arose, I'm sure your attorney
17 and I could draft a condition that would restrict
18 going forward past that year trial period, require us
19 to come back before the board and reassess the
20 application. But we cannot stipulate to that at this
21 time.

22 CHAIRMAN SEIBEL: What do you think of
23 that, Counselor?

24 MR. ROSENBERG: It can be done. A
25 resolution could be drafted certainly to allow for

1 determination. I don't know exactly what the
2 criteria would be, Mr. Chairman.

3 I think it's -- my opinion is,
4 unfortunately, I think it -- I think it is somewhat
5 difficult to put that -- and we don't want to be
6 policemen; that's not the job of the board, quite
7 frankly.

8 CHAIRMAN SEIBEL: Okay. Anybody else
9 have any questions?

10 MR. REINITZ: Yes.

11 CHAIRMAN SEIBEL: From the board?

12 MS. BARATTA: Down here.

13 CHAIRMAN SEIBEL: Yes.

14 MR. REINITZ: Just, when the county
15 approved, were the Johnny & Hanges' parking spaces
16 part of the deal with the county?

17 THE WITNESS: No.

18 MR. PIROMALLI: They were not.

19 MR. REINITZ: So, the county wasn't
20 aware of the two sites back-to-back being used during
21 the peak hour?

22 MR. PIROMALLI: They are not. That was
23 not part of the county application.

24 MR. REINITZ: Okay. What is the
25 material between the two parking lots? Is that just

1 flat ground?

2 THE WITNESS: Between the two parking
3 lots?

4 MR. REINITZ: Yeah.

5 THE WITNESS: I believe it's curbing
6 and then mulch in between.

7 MR. REINITZ: Okay. So, theoretically,
8 people basically traverse the mulch and the curbing
9 to get through one to the other?

10 THE WITNESS: They can. Or they can go
11 out through the Maple Avenue sidewalk and access the
12 Dunkin Donuts from there.

13 MR. REINITZ: Okay. Well, was the
14 pedestrian traffic figured in?

15 THE WITNESS: It was, yes.

16 MR. REINITZ: And just to be clear, you
17 said you were looking for roughly 20 spots?

18 THE WITNESS: Yes.

19 MR. REINITZ: Okay. And by my count,
20 that's exactly what you're at, right?

21 If you take out -- if you take out the
22 two employee spots that are going to be restricted
23 and then you take out the handicapped spot, there's
24 20 left.

25 THE WITNESS: Well, the two employee

1 within the count -- that's part of it. So, there
2 will be 15 in the a.m. Both of those would be
3 occupied in the a.m. because there's no delivery or
4 trash pick up. So, there will be 15 on-site plus
5 eight off on Johnny & Hanges for a total of 23.

6 MR. REINITZ: Thirteen for customers?

7 THE WITNESS: Thirteen for customers.
8 No, 13 plus 8 so 21 or 19 -- 19 or 21.

9 MR. REINITZ: Those are all my
10 questions.

11 CHAIRMAN SEIBEL: Okay. Any other
12 questions from the board?

13 (No response.)

14 CHAIRMAN SEIBEL: How about our
15 experts?

16 (No response.)

17 CHAIRMAN SEIBEL: Nothing?

18 Then I'll open it up to property owners
19 within 200 feet. Questions for the expert?

20 (No response.)

21 CHAIRMAN SEIBEL: Seeing none, I'll
22 open it up to the general public. Questions for the
23 expert?

24 (No response.)

25 CHAIRMAN SEIBEL: Seeing none.

1 MR. PIROMALLI: Mr. Chairman, just
2 briefly, Mr. Hough has to depart for this evening.

3 Unfortunately, he has another
4 application to attend to. So, if it's okay with you,
5 I would like to request a 10 minutes recess just to
6 briefly discuss his testimony and discuss his
7 testimony with the applicant before we continue if
8 that's acceptable.

9 CHAIRMAN SEIBEL: Sure, absolutely.
10 Take a 10 minute recess.

11 MR. PIROMALLI: Thank you.

12 THE WITNESS: Thank you.

13 (Whereupon, a brief recess is had.)

14 CHAIRMAN SEIBEL: All right. Roll
15 call.

16 MR. LOWENSTEIN: Mr. Racenstein?

17 MR. RACENSTEIN: Here.

18 MR. LOWENSTEIN: Ms. Baratta?

19 MS. BARATTA: Present.

20 MR. LOWENSTEIN: Ms. Perchuk?

21 MS. PERCHUK: Present.

22 MR. LOWENSTEIN: Lowenstein is here.

23 Mr. Puzio?

24 VICE CHAIRMAN PUZIO: Here.

25 MR. LOWENSTEIN: Mr. Naveh?

1 MR. NAVEH: Here.

2 MR. LOWENSTEIN: Mr. Zharnest?

3 MR. ZHARNEST: Here.

4 MR. LOWENSTEIN: Mr. Reinitz?

5 MR. REINITZ: Here.

6 MR. LOWENSTEIN: And Mr. Seibel,
7 Chairman?

8 CHAIRMAN SEIBEL: Here.

9 MR. LOWENSTEIN: Okay. The board has
10 reassembled.

11 CHAIRMAN SEIBEL: Okay. So, where are
12 we?

13 MR. PIROMALLI: Thank you very much for
14 the recess, Mr. Chairman. We just wanted to briefly
15 discuss our options. Obviously, we've heard the
16 board's concerns with regards to the left turning
17 movement and the gap analysis. And we understand
18 that.

19 With that being said, we do have
20 currently a restriction in the agreement with Dunkin'
21 Donuts that would prohibit us from agreeing to that,
22 no left-hand turns. With that being said, there is
23 some room for negotiation with Dunkin' Donuts. So, I
24 would ask the board to let us know what their opinion
25 is. I mean, if it's two hours in the morning and two

1 hours in the afternoon and the board would appreciate
2 that limitation, then we would be willing to go to
3 Dunkin' Donuts with that limitation, adjourn for this
4 evening, the next regularly scheduled meeting and try
5 to make that negotiation happen. It would be a shame
6 to see this application have left turns where the
7 board doesn't want it to have left turns, if we could
8 potentially have some room for negotiation with
9 Dunkin' Donuts. But we would appreciate some
10 direction as far as the parameters that the board
11 would consider as far as no left turn movements.

12 CHAIRMAN SEIBEL: Mr. Counselor, what
13 do you think of that?

14 MR. ROSENBERG: You certainly can
15 discuss with the applicant the board's desire with
16 respect to that issue. Of course, Mr. Chairman, even
17 if the applicant was able to secure that, that does
18 not necessarily mean at the end of the day that it's
19 a foregone conclusion of an approval of the
20 application.

21 So, you could certainly poll the board
22 Members to see whether or not that is an issue that
23 matters to them, and whether that's the majority of
24 the board members or not.

25 And again, with the understanding that

1 that doesn't necessarily bind any of the board
2 members whatsoever, with respect to the final vote
3 with respect to the application itself.

4 CHAIRMAN SEIBEL: Okay. So, I'll ask
5 the board members one at a time or all at one time?

6 MR. ROSENBERG: You can ask each board
7 member what they think of that issue.

8 CHAIRMAN SEIBEL: Okay. So, here's the
9 deal, you heard -- everybody heard was the counsellor
10 just said about the left-hand turn restrictions. So,
11 we'll go down the line. I'll have the secretary read
12 off your name and tell us if that is something that
13 concerns you and you wish to have it looked into
14 further. And it's -- as our attorney said, it's
15 nonbinding. It doesn't say you agree or disagree or
16 promise your vote one way or the other. It's just
17 basically for informational purposes only.

18 Does everybody understand where we're
19 going with this? Everybody? It's clear?

20 MR. LOWENSTEIN: Mr. Chairman, if I may
21 just pose a question to the applicant's counsel?

22 CHAIRMAN SEIBEL: Yes.

23 MR. LOWENSTEIN: Do you have further
24 witnesses that you intend to offer to testify?

25 MR. PIROMALLI: I do not.

1 At this moment, we do intend to adjourn
2 for this evening and come back to the next regularly
3 schedule meeting. If we do need to reschedule a
4 special meeting, then that notification would be
5 given at the next regularly scheduled meeting for the
6 special meeting. We appreciate the board's time in
7 coming to these special meetings.

8 And we understand that we have some
9 issues that we need to address as far as left-turn
10 movements and we're happy to do so. We just ask for
11 a little bit of direction from the board as to how
12 that can be accomplished.

13 MR. LOWENSTEIN: Thank you.

14 CHAIRMAN SEIBEL: Would you like to
15 proffer the question that the board would -- each
16 board member would contemplate?

17 MR. ROSENBERG: Counsellor, I think you
18 stated it before, but we'll state it again, about the
19 duration of time that you were proposing.

20 MR. PIROMALLI: Of course, absolutely.
21 Thank you.

22 The question that I would have to the
23 board members is: What is your personal feeling as
24 far as what a reasonable restriction would be for
25 left-turn movements out of that site with the idea

1 that Dunkin' Donuts would currently not allow a
2 restriction of that left-turn movement. But we would
3 like to negotiate with them to potentially limit that
4 movement for certain hours during the course of the
5 day. We would appreciate any guidance that the board
6 might give in order to guide our negotiations with
7 Dunkin' Donuts.

8 And I thank the board, again, for its
9 time.

10 CHAIRMAN SEIBEL: So, you're asking
11 what a reasonable restriction would be?

12 MR. PIROMALLI: Correct.

13 CHAIRMAN SEIBEL: Okay. And the times
14 of the days that are the most busy are?

15 MR. PIROMALLI: The times of day the
16 Dunkin' Donuts use that are the busiest are 7:00 a.m.
17 to 9:00 a.m., is the busiest time for Dunkin' Donuts.

18 CHAIRMAN SEIBEL: And in the afternoon?

19 MR. RACENSTEIN: 4:00 to 6:00.

20 CHAIRMAN SEIBEL: 4:00 to 6:00?

21 MR. PIROMALLI: 4:00 to 6:00, but
22 significantly reduced in the p.m. evening hours as
23 opposed to the a.m. peak hours.

24 CHAIRMAN SEIBEL: Okay. I understand.

25 MR. ROSENBERG: Well, I think the

1 concern, Mr. Chairman, if you may is also the
2 surrounding roadway time is also the reason why I
3 think the board was looking to try to limit the
4 left-turn movements out. Not just matching it with
5 the applicant's particular peak, but also the
6 surrounding roadway peak. So, what I'm hearing from
7 the applicant perhaps and from what I heard from the
8 board is a left-turn movement restriction from
9 7:00 a.m. to 9:00 a.m., and a left-turn restriction
10 from 4:00 p.m. to 6:00 p.m. Perhaps that's the
11 question to poll the board.

12 CHAIRMAN SEIBEL: Okay. Does that
13 sound right?

14 MR. PIROMALLI: Sounds like absolutely,
15 I couldn't have said it better. Thank you, Mr.
16 Rosenberg.

17 CHAIRMAN SEIBEL: Okay. So, everybody
18 understands the question?

19 MR. LOWENSTEIN: And by "restriction"
20 we mean prohibition; is that correct?

21 MR. ROSENBERG: Yes.

22 CHAIRMAN SEIBEL: Yes. Let's start
23 from the top.

24 MR. LOWENSTEIN: Mr. Racenstein?

25 MR. RACENSTEIN: I agree to that

1 opinion of no left-hand turns between the hours of
2 7:00 to 9:00 and 4:00 to 6:00.

3 MR. LOWENSTEIN: Ms. Baratta?

4 MS. BARATTA: This is a concern of mine
5 as well, thinking -- putting my business person's hat
6 on, I think it's awful for -- that's your peak time.
7 And to restrict that, I'm very pleased that you even
8 want to contemplate going to Dunkin' Donuts with
9 that, but I think it would be almost like a business
10 suicide. Those are your peak times.

11 If you were up the road a little bit
12 further, I don't think it would be that much of an
13 issue to this board, but because of the traffic
14 coming southbound and coming off of 208, makes it an
15 issue for all of us. So, I'm going to say, yes, but
16 I just wanted to say thank you. I don't think it's
17 prudent financially, but that's just me.

18 MR. PIROMALLI: Thank you.

19 MR. LOWENSTEIN: Ms. Perchuk?

20 MS. PERCHUK: I agree with what Ms.
21 Baratta just said, and I also think it's important
22 because, especially on Saturdays when there's
23 children -- well, Saturday hopefully there won't be a
24 restriction but if there's children with school
25 coming in, left turn could potentially be dangerous

1 there. So I would also support that.

2 MR. LOWENSTEIN: Okay. And I concur.
3 I feel much better about this application with those
4 four hours of prohibited left-hand turns.

5 Mr. Puzio?

6 VICE CHAIRMAN PUZIO: I agree.

7 I think it's wise to at least see if we
8 can contemplate mitigating the possibility of having
9 the accidents and the problems on Maple or at least
10 going to Dunkin' Donuts and finding out if this is a
11 possibility.

12 MR. LOWENSTEIN: Mr. Naveh?

13 MR. NAVEH: Mr. Chairman, with all due
14 respect to the rest of the board, I do understand the
15 concerns they raised with, you know, the left turns,
16 but it's my opinion that I don't feel any reasonable
17 restriction is necessary. I don't see other
18 businesses along this road that are -- that have any
19 of that kind of restriction for their site, so I feel
20 there shouldn't be a restriction.

21 MR. LOWENSTEIN: Mr. Zharnest?

22 MR. ZHARNEST: I agree with Avi. I
23 think that if we put a restriction, something that's
24 not being considered there is, there are a lot of
25 other businesses there, and I'm sure as all of us

1 speak to people that have been in town for a while,
2 if you put a restriction on no left turn, but I need
3 to go left, I'm going to think an illegal u-turn.
4 And, hopefully, that can't be used against me in a
5 court of law.

6 But in all seriousness, there are --
7 there are day cares there, and if we restrict a left
8 and we're going to force people into a day care to
9 make an illegal u-turn when there are children around
10 and as someone who has a son in a day care on a main
11 road and people come in to make -- I've been hit --
12 well, not -- thank God I haven't. But my son,
13 myself, you have to be so alert. And for us to ask a
14 business to do that and to put -- you say we want to
15 talk about the kids and the safety, we're basically
16 going to be putting kids and all our businesses at
17 risk because we're going to be forcing people to make
18 left u-turns. We can pretend that they're not going
19 to want to do that. But if I need to go left, this
20 is America. I'm going to make an illegal u-turn and
21 I'm going to go left. Maybe not everybody, but I
22 just think that we're considering -- we're focusing
23 on one minute point, which is not allowing people to
24 go left, but there is a lot of other variables to
25 consider. Pathmark's empty. The fields potentially

1 that are used, I think are used on weekends. I've
2 been there with the ambulance corps and I have no
3 problem with running an ambulance in around
4 left/right on weekends, so I don't feel that those
5 are valid concerns. That's just my opinion.

6 So, I really -- counsel, I agree with,
7 you know, what Jeanne said that it's unfair for us to
8 ask an applicant when it's his livelihood,
9 potentially his business, to restrict him during his
10 peak hours when no one else has such restrictions. I
11 can't recall in the last year-and-a-half that I've
12 been on the board that we've put such restrictions on
13 another applicant. So, I say no.

14 MR. LOWENSTEIN: Mr. Reinitz?

15 MR. REINITZ: I guess I would echo what
16 Mark an Avi said.

17 Also, to me, the primary concern is not
18 necessarily that left. I think, getting back to what
19 the Chairman said earlier, I would like to know how
20 the Johnny & Hanges' parking lot and use of that
21 during those peak hours and the impact of those left
22 turns both from both sides -- especially since the
23 county apparently not aware of how you make, you
24 know, the additional sites, to me, making it a more
25 of a global issue with those two lots rather than the

1 one lot, I think that has more of an issue than
2 necessarily restricting the times.

3 MR. LOWENSTEIN: Mr. Seibel, Chairman?

4 CHAIRMAN SEIBEL: As Mark stated, there
5 are always unintended consequences whenever you get
6 into these type issues.

7 But I'm always looking to the safety
8 aspect of these applications. And having lived here
9 my whole life, I can tell you where the hotspots are
10 and where potential hotspots could be.

11 And I have been going to -- although
12 I'm not quite overweight, I've been going to Johnny &
13 Hanges for a long time now, and I know that left turn
14 is tough. And I would like to hear from Dunkin'
15 Donuts to see what they have to say about this.

16 I also believe that putting a sign up
17 there and telling people they can't make a left-hand
18 turn -- this is New Jersey, I don't know who's going
19 to pay attention to that sign. Maybe an
20 out-of-towner.

21 But I do take safety very seriously
22 especially where I see the potential for problems.
23 So you know, I would like to hear from Dunkin'
24 Donuts. And I appreciate the applicant doing this.
25 I mean, it's -- it's --

1 MR. PIROMALLI: In return, we
2 appreciate the board's candor. So, make it for a
3 better application hopefully when we come back next
4 time.

5 So, I thank you the board for its time.
6 And just at this point, I don't think anything's
7 else. At this time, I request adjournment to the
8 next regularly scheduled meeting of the Fair Lawn
9 Zoning Board of Adjustment.

10 CHAIRMAN SEIBEL: Great? Anything?
11 Any loose ends?

12 MR. ROSENBERG: Just the date, Mr.
13 Chairman.

14 ASSISTANT ZONING OFFICER PECK: You
15 have to carry it to the April 18th regular meeting.

16 CHAIRMAN SEIBEL: Okay. This special
17 application will be carried to the April 18th
18 meeting.

19 Does he have to provide further notice?

20 MR. ROSENBERG: No, Mr. Chairman.

21 CHAIRMAN SEIBEL: No further notice.

22 MR. PIROMALLI: The applicant will
23 waive any and all applicable time restrictions on
24 municipal action until the requested adjournment.

25 CHAIRMAN SEIBEL: Yes.

1 MR. LOWENSTEIN: I don't want to
2 belabor this, but there are two things I want to say
3 by way of response to Mr. Zharnest's observations.

4 Number 1, I practiced law for six years
5 at 22-50 Maple Avenue which is now -- the building
6 has been knocked down and is now the daycare center.
7 We had no left-turn restriction there. It was
8 observed from time to time, not all the time, but we
9 made that effort because of the concerns.

10 And, secondly, I think it's the
11 applicant -- we're not saying that unless they do
12 this, we're not going to approve. The applicant is
13 making the offer. And I think is to be commended for
14 it. So, it's not as if we're trying to slam him and
15 tell him how to run his business. So, I just wanted
16 to -- you know, I just wanted to say that.

17 CHAIRMAN SEIBEL: Duly noted.

18 And without further ado I will ask for
19 a motion to adjourn.

20 MS. BARATTA: I'll make the motion.

21 CHAIRMAN SEIBEL: Second?

22 MS. PERCHUK: Second.

23 CHAIRMAN SEIBEL: All those in favor?

24 (Whereupon, all the board members
25 respond in the affirmative.)

1 CHAIRMAN SEIBEL: Thank you. The
2 meeting is adjourned.

3 MR. PIROMALLI: I thank the board
4 members. See you next time.

5 CHAIRMAN SEIBEL: April 18th.

6 (Whereupon, this matter will be
7 continuing at a future date. Time noted:
8 8:50 p.m.)

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I, LAURA A. CARUCCI, C.C.R., R.P.R., a Notary Public of the State of New Jersey, Notary ID. #15855, Certified Court Reporter of the State of New Jersey, and a Registered Professional Reporter, hereby certify that the foregoing is a verbatim record of the testimony provided under oath before any court, referee, the board, commission or other body created by statute of the State of New Jersey.

I am not related to the parties involved in this action; I have no financial interest, nor am I related to an agent of or employed by anyone with a financial interest in the outcome of this action.

This transcript complies with regulation 13:43-5.9 of the New Jersey Administrative Code.

LAURA A. CARUCCI, C.C.R., R.P.R.
License #XI02050, and Notary Public
of New Jersey #15855, Notary
Expiration Date March 1, 2019

Dated: _____