

NOTE: The Borough recording machine malfunctioned at this meeting. The following minutes were pieced together from 3 transcriptions.

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1 TINTON FALLS ZONING BOARD
2 COUNTY OF MONMOUTH - STATE OF NEW JERSEY

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5 REGULAR MEETING FOR: TRANSCRIPT OF
6 THURSDAY, AUGUST 2, 2007 PROCEEDINGS

7

8 3230 Shafto Road Associates
9 -----

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12 BEFORE:

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14 RONALD PALMIERI, Chairman
15 RONNIE BATTISTA
16 MATT DIAMOND
17 JIM LAVALLE
18 CHARLES LOMANGINO
19 SAYED MOAFI
20 JOHN SLAYZK

21

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23 ALSO PRESENT:

24 EDWARD F. CHRISTOPHER, ESQ., Board Attorney
 JEFFREY STAIGER, P.E., Board Engineer
 PAUL GLEITZ, P.P., Board Planner
 DOULGAS GOTFREDSEN, Board Secretary

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28 LISA NORMAN, CSR
29 15 Girard Avenue

25

West Long Branch, New Jersey 07764
732.229.5897

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

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3 ANSELL, ZARO, GRIMM & AARON, P.C.
4 1500 Lawrence Avenue - CN 7807
5 Ocean Township, New Jersey 07712
6 732.922.1000

7 BY: PETER S. FALVO, JR., ESQ.
8 Attorneys for the Applicant

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1 CHAIRMAN PALMIERI: This is the regular
2 meeting of the Zoning Board of Adjustment of the
3 Borough of Tinton Falls being held in compliance
4 with the Open Public Meetings Act. Adequate
5 notice has been given by posting on the bulletin
6 board of the Municipal building and by
7 advertising in the Asbury Park Press. We will
8 now have a salute to the flag. Secretary, call
9 roll, please.

10 MR. GOTFREDSEN: Mr. Palmieri?

11 CHAIRMAN PALMIERI: Here.

12 MR. GOTFREDSEN: Mr. Slayzk?

13 MR. SLAYZK: Here.

14 MR. GOTFREDSEN: Mr. Lavalley?

15 MR. LAVALLEY: Here.

16 MR. GOTFREDSEN: Mr. Diamond?

17 MR. DIAMOND: Here.

18 MR. GOTFREDSEN: Mr. Battista?

19 MR. BATTISTA: Here.

20 MR. GOTFREDSEN: Mr. Lomangino?

21 MR. LOMANGINO: Here.

22 MR. GOTFREDSEN: Mr. Moafi?

23 MR. MOAFI: Here.

24 MR. GOTFREDSEN: Also present is Mr.
25 Staiger, Mr. Gleitz, Mr. Christopher and Mr.

1 Gotfredsen.

2 CHAIRMAN PALMIERI: I would like to
3 advise of the procedures of the Tinton Falls
4 Board of Adjustment.

5 (Whereupon, the Chairman read the
6 procedures of public hearings, of the Tinton
7 Falls Zoning Board, into the record.)

8 CHAIRMAN PALMIERI: Before we proceed, I
9 want to put on the record that the Borough's
10 recording devices are not working. To our luck,
11 we do have a stenographer that is here for Mr.
12 Falvo that we are going to rely on her record to
13 also work as the Borough's record. Mr. Falvo
14 said he had no problem forwarding the transcript
15 to the Borough.

16 MR. FALVO: Thank you. Correct.

17 MR. CHRISTOPHER: For the record, all of
18 the applications tonight are your clients; is
19 that correct?

20 MR. FALVO: Correct.

21 CHAIRMAN PALMIERI: All right. The
22 first application we have tonight --

23 MR. GOTFREDSEN: You re-noticed for 3230
24 Shafto Road?

25 MR. FALVO: Yes, I did.

1 CHAIRMAN PALMIERI: That is the first
2 application. We are going to talk about 3230
3 Shafto Road Associates, LLC, BA 2007-07, Block
4 145 Lot 26.01, appeal of the Zoning Officer's
5 decision variance and site plan. I do believe,
6 Mr. Falvo --

7 MR. FALVO: We originally received word
8 from Mr. Gotfredsen that the professionals
9 weren't prepared for that case tonight, because
10 the revised plans were submitted late. I
11 suggest we take jurisdiction and carry it to
12 another meeting.

13 MR. CHRISTOPHER: Mr. Falvo, you have to
14 speak into the mic, I guess. I can see some of
15 the people straining their ears in the back.
16 I'm straining my ears in the front.

17 MR. FALVO: Okay. With regard to 3230
18 Shafto Road Associates --

19 CHAIRMAN PALMIERI: Correct.

20 MR. FALVO: In speaking with Mr.
21 Gotfredsen, I believe last week or 10 days ago,
22 there was an issue with the revised plans
23 getting in and their ability to be reviewed in
24 time for this evening's meeting. At that time,
25 I did indicate to Mr. Gotfredsen if that was the

1 situation that we could retain jurisdiction this
2 evening and we could carry it to another date.

3 CHAIRMAN PALMIERI: I thought we had
4 already accepted service on that one previously.

5 MR. FALVO: We did. I re-noticed,
6 because the new plans came in and we had
7 additional variances.

8 MR. CHRISTOPHER: The file does reflect
9 the notice for tonight's meeting.

10 MR. FALVO: Right.

11 MR. CHRISTOPHER: I've reviewed the
12 notices, the notice of the hearing and the
13 Affidavit of Publication for the notice in the
14 newspaper and they appear to be in order.

15 CHAIRMAN PALMIERI: We need a motion to
16 accept service.

17 MR. LOMANGINO: So moved.

18 MR. LAVALLE: Second.

19 CHAIRMAN PALMIERI: All in fair?
20 Anybody opposed? We accept service and now we
21 are going to carry this application to a future
22 date. Looking at the Board's schedule, Mr.
23 Falvo, probably the earliest one would be -- Mr.
24 Falvo, the secretary of the Board has brought to
25 our attention you also have another application

1 on August 16th.

2 MR. FALVO: The answer is yes. The
3 plans were just received in my office today.
4 The problem is that you start at 7:30 and I have
5 to be in Red Bank at 6:30 for their Board
6 meeting on an application and final site plan
7 approval. Are there any other hearings on that
8 night?

9 CHAIRMAN PALMIERI: Well, we have the
10 next one after the 16th which would be September
11 6th.

12 MR. FALVO: Are there any other --

13 CHAIRMAN PALMIERI: We have McDonald's
14 with Ms. Krimco.

15 MR. FALVO: Oh, she is going to be here?

16 CHAIRMAN PALMIERI: I guess Red Bank
17 doesn't matter anymore.

18 MR. FALVO: I'm going to handle Red Bank
19 and she is going to handle Tinton Falls. Why
20 don't we carry it to the 16th. We'll have
21 McDonald's first.

22 CHAIRMAN PALMIERI: No further notice
23 required.

24 MR. FALVO: We'll carry 3230 to the
25 16th.

1 CHAIRMAN PALMIERI: BA 2007-07 will be
2 carried to the 16th.

3 (Whereupon, the application was carried
4 to August 16, 2007.)

5 MR. GOTFREDSEN: We will send another
6 date for the other matter.

7 MR. FALVO: What is the next meeting
8 after that? September 6th?

9 CHAIRMAN PALMIERI: September 6th,
10 right. We have Quick Check that night. We
11 don't know if that is going to happen. We don't
12 know where they are at either.

13 MR. FALVO: McDonald's will probably be
14 a long hearing.

15 CHAIRMAN PALMIERI: Probably.

16 MR. FALVO: All right. Let's move
17 Debrysiak (phonetic) to the 6th.

18 CHAIRMAN PALMIERI: Even though we
19 haven't accepted service on that?

20 MR. FALVO: I believe you did.

21 CHAIRMAN PALMIERI: Did we?

22 MR. FALVO: Well, moving it to the 6th,
23 we will have to re-notice anyway. Thank you.

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DELISA HEARING

1 TINTON FALLS ZONING BOARD
2 COUNTY OF MONMOUTH - STATE OF NEW JERSEY

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REGULAR MEETING FOR: TRANSCRIPT OF
THURSDAY, AUGUST 2, 2007 PROCEEDINGS
DELISA REALTY BA 2007-10
COMMERCE DRIVE

BEFORE:

RONALD PALMIERI, Chairman
RONNIE BATTISTA
MATT DIAMOND
JIM LAVALLE
CHARLES LOMANGINO
SAYED MOAFI
JOHN SLAYZK

ALSO PRESENT:

EDWARD F. CHRISTOPHER, ESQ., Board Attorney
JEFFREY STAIGER, P.E., Board Engineer
PAUL GLEITZ, P.P., Board Planner
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7 BY: PETER S. FALVO, JR., ESQ.
8 Attorneys for the Applicant

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	I N D E X	
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4	WITNESS NAME	PAGE NO.
5		
6	DAVID BOESCH	
7	By Mr. Falvo	5
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9		
10	JOHN BULETZA, P.E.	
11	By Mr. Falvo	16
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14	JOHN W. HIGGINS, P.P.	
15	By Mr. Falvo	40
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E X H I B I T S

EXHIBIT NO.	DESCRIPTION	PAGE NO.
A-15	Portion of Site Plan depicting garage and proposed trench drain	7
A-16	Photo of FMC Tanks, Inc. literature of Dike Tank UL 142	10

1 CHAIRMAN PALMIERI: Going forward, Mr.
2 Falvo, we are going to DeLisa Realty.

3 MR. FALVO: Yeah. The only reason I'd
4 like to do that is we have essentially one and a
5 half witnesses left and we are done with our
6 case.

7 CHAIRMAN PALMIERI: Okay. DeLisa
8 Realty, BA 2007-10, Block 144 Lot 5.03.

9 MR. FALVO: At the last meeting, we were
10 going to bring back the engineer, because we had
11 some discussion about the wash bay, and the
12 filtration system and also because there was a
13 question raised about a secondary containment
14 system in the garage, in the event there should
15 be an oil spill or something of that matter.
16 Mr. Boesch is here and he is still under oath
17 from the last meeting. We can address the issue
18 of the secondary containment with him.

19 BY MR. FALVO:

20 Q. Mr. Boesch, you were present at the last
21 meeting when the issue of containment of any
22 potential contaminants in the proposed garage was
23 discussed; is that correct?

24 A. Yes, I was.

25 Q. And with regard to those items, did you

1 come up with a method by which any spill within the
2 garage area would be contained and not exit the
3 garage and go elsewhere on the site?

4 A. Yes, we did.

5 MR. FALVO: Do we have the other
6 microphone?

7 MR. GOTFREDSEN: We are falling apart
8 here, Mr. Falvo. We don't have a battery for
9 the other mic.

10 MR. FALVO: No problem.

11 Q. I show you a sketch that is 8 and a half
12 by 11 and ask you if this depicts what you've
13 proposed for the secondary containment?

14 A. Yes, it does. What we have shown here
15 is a portion of the site plan, a portion of the
16 grading and utilities plan.

17 MR. FALVO: Let me mark that in
18 evidence.

19 MR. CHRISTOPHER: What are we referring
20 to?

21 MR. FALVO: I'm going to submit it right
22 now. It consists of an 8 and a half by 11 sheet
23 consisting of five sheets which is part of the
24 site plan. We can mark that as A-14.

25 MR. CHRISTOPHER: A-15.

1 MR. FALVO: A-14.

2 MR. CHRISTOPHER: I have A-14 as a
3 Letter of Interpretation. Did that go in?

4 MR. GOTFREDSEN: It is A-15. You are
5 correct, Mr. Christopher.

6 MR. FALVO: It will be A-15 then.

7 MR. CHRISTOPHER: What are we calling
8 this, Mr. Falvo?

9 MR. FALVO: A portion of the site plan
10 showing the garage and the proposed trench
11 drain. Attached to it is a catalog cut of what
12 will be proposed to be installed. Mr. Boesch
13 will address of the document.

14 (Whereupon, A-15 was received and marked
15 into evidence.)

16 A. The first page of A-15 is a simplified
17 snapshot of the Grading and Utilities Plan showing
18 the proposed building and adjacent utility systems
19 that are proposed as part of this application. The
20 new addition from previous submissions is a trench
21 drain system located just to the left of the right
22 wall of the building. Essentially, the face of the
23 building that has the garage doors, the double-wide
24 garage doors just inside the building wall, we are
25 proposing a trench drain system that runs along the

1 entire length of the garage door opening side of the
2 building through the vehicle area. The trench drain
3 starts at a depth of approximately 3 inches at the
4 wall closest to the wash bay and slopes down toward
5 the office part of the building where it achieves a
6 depth of approximately 11 inches. It runs across the
7 entire front. Any spillage that may occur, as a
8 result of maintenance activities or just things that
9 happen, would be able, as it flowed toward the
10 doorway openings, would fall into the trench drain
11 system.

12 The trench is about 4 inches wide and
13 again the depths that I said before about 4 inches at
14 the one end and 11 inches at the other end. It's 98
15 feet in length. It has a capacity of 1,165 gallons.
16 We went with a sloped trench drain, so if a spill
17 should occur it collects at one end so when you bring
18 in the proper recovery tools you just put the suction
19 device at the deep end and the spill will flow down
20 the trench drain to that deep end. That is the
21 nature and intent of the secondary containment
22 system.

23 Q. Did you say it was 142 gallons?

24 A. One hundred sixty-five gallons.

25 Q. One hundred sixty-five gallons given the

1 amount of service that will be conducted at the site,
2 did you do -- do you feel that will be sufficient to
3 protect anything against any accidental spill or
4 other product that might reach onto the floor as a
5 result of the repairing of the various vehicles?

6 A. Yes, we do.

7 Q. Now, with regard to the gasoline tank
8 that is going to be on site, did you also look into
9 material regarding that tank and how it would be
10 contained?

11 A. Yes. There were some concerns --

12 CHAIRMAN PALMIERI: Mr. Falvo, gasoline
13 or diesel?

14 MR. BOESCH: It's two types of diesel,
15 on-road and off-road diesel.

16 MR. FALVO: All right.

17 Q. You have literature from an FMC tank; is
18 that correct?

19 A. That is correct.

20 Q. And does this depict the tank that --
21 the type of tank that will be used at this location?

22 A. It depicts the type of tank. We were
23 searching the internet for appropriate details that
24 showed our intent of design and came across this
25 manufacturer. What we will be proposing at this

1 location is the two diesel tanks is what's referred
2 to as a dike tank with a weather shield on it.
3 Essentially, what it is, is a typical round storage
4 tank that we are all accustomed to, but it is
5 contained within a square housing on the bottom,
6 essentially a double wall, so it's a cylinder sitting
7 in a box with a metal covering over both. The fuel
8 is stored within the round cylinder. Should that
9 round cylinder rupture, the cylinder is contained
10 within a box. That way, if it rains, you don't mix
11 rain water.

12 Q. I'm showing you a picture of FMC Tanks,
13 Incorporated literature of the dike tank UL 142. Is
14 this similar to the oil containment vessel that you
15 will be using at this site?

16 A. Fuel containment vessel, correct.

17 MR. FALVO: Let's mark this as A-16,
18 please?

19 (Whereupon, A-16 was received and marked
20 into evidence.)

21 MR. FALVO: That's all I have of this
22 witness, unless any Board Members have any
23 questions regarding the containment system or
24 the fuel tanks.

25 CHAIRMAN PALMIERI: I think they are

1 looking at the stuff you just gave to them.

2 This containment system comes as one unit?

3 MR. BOESCH: Correct.

4 CHAIRMAN PALMIERI: Is it like cemented
5 or belted to the concrete pad? Is that how it
6 works?

7 MR. BOESCH: Each manufacturer has its
8 own methodologies, but whatever the
9 manufacturer's recommendation is for securing
10 the unit to a foundation, we would follow those
11 recommendations.

12 MR. LOMANGINO: I just got one of these,
13 the same tank. They are very nice. They work
14 well.

15 MR. CHRISTOPHER: Is this the same
16 capacity we are talking about?

17 MR. BOESCH: The one depicted is
18 significantly larger than what we are proposing.
19 Our tank would be 1,000 to 2,000 gallons. The
20 one shown is 12,000 gallons. Ours would be
21 significantly smaller.

22 CHAIRMAN PALMIERI: Do the Board members
23 have any questions?

24 MR. STAIGER: Just a few questions
25 regarding the trench drain proposed. You have

1 I know in the detail it indicates it's K-1 to
2 K-5 slope channels to K-16 to K-30. I guess
3 it's the third page of the literature. It lists
4 K-1, K-15 and K-16 to the K-30.

5 MR. BOESCH: Okay. In the
6 Specifications Section, which is the third page,
7 on the right hand side it says, "Materials,
8 trench system body shall be manufactured from
9 polymer concrete," and then it indicates the
10 strength and resistance.

11 MR. STAIGER: Thank you.

12 MR. LAVALLE: I have a question. Are
13 you going to be maintaining this? How are you
14 going to be taking the fluid out of this,
15 basically?

16 MR. BOESCH: If it is a spill, then it
17 would be recovered in accordance with the
18 appropriate regulations for a spill. If it's
19 just water intrusion, it can be vacuumed out
20 with a shop vac.

21 MR. LAVALLE: It looks like you have
22 eight bays with eight trucks, I would guess.

23 MR. BOESCH: Yes. It's four,
24 double-wide bays.

25 MR. LAVALLE: The routine clean, as far

1 as the drips of oil and so forth, are they daily
2 going to vacuum it out?

3 MR. BOESCH: It wasn't anticipated to be
4 a daily maintenance issue.

5 MR. LAVALLE: I prefer not to have a
6 build up in there of fluid.

7 MR. BOESCH: Okay. Spills are not
8 anticipated to be that common occurrence, at
9 least large spills that would enter into the
10 trench. Of course, you have the normal drips
11 which would be recovered with the dry recovery
12 system.

13 MR. LAVALLE: Speedy Dry.

14 MR. BOESCH: Speedy Dry. That's what we
15 would anticipate would happen on a daily basis.
16 The large spills that would enter the trench,
17 those would be cleaned up per occurrence.

18 MR. LOMANGINO: Mr. Chairman, is this
19 the same system we saw designed with Clayton?

20 MR. FALVO: Yes. The Speedy Dry, yeah.
21 They provide the barrels, the stuff. You pick
22 it up and put it in and they come and pick it up
23 and take it away.

24 MR. LOMANGINO: The drain itself --

25 MR. FALVO: Same concept. This has a

1 greater capacity.

2 MR. GLEITZ: I have a question with the
3 fuel station. I don't remember if it was
4 addressed or not, but in terms I understand the
5 idea of a double-wall tank and that system.
6 Could you just review for the Board, in case
7 there was any exterior spills while fueling, how
8 did the drainage on site, how -- how would, you
9 know, a main or fuel spill in fueling operations
10 as it hits the ground, how would that go into
11 your storm water system?

12 MR. BOESCH: Mr. Buletza will go into
13 that a little further. We have a series of
14 inlets and pipes that collect the storm water
15 that falls on the site. In the event that there
16 is a main or fuel spill, before the Speedy Dry
17 can be applied manages to enter into the storm
18 sewer system, the pipes of that system connected
19 to a manufactured device called a storm
20 separator. It's essentially a multi-chamber
21 device that allows for the separation of the
22 floatables, which fuel is considered a floatable
23 liquid. That would be contained in the system
24 and the clean water would be left in the
25 detention basin.

1 The storm separator itself would be
2 maintained and accumulated liquids and/or solids
3 can be removed from the chambers.

4 CHAIRMAN PALMIERI: Anything else, Paul?

5 MR. GLEITZ: No. Thank you, Mr.
6 Chairman.

7 CHAIRMAN PALMIERI: Any other questions?
8 It's time to open it up to the public. Did the
9 public have any questions of the witness on his
10 testimony?

11 MR. BOESCH: Thank you.

12 MR. FALVO: John Buletza, please? I
13 believe Mr. Buletza has to be sworn.

14 (Whereupon, John Buletza, P.E., is sworn
15 and testifies as follow:

16 DIRECT EXAMINATION BY MR. FALVO:

17 Q. Mr. Buletza, would you state your
18 qualifications for the Board, please?

19 A. Yes. I'm a licensed civil engineer in
20 the State. I am also a certified municipal engineer
21 in the State. I work with Nelson Engineering, as
22 their Chief Engineer, in charge of day-to-day
23 operations of the Engineering Department. I also
24 testify regularly in front of planning boards and
25 zoning boards.

1 Q. Have you testified before this Board in
2 the past?

3 A. Yes. Many times.

4 CHAIRMAN PALMIERI: You've been in front
5 of this Board before?

6 MR. BULETZA: It was the Planning Board.

7 CHAIRMAN PALMIERI: This is the Zoning
8 Board. All right. They always forget about us.

9 MR. BULETZA: Thank you.

10 CHAIRMAN PALMIERI: We will accept you
11 as an expert.

12 MR. FALVO: Thank you.

13 Q. Mr. Buletza, did you participate in the
14 design and function of the drainage system for the
15 site?

16 A. Yes.

17 Q. And with regard to the wash bay, in
18 particular, did you also participate with the design
19 of that wash bay area and the manufactured structure
20 that would be utilized in conjunction with?

21 A. Yes.

22 Q. Could you explain to the Board how the
23 drainage will function on the site and how the water
24 quality will be treated before it enters the
25 detention basin?

1 A. Yes. What we designed for this site was
2 a standard series of storm drains, whereby the waters
3 collected from the impervious areas on the site
4 through a series of inlets, through storm drains and
5 those storm drains drop the water into pipes which
6 eventually flow into an infiltration basin located at
7 the east side of the site. Now, prior to that water
8 entering into the infiltration/detention basin, it
9 enters into a manufactured water quality treatment
10 device and what this device is basically a large
11 diameter manhole. It has no moving parts. It's a
12 hydro-dynamic system and it does two things, one
13 thing it did it captures all of the sediment and
14 suspended particles and drops them into one of the
15 chambers within this manhole.

16 The other thing that this manufactured
17 device did it captures all of the floatables and the
18 petroleum products that are lighter than water into
19 another chamber in this device. The remainder of the
20 water flows through a system of baffles and then it
21 flows into the final infiltration detention basin.

22 Now, this water quality device is able
23 to be accessed by means of two manhole-type
24 structures, two lids. You can pop those lids and by
25 means of a truck remove any sediment that has

1 accumulated into the sediment bay and also remove any
2 floatables, such as bottles, cans or any petroleum
3 products that are floating on the surface in the
4 second bay. That ensures that all of the water that
5 is entering into the infiltration basin has as much
6 of the sediment and floatables removed as possible.

7 Now, the actual detention infiltration
8 basin provides the last tier of protection for water
9 quality and what that basin did is it capture and
10 percolate all of the water from the water quality
11 storm directly into the ground. Any volume of storm
12 water flow that is above the water quality storms,
13 such as the 2, 10 or 100-year storm events, those
14 flows would be released slowly through an outlet
15 control structure and eventually out to onto the low
16 areas of the site.

17 The storm water system, the one I had
18 just gone over, is the water quality portion of the
19 system. The NJDEP requires also for this type of a
20 project, which is considered major development, it
21 also requires us to look at it on the basis of ground
22 water recharge which is the second criteria and also
23 peak rate reduction factors. The storm water system
24 reduces the peak rate of runoff over existing
25 conditions for the 2, 10 and 100 year return period

1 for storm events down to 50, 75 and 80 percent
2 respectively of the pre-development peak flow rates
3 in accordance with the DEP standards for the rate
4 reduction. That's the second criteria that this
5 system has been designed for.

6 The third criteria, and the last one, is
7 ground water recharge. This system, in accordance
8 with the DEP regulations, is required to percolate
9 into the ground the volume of the storm water which
10 is the difference between the pre-development and
11 post-development total runoff for the two year return
12 period storm. This is accomplished by constructing
13 an infiltration basin, a sand-bottomed basin, which
14 captures and contains a certain portion of the water
15 and that volume is slowly percolated into the ground
16 and thereby this system meets all of the requirements
17 of the NJDEP for a major development.

18 Now, in addition to those three criteria
19 that I went over, there is also two more parts of the
20 system that we have designed, Dave, who testified
21 before me, talked about the oil drain in front of the
22 garage doors. This will capture any type of oil
23 spills that may be happening inside of the garage and
24 in addition there is a truck wash-down facility which
25 occurs outside of the garage where Mr. DeLisa or his

1 employees would wash off the outside of their pick-up
2 trucks and so forth and that area also has an inlet
3 in the ground that captures the water from the
4 washing of the trucks and it has a filter system
5 which also filters that water prior to entering into
6 the storm drain and the water quality device and the
7 infiltration detention basin.

8 The last part of the system consists of
9 the final outfall pipe which, at the end of that
10 outfall pipe, there is some rip wrap, or stone, where
11 the water impacts onto this stone and the stone, in
12 accordance with the standards for soil erosion
13 sediment control, reduces the velocity such that
14 there will be no erosive forces from the discharge on
15 the storm water system. That was designed in
16 accordance with the State's standards for soil
17 erosion and sediment control. In a nutshell, that is
18 the way the storm drain system functions.

19 Q. Would it be fair to conclude that with
20 the filters at the wash bay and the manufactured
21 device and the filters or the back-fill system, after
22 the storm separator, that if we had any gasoline or
23 oil that gravitates across the impervious surface
24 that it will be treated before it reaches the
25 detention basin?

1 A. Yes. I'd like to expound a little bit
2 on the gentleman's question from the engineer. He
3 had a question about whether there was a fueling
4 spill at one of the two diesel tanks. If there was
5 some drips of diesel fuel, that fuel, because of the
6 site grading in the area of the fueling station, the
7 fuel -- the parking lot is graded such that fuel will
8 flow over into an inlet and it will flow into the
9 water quality device and that is where it will be
10 trapped and it will not be passed onto the
11 infiltration basin and it will go no further than
12 that water quality device. Just to reiterate, all
13 storm water coming from the controlled areas of the
14 site that enter the storm drain system flow into that
15 water quality device prior to exiting the site.

16 CHAIRMAN PALMIERI: That was one of the
17 questions we were talking about the water
18 quality device at two locations. How often do
19 they have to be inspected? Is there an
20 inspection requirement from DEP?

21 MR. BULETZA: Yes, sir. There is. We
22 have provided a storm water maintenance manual
23 in accordance with the NJDEP requirements.
24 Basically, what that entails is -- first of all,
25 it entails a person to be stated who will be in

1 charge of that system. There are also work
2 order forms to be filled out when the
3 maintenance and the inspections are performed.
4 There are also notes on that form of what was
5 seen during these inspections and there are also
6 specifications on, for instance, the depth of
7 the silt and the silt chamber when it reaches
8 15 percent of the capacity for a certain number
9 of inches that it should be removed by a truck.

10 In addition, if there are any floatables
11 or petroleum products visible in the surface
12 skimmer, that those should also be removed.
13 Those maintenance tasks are all put into the
14 manual and they are on a schedule, a certain
15 number of months for each individual task.

16 CHAIRMAN PALMIERI: Is this something
17 that the owner of the property would be doing or
18 is this --

19 MR. BULETZA: Yes, it is.

20 CHAIRMAN PALMIERI: Or is it an outside,
21 licensed company that has to come in to do the
22 removal, make the inspection, write down what is
23 found?

24 MR. BULETZA: At the owner's option, he
25 can perform it or he can hire a service to

1 perform it.

2 MR. LOMANGINO: This is yearly storm
3 water application that needs to be filled out
4 for the DEP, correct?

5 MR. BULETZA: Yes.

6 MR. LOMANGINO: That is normally done by
7 an engineering firm that inspects it and okays
8 it as well, right?

9 MR. BULETZA: Yes. Sometimes engineers
10 are hired to oversee it and assign the various
11 forms.

12 MR. LOMANGINO: When they hire the
13 engineer and come in and do that, they put their
14 seal on it. That is the guarantee that it was
15 done correctly. That is done on an a yearly
16 basis, correct?

17 MR. BULETZA: Yes. There are some done
18 on a yearly, some on a monthly and some on a
19 quarterly, depending on the DEP outline.

20 CHAIRMAN PALMIERI: I guess the biggest
21 question is, who is responsible for doing this?
22 Obviously, you always look to the outside,
23 somebody who is going to be responsible. I'm
24 not saying the owner of the property, but you
25 look to somebody who is not an outside,

1 independent person who can be held responsible
2 and make sure it's being done correctly. I
3 guess that was my question, they require at
4 least once a year to put a seal on it or an
5 approval saying the containment is working as it
6 was installed and do what it's supposed to do.
7 An outside engineering firm is taking that
8 responsibility saying it is correct.

9 MR. FALVO: We can make that a condition
10 of the approval. We have no objection to
11 providing such a statement.

12 CHAIRMAN PALMIERI: It is a DEP
13 regulation already?

14 MR. FALVO: Right. You don't want the
15 owner to do it, you want some independent agency
16 to do it.

17 MR. LOMANGINO: They do it anyway that
18 way.

19 CHAIRMAN PALMIERI: Jeff, do you
20 understand what the question was asked to me?
21 Is it mandatory that they have to have an
22 engineer certify --

23 MR. STAIGER: It's not mandatory. The
24 Applicant is required to provide an operations
25 and maintenance manual. In that manual, the

1 Applicant has to identify the person responsible
2 for maintaining and operating the storm water
3 management system. If there were any problems
4 with the system, that person's name or that
5 entity then would be the one responsible for any
6 failures, malfunctions or problems.

7 CHAIRMAN PALMIERI: Currently, the DEP
8 didn't require an outside engineering firm or
9 somebody to report or a certificate of approval
10 on an annual basis or anything like that.

11 MR. CHRISTOPHER: There is no
12 professional to inspect it at this time?

13 MR. STAIGER: Not that I'm aware of, no.
14 It's normally the property owner's --

15 MR. MOAFI: I think also DEP inspects
16 it.

17 MR. LOMANGINO: I have the same
18 facility.

19 MR. MOAFI: They have to keep records.

20 MR. BULETZA: There is a responsibility
21 to keep records each time the system was
22 inspected, and all of the work that was
23 performed, and what the results of the
24 inspections were, as well as the specifications
25 on what they found. If the system is not

1 meeting certain specifications, like evacuation
2 time after a certain storm, it has to be
3 inspected by an engineer and the components have
4 to be looked at. As far as the specific
5 question as to whether the NJDEP specifically
6 requires an outside engineer, I don't think they
7 specifically require an outside engineer. They
8 require the owner to inspect it or if it is not
9 the owner they require some type of a legal
10 document stating who the person is and what
11 their relation to the owner is. However, as I
12 mentioned before, sometimes companies do
13 request, for instance, me to come and perform
14 their inspections, so on their quarterly forms
15 they can have a licensed engineer and my seal
16 stating that I have inspected the system and it
17 meets the conditions in the manual. That is an
18 option.

19 For them to actually perform the
20 inspections, and keep the inspection log book
21 and the manual and all inspection logs on the
22 site along with the set of their plans, that is
23 required.

24 CHAIRMAN PALMIERI: Do any Board Members
25 have any other questions?

1 MR. STAIGER: I have a question. I
2 didn't see on the plans the estimated seasonal
3 high water table. Are you going to maintain a
4 two-foot separation between that and the bottom
5 of the sand layer of the basin?

6 MR. BULETZA: Yes. We have some soil
7 logs on Page 67 of the drainage study and
8 indicating a seasonal high water table of
9 approximately elevation 106.5, 106.6 and 105.2,
10 depending upon what area they were located in.
11 The bottom of the basin is elevation at 107.70.
12 I would imagine that is two feet above the
13 seasonal high water table for the boring that
14 was done at the basin. We will maintain
15 two feet, as the NJDEP mandates.

16 MR. STAIGER: The storm drainage,
17 Section G of our letter dated June 15, 2007,
18 contains essentially 12 items. Most of the
19 minor clean-up information on the plan. Do you
20 have any objections to addressing those items?

21 MR. BULETZA: What was the date of your
22 letter again?

23 CHAIRMAN PALMIERI: Before we jump into
24 that letter --

25 MR. FALVO: We addressed it at the last

1 meeting. What page are you on?

2 MR. STAIGER: Page 7.

3 MR. BULETZA: We can address all 12 of
4 those items. That is under your Item G, Storm
5 Water Management System 1 through 12.

6 MR. STAIGER: Okay.

7 MR. BULETZA: Those are main or
8 housekeeping items, like details of things. We
9 can do that.

10 CHAIRMAN PALMIERI: Jeff, your letter of
11 June 15th, is that what you are referring to?

12 MR. STAIGER: Correct.

13 CHAIRMAN PALMIERI: I thought we were
14 going to address the whole letter.

15 MR. FALVO: We did at the last meeting.

16 MR. STAIGER: I was not at the last
17 meeting. I was just going over the notes.

18 MR. FALVO: On G, we indicated 1 through
19 12 we would satisfy. On F, on Page 5, we said 1
20 through 11 we would satisfy.

21 CHAIRMAN PALMIERI: Usually, I write on
22 the letter.

23 MR. CHRISTOPHER: Who testified to that
24 last time?

25 MR. FALVO: Mr. Boesch testified at the

1 last meeting.

2 CHAIRMAN PALMIERI: We went through all
3 of the comments except for the storm water.

4 MR. FALVO: Right. We, essentially,
5 said we would do everything. You know, except
6 that for which we asked a variance for or a
7 waiver. The only thing we didn't agree with was
8 the lighting. We discussed that, because we
9 said there was no sense lighting the area where
10 the containers were stored. Most of the
11 lighting was toward the front of the building
12 and in front of the garages, so we didn't
13 maintain half a foot candle evenly over the
14 entire site.

15 MR. CHRISTOPHER: Mr. Falvo, do you have
16 a transcript handy? We don't want to go over
17 old ground.

18 MR. FALVO: Wait a second.

19 CHAIRMAN PALMIERI: I remember, at the
20 last meeting, we talked about the site itself
21 and all of the issues around it. Mr. Boesch,
22 did you remember us going through this? I don't
23 remember going through the engineer's letter in
24 detail.

25 MR. BOESCH: I recall going through some

1 major areas. Lighting, in particular, I do
2 recall. I believe Mr. Rea addressed some of the
3 traffic issues and I know we deferred the storm
4 water management for Mr. Buletza.

5 MR. GLEITZ: I recall the landscaping
6 components.

7 MR. FALVO: Right. We went through it
8 all.

9 CHAIRMAN PALMIERI: Mr. Christopher is
10 skimming through the minutes of our last
11 meeting.

12 MR. CHRISTOPHER: I'm skimming through
13 the transcript.

14 CHAIRMAN PALMIERI: Mr. Falvo, you know
15 how we do it. We say number 5 waiver or not
16 waiver. I understand we went through the storm
17 water, Item G, with the 12 issues there.

18 MR. FALVO: Do you want us to go through
19 it quickly again?

20 MR. CHRISTOPHER: If it's in the record,
21 we prefer not to do it again.

22 MR. FALVO: My recollection is that we
23 went through the whole thing as I had the report
24 marked.

25 CHAIRMAN PALMIERI: Did you have the

1 letter from --

2 MR. FALVO: I have the June 15th letter,
3 yes.

4 CHAIRMAN PALMIERI: Did you write on
5 yours saying we waive this and accept this?

6 MR. FALVO: We started on Page 5. On
7 the variances, we admitted we asked for the
8 variances. Up to Page 4 is just really a
9 statement. Item F, 1 through 11, we agreed to.
10 Item 12 was the additional details of the fuel
11 storage which we did today. Items 13 through 20
12 we agreed to.

13 CHAIRMAN PALMIERI: 13 through 20?

14 MR. LOMANGINO: Yes.

15 MR. FALVO: Item 21, we said we would.

16 MR. STAIGER: Item 21 is looking for the
17 solid waste and recycling for this particular
18 use and not what's --

19 MR. FALVO: We said we were going to
20 store it in the building.

21 MR. LOMANGINO: We went through that.

22 MR. FALVO: Item 22 was done. Item 23
23 we asked for a waiver. Item 24 we said okay.
24 Item 25 we said there is a question mark. If we
25 have to make a COAH contribution, we will make

1 it. Under, G, 1 through 12, is okay.

2 CHAIRMAN PALMIERI: We went over that
3 today.

4 MR. FALVO: Number 1 on the grading we
5 said okay. Environmental we said we would apply
6 for an LOI, but I think that's when we
7 introduced the LOI from Woodbury Club. Woodbury
8 Club got this subdivision originally and we had
9 to do the LOI for that. We introduced a Deed
10 Restriction, et cetera.

11 Item 3 we testified to tonight. Item 4
12 we marked in evidence. Landscaping, we said
13 okay. Utilities, we said okay. Lighting, we
14 discussed that. That was the issue of the fact
15 that the whole site didn't have light over,
16 because we had the dumpsters in the rear.
17 Traffic was testified to by Mr. John Rea.

18 Parking was discussed by Mr. Rea and we also
19 asked for a variance on the parking. We said,
20 on the outside agency approvals, we would apply
21 for it.

22 CHAIRMAN PALMIERI: Okay.

23 MR. STAIGER: I know you said last
24 meeting you testified about the lighting. You
25 went over the 11-foot candles -- okay.

1 MR. GLEITZ: I don't remember that
2 testimony.

3 MR. BOESCH: My recollection is that the
4 wall-mounted light fixtures next to the
5 building, which are currently specified as
6 250-watt, would be reduced in wattage to
7 footcandle lighting.

8 CHAIRMAN PALMIERI: That covers your
9 letter, Jeff?

10 MR. CHRISTOPHER: Any outstanding items
11 on your letter?

12 MR. STAIGER: I believe the Applicant
13 went through and addressed everything.

14 CHAIRMAN PALMIERI: You need a waiver on
15 parking.

16 MR. FALVO: Variance for the parking.

17 CHAIRMAN PALMIERI: And Page 6, Number
18 23 --

19 MR. FALVO: Yes.

20 CHAIRMAN PALMIERI: Basically, other
21 than that, you comply with everything else in
22 the letter?

23 MR. FALVO: With the other variances, we
24 need a side yard variance, building height --
25 side yard setback is a requirement of your

1 building height, because you increase the side
2 yard by the times of the building height.
3 Basically, everything else we are in compliance
4 with.

5 CHAIRMAN PALMIERI: Mr. Falvo, would
6 that be under F-10? Is that correct?

7 MR. FALVO: No. The building height we
8 comply with. I mean, with the utilities, it's
9 15 percent. Mr. Staiger said there is no
10 variances required.

11 MR. STAIGER: Mr. Falvo is referring to
12 Page 4, Item 2, dealing with the impervious
13 coverage. The Ordinance provides two values,
14 15 percent for utilities and 60 percent for all
15 other uses within the zone. It was our
16 understanding of the Ordinance that this
17 application did not qualify as the utility as
18 defined in the Borough of Tinton Falls.
19 Therefore, with their coverage of 51 percent,
20 the variance is not required.

21 Going back to the building height issue,
22 the side yard setback is a factor of the
23 building height. The minimum side yard setback
24 is 30 feet, however, it also has the condition
25 of two times the building height. If the

1 building height is proposed to be 24 feet --

2 MR. FALVO: I'm not a utility. I'm
3 permitted 40 feet, but I'm 24 feet.

4 MR. STAIGER: The 40 feet allowed as
5 other uses. Utilities has 20 feet. The
6 Applicant is proposing a height of 24 feet, so
7 the side yard setback would be 48 feet, two
8 times the building height. The Applicant has, I
9 believe, a dimension of 30 feet. It's indicated
10 on E-1 of our letter. Does that clarify the
11 building height?

12 CHAIRMAN PALMIERI: We've come to the
13 conclusion they are not a utility.

14 MR. CHRISTOPHER: Was that a ruling last
15 time?

16 CHAIRMAN PALMIERI: I think that was
17 decided last time.

18 MR. GLEITZ: It was a straight use
19 variance, because it was not a use anticipating
20 the zone. The utility use was a pumping
21 station, transfer station, even though the
22 operator has a utility.

23 MR. FALVO: We are licensed by the
24 Department of Public Utilities.

25 MR. GLEITZ: In the definition of the

1 Ordinance, there wasn't --

2 MR. FALVO: I understand.

3 MR. GLEITZ: That's why they are here
4 for the straight use variance.

5 CHAIRMAN PALMIERI: Okay. That took
6 care of that.

7 MR. FALVO: On Page 4, Item 7, we
8 mentioned this at the last meeting about parking
9 spaces for uses more than six spaces shall be
10 set back a minimum of 25 feet and I believe we
11 are 14 feet. That is the parking in the front.

12 MR. GLEITZ: I think we had a couple of
13 sign variances, too.

14 MR. FALVO: I thought there was one sign
15 variance.

16 CHAIRMAN PALMIERI: You are the only
17 people back there.

18 MR. FALVO: Us and Clayton. We don't
19 really get walking traffic.

20 CHAIRMAN PALMIERI: Right. Mostly
21 everything is done off-site.

22 MR. GLEITZ: There is a height in the
23 area and you will comply?

24 MR. FALVO: The sign variance, we will
25 comply with, right.

1 MR. CHRISTOPHER: In other words, there
2 won't be a necessity for variance. You will
3 comply with the Ordinance?

4 MR. FALVO: Correct. Right.

5 MR. GLEITZ: There was one final thing
6 in my report. I don't know if we discussed it
7 about the side yard minimum for the fuel pump.

8 MR. FALVO: Right. We are 10 feet.

9 MR. CHRISTOPHER: Mr. Falvo, I'm having
10 trouble hearing you.

11 MR. FALVO: I'm sorry. My wife should
12 have the same problem.

13 MR. CHRISTOPHER: There is a transcript,
14 Mr. Falvo.

15 MR. STAIGER: Page 4 of our letter
16 dealing with the fueling station and the
17 above-ground fueling station tank, were they
18 considered structures that a side yard variance
19 would be required since they are located 10 feet
20 from the --

21 MR. FALVO: The answer is, we are asking
22 for a variance. We also have a retaining wall
23 in that area besides. I have my planner to
24 testify. That is a variance we are requesting.

25 MR. CHRISTOPHER: What number was that?

1 MR. STAIGER: Page 4 of our letter, Item
2 5.

3 MR. FALVO: We also testified at the
4 last meeting we didn't need a loading zone, so
5 we need a variance for that. That is No. 6.

6 MR. GLEITZ: That was a discussion,
7 since essentially two-thirds of the site is
8 acting as a loading zone it would be up to the
9 Board's discretion whether it was necessary or
10 not.

11 MR. LOMANGINO: Right.

12 MR. GLEITZ: I don't know if the Board
13 has decided on that or not. There is lots of
14 loading and unloading all day. I believe for
15 the office material, the testimony was there
16 would be Federal Express type of delivery.

17 MR. FALVO: Right.

18 MR. GLEITZ: That might not be real
19 hard.

20 CHAIRMAN PALMIERI: Are we done with
21 Jeff's letter?

22 MR. STAIGER: I believe so.

23 MR. FALVO: My last witness is Mr. --

24 CHAIRMAN PALMIERI: I'm going to open it
25 up to the public first. Does anyone in the

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1 public have any questions so far? Seeing none.

2 Mr. Falvo?

3 MR. FALVO: I'd like to call Mr.
4 Higgins, please?

5 (Whereupon, John W. Higgins, P.P., is
6 sworn and testifies as follows:

7 DIRECT EXAMINATION BY MR. FALVO:

8 MR. FALVO: I believe Mr. Higgins has
9 testified before this Board in the past and I
10 would ask that he be accepted in his capacity as
11 a professional planner.

12 CHAIRMAN PALMIERI: He is accepted.

13 Q. Mr. Higgins, at my request, did you
14 examine the variances that were submitted, as well as
15 the site, and Master Plan and Zoning Ordinance of
16 Tinton Falls, in preparation for the hearing this
17 evening?

18 A. Yes, I did. I also reviewed the
19 application and the plans and I attended the first
20 hearing and listened to the testimony at that first
21 hearing.

22 Q. At the Applicant's request, did you
23 undertake an evaluation from a planning point of view
24 as to compatibility and particular suitability of
25 this site for the purposes intended?

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1 A. Yes, I did.

2 Q. Would you please give the Board the
3 scope of your investigation -- you gave that. Could
4 you relate to the Board your findings and your
5 opinions?

6 A. Yes. In my opinion, there are special
7 reasons for the granting of the use variance that the
8 Applicant is requesting. I would normally go into
9 describing the use, and the site and the surrounding
10 area, but that's been done quite extensively in the
11 prior hearing and earlier tonight, so I don't see any
12 need to go through that again for the Board.

13 The use is a somewhat unusual use, in
14 that, particularly as it relates to this zone,
15 because it contains components of uses that are
16 permitted in the zone, but didn't really fit exactly
17 into the uses that are permitted in the zone. I
18 think the site, when you look at it, it's an isolated
19 site in terms of being surrounded by other industrial
20 type uses or sites that have been approved for
21 industrial-type uses. It's away from residential
22 uses. It's close to, very close to the two
23 facilities that this Applicant utilizes the most in
24 his business, and that is the County landfill
25 operation and the Mazza operation, both of which are

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1 located a very short distance from this site.

2 When you take these issues into account,
3 and you see the fact the site is really the type of
4 use that was anticipated, the types of uses
5 anticipated in this zone, I think this site is
6 particularly-suited for the proposed use. When you
7 add to that the fact that this use, because it
8 involves extensive operations that promote extensive
9 recycling is a beneficial use and promotes the
10 purposes of the Land Use Law with regard to
11 recycling. And by locating this site close to the
12 two facilities, that this operation utilizes the
13 most, it promotes the purposes of the Land Use Law
14 with regard to conserving energy, renewable energy
15 resources, in this case, gasoline, because the trucks
16 don't have to travel a great distance after they get
17 rid of their material in the evening. They come a
18 very short distance to the site. It keeps the trucks
19 off other portions of roads, in Tinton Falls, and
20 other surrounding municipalities, so I think it
21 promotes the free flow of traffic also, which is
22 another purpose of the Land Use Law.

23 CHAIRMAN PALMIERI: Not to interrupt, I
24 thought we were talking about diesel.

25 MR. HIGGINS: Diesel. I stand

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1 corrected. Yes. Okay.

2 CHAIRMAN PALMIERI: I keep hearing
3 gasoline.

4 MR. HIGGINS: It's diesel. I am a
5 planner. In my mind, they are both the same.

6 A. I think, when you look at all of these,
7 I think this application as proposed there are
8 special reasons for the granting of the use variance
9 and because the components of the usefulness of them,
10 if not all of them, are permitted in one form or
11 another in the manufacturing zone. The uses that are
12 either existing or approved immediately adjacent to
13 this site are very similar to what's being proposed
14 and I don't see any significant negative impact on
15 either the surrounding properties, or on your Zone
16 Plan or your Zoning Ordinance.

17 I think with those items taken under
18 consideration, I think there are special reasons for
19 the granting of the variance and there is no
20 substantial negative impact to the granting of the
21 variances.

22 Q. With regard to the bulk variances that
23 would be requested, one is with regard to the minimum
24 side yard. We are providing 30 feet, 40 feet is
25 required. Because the building -- 48 feet, because

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1 of the building height. Do you have a planning basis
2 for why that variance should be granted?

3 A. Yes, I do. First of all, the peak of
4 the building at the center is 24 feet. The edge of
5 the building at the setback line is 16 feet. You
6 don't have -- it's not a 24-foot, high flat-roofed
7 building. This is a peaked roof building. When you
8 look at the intent of the Ordinance, it's to maintain
9 a sense of scale and not have large building walls
10 adjacent to property lines, close to the property
11 lines.

12 What you have here instead is you have a
13 16-foot wall that is 30 feet from the property line.
14 Technically, if this was a 16-foot high building and
15 flat roof, it would have to be 32 feet from the line.
16 I don't see the difference between 30 and 32 feet.
17 It's an 80-foot wide building, the 24-foot high
18 portion is located 70 feet from the property line.
19 If this were a 24-foot high, flat-roofed building, it
20 could be located as close as 48 feet to the property
21 line. The high point, the 24 feet, is actually
22 22 feet farther from the property line than would be
23 permitted, if this were a box building rather than
24 one-way slanted roof. I think the intent of your
25 Ordinance is to maintain scale. What the Applicant

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1 is proposing is a building that is actually more in
2 scale than if this were a fully-conforming building
3 that was a flat roof. I think aesthetically it's
4 better than your Ordinance would require on the site
5 and when I take that into account. I think that
6 reason for the granting of that variance, more
7 desirable visual environments, providing for light,
8 air and open space by having a building that is
9 actually less boxy and less imposing than your
10 Ordinance would otherwise permit.

11 Q. With regard to the off-street parking,
12 25 spaces -- minimum setback of the parking is
13 25 feet, 14 feet is proposed. Also, the number of
14 parking spaces is under what is required. Is there a
15 basis for those variances to be granted?

16 A. Yes, I believe so. With regard to the
17 number of parking spaces, the use requires -- this is
18 a somewhat unique use. It requires the number of
19 spaces that the Applicant is providing. Quite
20 frankly, there is sufficient area on the site that
21 will be paved, that if it turns out the Applicant
22 requires additional parking spaces they could be
23 striped and designated for parking rather than
24 designated for the storage of the containers. The
25 issue of the setback of the parking deals with the 7

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1 spaces at the northern side.

2 MR. CHRISTOPHER: Mr. Higgins, has that
3 been marked in evidence?

4 MR. HIGGINS: Yes. It's A-12. It's
5 dated 6/2/07.

6 A. Those 7 spaces are actually located at
7 the northern side of the site coincident with the
8 storage area, which runs along the entire northern
9 edge of the site 14 feet to the property line. I
10 think really the variance, in this instance, is a
11 technicality. That area could be utilized for
12 storage and those parking spaces could be put
13 someplace else. I don't see any negative impact of
14 putting the parking spaces at that point. There is a
15 substantial row of evergreen trees that will screen
16 them off and there is no development on the other
17 side of where that parking would be. Those would be
18 employee parking spaces. They would be utilized, at
19 most, employees would drive in the morning, park
20 their cars and drive out at night. There is no
21 activity there. I don't see any negative impact with
22 the granting of that variance.

23 Q. With regard to the attached sign height,
24 there is a 5-foot maximum and 6 feet is proposed?

25 A. I think, actually, we just agreed we are

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1 reducing the size.

2 Q. The square footage?

3 A. As far as the height, your Ordinance,
4 again, takes into account visual impact and it has a
5 graduated scale of sign heights. For a 51-foot
6 setback building to 100, a 5-foot high sign is
7 permitted. For 101 feet to, I believe, 150 feet, a
8 6-foot high sign is permitted. The Applicant is
9 proposing a 6-foot high sign, at 92 feet, for a
10 building setback of 92 feet. Visually, there is
11 virtually no difference between that and a building
12 setback of 101 feet. In fact, that 6-foot high sign,
13 at 92 feet, has much less visual impact than a 5-foot
14 high sign would at 50 feet.

15 CHAIRMAN PALMIERI: You are talking
16 about a foot.

17 MR. HIGGINS: Correct. The ratio, in
18 terms of the ratio of the sign height and
19 setback, is much greater than it is from a
20 6-foot high sign at 91 feet. The intent of your
21 Ordinance is to maintain a sense of scale. I
22 think this application does that and this sized
23 sign does that. I don't see any impact to that,
24 and visually, I think, it's better than what
25 your Ordinance would anticipate.

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1 Q. Given the nature of this operation, from
2 a planning perspective, would it be fair to say it's
3 reasonable to eliminate the designated loading zone?

4 A. Absolutely. The whole site is a
5 designated loading zone, basically. To have a
6 specific area designated, they are going to do
7 loading and unloading where they want to do it
8 anyway. What limited loading and unloading there
9 would be.

10 CHAIRMAN PALMIERI: I would think on the
11 previous testimony, they are going to have so
12 many containers there it would be to their
13 benefit how they would manage to do it anyway.

14 A. The only other issue is the fuel pump
15 setback.

16 Q. Right.

17 A. Again, that is a function -- the 48-foot
18 requirement is a function of the building height, the
19 principal building height. There is no relationship
20 between the fuel pump and the building itself, in
21 terms of the mass of either. The fuel pump is set in
22 an area. It's over 55 feet from the property line.
23 As Mr. Falvo stated earlier, there is one spike of
24 wetlands that comes out that goes near that
25 structure. Visually, and functionally, it's not

HIGGINS - Direct

1 going to have any impact to have that located where
2 it is. To try to relocate it someplace else on the
3 site would have an impact on the function of the
4 site. I think that variance could also be granted.

5 Q. If the use were, and all of the bulk
6 variances requested, granted, do you have an opinion
7 as to what impact it would have on the Zone Plan, the
8 Master Plan or the neighborhood in which it is
9 located?

10 A. I don't think there would be any
11 significant impact on your Zone Plan or Master Plan.
12 The use has a number of components to it. Most of
13 them are permitted in the zone. And, in one form or
14 another, it's the type of use that is most
15 appropriate for your manufacturing zone. In terms of
16 the bulk variances, quite frankly, they are
17 inconsequential. I don't think they would have any
18 impact.

19 MR. FALVO: Thank you.

20 CHAIRMAN PALMIERI: Any questions from
21 the Board?

22 MR. FALVO: I have no further questions.

23 MR. CHRISTOPHER: Mr. Higgins, you said
24 a couple of times the components are permitted.
25 Maybe, for the record, you could elaborate on

HIGGINS - Direct

1 that? The entire package needs a use variance.
2 You said the components of the use are
3 permitted.

4 MR. HIGGINS: Most of the components are
5 permitted. You have basically shipping and
6 warehousing is a permitted use in the zone.
7 Effectively, what this is, it's very similar to
8 a shipping type use. The office is permitted.
9 The building where the trucks would be repaired,
10 if this were a shipping facility, that would be
11 an accessory to a shipping facility. It's the
12 type of facility that would be permitted. The
13 storage of equipment is very similar to the
14 storage of the vehicles in a yard. That's very
15 similar to what would be permitted. The use
16 itself is similar to what the Board has approved
17 on an adjacent site of Clayton Concrete.

18 The one specific aspect of the use that
19 is not permitted by the Ordinance, but that is a
20 clear accessory to the principal use of the site
21 is the fueling station. Somebody could argue
22 that is not permitted in the zone, but it's a
23 clear accessory to the use and there are
24 substantial benefits to that fueling station in
25 terms of keeping the trucks off the road and on

HIGGINS - Direct

1 the site, fueling them on the site, so they
2 don't travel to a remote location and come back
3 again burning unnecessary fuel and utilizing the
4 streets unnecessarily.

5 CHAIRMAN PALMIERI: Do any Board Members
6 have any questions of this witness?

7 MR. GLEITZ: I have no questions.

8 CHAIRMAN PALMIERI: I'm going to open it
9 up to the public. Does the public have any
10 questions?

11 MR. FALVO: Mr. Chairman, Members of the
12 Board, that is the Applicant's case. I believe
13 we've established by preponderance of the
14 credible evidence that the bulk variances could
15 be granted without any substantial detriment to
16 the Master Plan and Zone Plan. As to the use
17 variance, I believe we have satisfied the
18 enhanced burden of proof of showing the property
19 is uniquely, particularly suited for this use,
20 that given the vicinity of the landfill, and
21 Mazza recycling and the transfer station, et
22 cetera, that it is the most ideally-suited place
23 for an operation of this type.

24 I would ask this Board would vote
25 favorably for both the use variance, and bulk

HIGGINS - Direct

1 variance and also grant us preliminary and final
2 site plan approval subject, of course, to us
3 revising the plans in accordance with the
4 engineer's letter of June 15th.

5 CHAIRMAN PALMIERI: All right. Did
6 anybody have any more questions? At this time,
7 we will hear a motion to close the public
8 portion.

9 MR. LOMANGINO: So moved.

10 MR. DIAMOND: Second.

11 (Ayes have it)

12 CHAIRMAN PALMIERI: All right. Does
13 anybody have any comments or make a motion on
14 the application?

15 MR. LOMANGINO: I would like to make a
16 motion to approve.

17 MR. DIAMOND: I second it.

18 CHAIRMAN PALMIERI: The first motion
19 will be on the use.

20 MR. LOMANGINO: Motion to approve the
21 use of the application.

22 MR. DIAMOND: I'll second.

23 CHAIRMAN PALMIERI: Roll call?

24 MR. GOTFREDSEN: Mr. Lomangino?

25 MR. LOMANGINO: Yes.

HIGGINS - Direct

1 MR. GOTFREDSEN: Mr. Diamond?

2 MR. DIAMOND: Yes.

3 MR. GOTFREDSEN: Mr. Palmieri?

4 CHAIRMAN PALMIERI: Yes.

5 MR. GOTFREDSEN: Mr. Slayzk?

6 MR. SLAYZK: Yes.

7 MR. GOTFREDSEN: Mr. Lavallo?

8 MR. LAVALLO: Yes.

9 MR. GOTFREDSEN: Mr. Battista?

10 MR. BATTISTA: Yes.

11 MR. GOTFREDSEN: Mr. Moafi?

12 MR. MOAFI: Yes.

13 CHAIRMAN PALMIERI: That's one. We will
14 need a motion for the site plan with all of the
15 engineer's comments and all of the other waivers
16 requested.

17 MR. LOMANGINO: So moved.

18 MR. CHRISTOPHER: Mr. Chairman, this is
19 a motion with the conditions of what? I
20 couldn't hear you too well. Everything that was
21 testified to and with the waivers and so on?
22 I'm talking about the conditions in compliance
23 with the engineer's letter of June 15th and all
24 of the other representations made by the
25 Applicant and the witnesses.

HIGGINS - Direct

1 MR. LOMANGINO: So moved.

2 MR. GLEITZ: Compliance with the

3 landscaping memo as well.

4 MR. FALVO: Right.

5 CHAIRMAN PALMIERI: I thought we

6 addressed all of that.

7 MR. CHRISTOPHER: In compliance with the

8 engineer's letter that was addressed at the last

9 meeting.

10 MR. FALVO: Yes.

11 MR. LOMANGINO: I'll make the motion.

12 MR. DIAMOND: Second.

13 CHAIRMAN PALMIERI: Roll call?

14 MR. GOTFREDSEN: Mr. Lomangino?

15 MR. LOMANGINO: Yes.

16 MR. GOTFREDSEN: Mr. Diamond?

17 MR. DIAMOND: Yes.

18 MR. GOTFREDSEN: Mr. Palmieri?

19 CHAIRMAN PALMIERI: Yes.

20 MR. GOTFREDSEN: Mr. Slayzk?

21 MR. SLAYZK: Yes.

22 MR. GOTFREDSEN: Mr. Lavalley?

23 MR. LAVALLE: Yes.

24 MR. GOTFREDSEN: Mr. Battista?

25 MR. BATTISTA: Yes.

HIGGINS - Direct

1 MR. GOTFREDSEN: Mr. Moafi?

2 MR. MOAFI: Yes.

3 CHAIRMAN PALMIERI: There you go, Mr.
4 Falvo.

5 MR. FALVO: Thank you very much,
6 Gentlemen.

7 MR. CHRISTOPHER: Mr. Falvo, the
8 transcript --

9 MR. FALVO: You will get the transcript.

10 (Whereupon, the application is
11 approved.)

12

13

1 CERTIFICATE

2

3 I, LISA NORMAN, a Notary Public and
4 Certified Court Reporter of the State of New Jersey,
5 do hereby certify that prior to the commencement of
6 the examination, the witness was duly sworn by me to
7 testify the truth, the whole truth and nothing but
8 the truth.

9 I DO FURTHER CERTIFY that the foregoing
10 is a true and accurate transcript of the testimony as
11 taken stenographically by and before me at the time,
12 place and on the date hereinbefore set forth.

13 I DO FURTHER CERTIFY that I am neither a
14 relative nor employee nor attorney nor counsel of any
15 of the parties to this action, and that I am neither
16 a relative nor employee of such attorney or counsel,
17 and that I am not financially interested in the
18 action.

19

20

21 _____
Notary Public of the State of New Jersey
License No. 30X100177700
22 Dated: August 12, 2007

.....

MAZZA HEARING

1

1 TINTON FALLS ZONING BOARD
2 COUNTY OF MONMOUTH - STATE OF NEW JERSEY

2

3

4

REGULAR MEETING FOR:

TRANSCRIPT OF
PROCEEDINGS

5

THURSDAY, AUGUST 2, 2007

6

BOROUGH PROPERTIES, LLC

7

8

9

10 BEFORE:

11

12

RONALD PALMIERI, Chairman

RONNIE BATTISTA

13

MATT DIAMOND

JIM LAVALLE

14

SAYED MOAFI

JOHN SLAYZK

15

16

17

ALSO PRESENT:

18

EDWARD F. CHRISTOPHER, ESQ., Board Attorney

19

JEFFREY STAIGER, P.E., Board Engineer

PAUL GLEITZ, P.P., Board Planner

20

DOULGAS GOTFREDSEN, Board Secretary

21

23

LISA NORMAN, CSR

24

15 Girard Avenue

West Long Branch, New Jersey 07764

25

732.229.5897

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

2

3 ANSELL, ZARO, GRIMM & AARON, P.C.
4 1500 Lawrence Avenue - CN 7807
5 Ocean Township, New Jersey 07712
6 732.922.1000

7 BY: PETER S. FALVO, JR., ESQ.
8 Attorneys for the Applicant

9

10

1 I N D E X

2

3

4 WITNESS NAME PAGE NO.

5

6 TIMOTHY LURIE, P.E.

7 By Mr. Falvo 16

8

9

10

E X H I B I T S

11

12

13 EXHIBIT NO. DESCRIPTION PAGE NO.

14

A-1 Preliminary and Major 40
Subdivision Plan prepared
by D.W. Smith Associates dated
5/2/07 revised 7/12/07

17

18 A-2 Boundary Survey prepared by 40
D.W. Smith Associates 7/26/06

19

20 A-3 Preliminary Survey prepared by 40
D.W. Smith Associates dated 7/26/06

22

23 A-4 Entrance Driveway Plan prepared by 11
D.W. Smith dated 5/2/07
revised 7/12/07

24

25

1 CHAIRMAN PALMIERI: Next application is
2 BA 2007-13 Borough Property, LLC.

3 MR. CHRISTOPHER: Mr. Chairman, I've
4 reviewed the notices, the Notice of Hearing and
5 the Affidavit of Publication and the Notice
6 published in the newspaper, the Notice to the
7 property owners within 200 feet and I find the
8 notices to be in order.

9 CHAIRMAN PALMIERI: Motion to accept
10 service.

11 MR. DIAMOND: I'll make a motion to
12 accept.

13 (Unanimous vote).

14 CHAIRMAN PALMIERI: Before we get deep
15 into the application, it was brought to our
16 attention that one of our Board Members is going
17 to recuse himself from this application, Mr.
18 Lomangino.

19 MR. CHRISTOPHER: For the record, Mr.
20 Lomangino, do you feel you have a conflict in
21 this matter?

22 MR. LOMANGINO: I do business with them.

23 MR. CHRISTOPHER: Let the record reflect
24 that this Member is stepping down and away the
25 dais.

1 CHAIRMAN PALMIERI: Mr. Falvo,
2 obviously, it was brought to your attention that
3 the Board only has currently six Members on the
4 Board. And no alternates, as of this date, have
5 been appointed by the Council. I've been
6 referring to Mr. Christopher, as far as the
7 rules and regulations.

8 MR. CHRISTOPHER: I'm not clear of this,
9 Mr. Falvo. I'm looking at the statute and it
10 says on 40:255, "Lack of quorum a Planning Board
11 Member may serve as temporary members." This is
12 not the issue. Additionally, my recollection
13 is, and I don't have it off the top of my head,
14 but my recollection is that if a Member is
15 appointed after an application, I don't believe
16 they can read the transcript. If I'm wrong,
17 that would solve a lot of issues here. Perhaps
18 my thought would be to proceed with the
19 application, get a transcript and then do a
20 little research and get a ruling on that. We
21 would like to accommodate this, but there is no
22 way we can do it factually or you can supply
23 your opinion on it.

24 Everybody wants to go in the same
25 direction on this one. We will deal with it.

1 If not, you may be stuck with six Members. I
2 don't know right now off the top of my head. I
3 would like to do research on that.

4 MR. FALVO: Fair enough. I just know
5 that in other municipalities, when we did the
6 Jewish Center, in Marlboro, we had substantial
7 Members of the Zoning Board that stepped off and
8 we had to get Members of the Planning Board.
9 Between the two Boards --

10 MR. CHRISTOPHER: Maybe there was not a
11 quorum there.

12 MR. FALVO: Maybe there wasn't a quorum.
13 We wound up with a full Board.

14 MR. CHRISTOPHER: Well, I don't want to
15 misstate something without either one of us
16 researching it. Having said that, I think it's
17 up to you. I would suggest proceeding, get the
18 transcript and go from there.

19 MR. FALVO: You got it. Members of the
20 Board, I'm representing Borough Properties this
21 evening on the application for a subdivision
22 that would be located essentially east of the
23 existing Mazza Demolition Recycling Facility off
24 of Shafto Road and that proposed subdivision
25 would be serviced by an extension of the road

1 that is privately owned by the various entities,
2 and essentially one of the larger variances
3 requested is the fact that none of these lots
4 will face on what is commonly referred to as a,
5 quote, public street, unquote.

6 In conjunction with that subdivision
7 application, we also have a use variance for the
8 Lots 2.02, which will have an auto auction on
9 the facility. Lot 2.02, which is roughly a
10 10-acre site, will have a proposed auction
11 facility for heavy equipment and things of that
12 nature. That will require a use variance as
13 well. That will require a use variance. The
14 remainder of the site is requiring a
15 subdivision. Because it didn't face on a public
16 street, we are before this Board.

17 Mr. Christopher, I'm going to defer to
18 you on this. The plan package that was
19 submitted consists of many sheets, not all
20 sequentially numbered. I'll explain to you why.
21 You have first 33 sheets are the preliminary and
22 major subdivision plans, the next sheet after
23 that, a single sheet, is a boundary survey, the
24 next one after that is the final plat and then
25 that is followed by another couple of sheets

1 that are the entrance driveway plan and then
2 that's followed by five sheets and that is to
3 deal with the soil removal plans for Phase 1 and
4 Phase 2, then it's followed by the preliminary
5 and final site plan for the Lot 2.02, which
6 consists of nine sheets and then that is it.

7 Since one of the recommendations, I
8 believe, in the engineer's letter was that
9 future revisions of the plans be split, maybe
10 for the purposes of this hearing we will mark
11 the different sets.

12 MR. CHRISTOPHER: As different exhibits
13 for each set to make it clear. I think so.
14 It's cumbersome. I guess we saved a staple? I
15 don't understand the purpose.

16 MR. FALVO: That is the way they were
17 prepared. Everything is so interrelated.

18 MR. CHRISTOPHER: For the record, so the
19 record is clear, why don't we start?

20 MR. FALVO: What I suggest, if I might,
21 A-1 would be the Preliminary and Major
22 Subdivision Plans prepared by D.W. Smith
23 Associates consisting of 17 sheets dated May 2,
24 2007 revised July 12, 2007 signed by Timothy P.
25 Lurie. That would be A-1.

1 MR. CHRISTOPHER: Just a second.

2 MR. FALVO: Sure.

3 (Whereupon, A-1 was received and marked
4 into evidence.)

5 MR. CHRISTOPHER: Okay. A-2?

6 MR. FALVO: A-2 would be the Boundary
7 Survey of the areas to be subdivided prepared by
8 Thomas J. Murphy of D.W. Smith Associates dated
9 July 26, 2006, consisting of one sheet.

10 (Whereupon, A-2 was received and marked
11 into evidence.)

12 MR. CHRISTOPHER: A-3?

13 MR. FALVO: A-3 in evidence would be
14 Preliminary and Final Major Subdivision Plans
15 prepared by Thomas J. Murphy of D.W. Smith
16 Associates dated May 2, 2007 consisting of one
17 sheet. That also says, "Final Plat."

18 (Whereupon, A-3 was received and marked
19 into evidence.)

20 MR. CHRISTOPHER: A-4?

21 MR. FALVO: A-4 in evidence would be the
22 Preliminary and Final Major Subdivision Plans
23 Entrance Driveway Plan consisting of two sheets
24 signed by Timothy P. Lurie of D.W. Smith
25 Associates dated May 2, 2007.

1 MR. STAIGER: Is there a revision date
2 on these plans? According to my engineer, there
3 is a revision date of July 12th.

4 MR. CHRISTOPHER: Where would that be on
5 the box?

6 MR. FALVO: Revised July 12, 2007.

7 (Whereupon, A-4 was received and marked
8 into evidence.)

9 MR. FALVO: A-5 in evidence would be the
10 Soil Removal Plans, Phase 1 and Phase 2 --

11 MR. CHRISTOPHER: Vicinity plan?

12 MR. FALVO: Well, it's five sheets.

13 Sheet 1 of 5 is entitled, "Vicinity Plan and
14 Project Data." That is dated March 6, 2007.

15 The revision date is 7/12/07. Sheet 2 of 5 is
16 the Grading Plan dated March 6, 2007 revised
17 7/12/07.

18 MR. CHRISTOPHER: That is all A-5?

19 MR. FALVO: Right.

20 (Whereupon, A-5 was received and marked
21 into evidence.)

22 CHAIRMAN PALMIERI: You are marking that
23 particular group A-5?

24 MR. FALVO: Correct. They have
25 different dates. They all have the same

1 revision date, but different original
2 preparation dates. Sheet 3 of 5 is the Soil
3 Erosion and Sediment Control Plan and Grading
4 Plan for Phase 1 dated April 24, 2006. Sheet 4
5 of 5 is the Soil Erosion and Sediment Control
6 Plan and Grading Plan for Phase 2. That is
7 dated March 6, 2007. Sheet 5 of 5 is the Soil
8 Erosion Sediment Control Detail and notes dated
9 October 25, 2006.

10 CHAIRMAN PALMIERI: Which dates are you
11 looking at, Mr. Falvo?

12 MR. FALVO: In the right-hand side of
13 the box. Sheets 4 and 5 have a revision date of
14 March 1, 2007.

15 (Whereupon, A-5 was received and marked
16 into evidence.)

17 MR. FALVO: Then we have A-6, which
18 would be the Preliminary and Final Site Plan for
19 Block 138, Lot 2.02, consisting of nine pages
20 prepared by D.W. Smith signed by Timothy P.
21 Lurie dated May 2, 2007.

22 CHAIRMAN PALMIERI: Revision date of
23 July 12th?

24 MR. FALVO: 7/12/07 is the revision
25 date.

1 (Whereupon, A-6 was received and marked
2 into evidence.)

3 CHAIRMAN PALMIERI: There is a last one
4 Existing Conditions Map at the end. Do you want
5 to mark that as well?

6 MR. FALVO: We will mark that as A-7,
7 Existing Conditions Map. That is dated July 20,
8 2006.

9 (Whereupon, A-7 was received and marked
10 into evidence.)

11 MR. FALVO: All right. What I'd like to
12 do is A-8 in evidence will be an 8 and a half by
13 17, which will be reduced copies of the various
14 boards that we are going to introduce in
15 evidence. These are for each Board Member to
16 have. They consist of three pages.

17 (Whereupon, A-8 was received and marked
18 into evidence.)

19 MR. FALVO: Why don't we mark the
20 exhibit boards to save time, if that is all
21 right. A-9 will be the mounted Composite Plan
22 dated July 31, 2007.

23 (Whereupon, A-9 was received and marked
24 into evidence.)

25 MR. FALVO: A-10 will be the Site

1 Constraints Map of the property dated July 31,
2 2007.

3 (Whereupon, A-10 was received and marked
4 into evidence.)

5 MR. FALVO: A-11 will be the auction
6 house exhibit also dated July 31, 2007.

7 (Whereupon, A-11 was received and marked
8 into evidence.)

9 MR. FALVO: Now, to further complicate
10 life, the property, which is some 48 or
11 50 acres, which will include these subdivision
12 property which is under contract by the Borough
13 with Borough Properties, okay, and full notice
14 on one of the sheets these are one of these old
15 newspaper lots. This consists of a paper
16 subdivision with a number of streets shown on
17 the plans, all of which are going to be vacated
18 by the Municipality. With regard to the
19 outstanding lots that they don't have ownership
20 to convey, they are under court order to comply
21 with the contract and, if necessary, condemn
22 those parcels and convey them to Borough
23 Properties, LLC.

24 MR. CHRISTOPHER: Could you repeat that,
25 Mr. Falvo? You are talking about Borough

1 Properties LLC owns it?

2 MR. FALVO: Borough Properties LLC is
3 the contract purchaser with the Borough of
4 Tinton Falls from all of this property. A
5 contract has been entered into and an Ordinance
6 was passed authorizing the sale. We brought an
7 action against the Borough of Tinton Falls to
8 force the contract to make them go through the
9 necessary acquisitions of the lots.

10 MR. CHRISTOPHER: Specific performance?

11 MR. FALVO: Well, it was brought before
12 Chancery Division, Judge Laird. I only have one
13 copy, but we can make more copies to submit
14 them. This is a copy of the Order that was
15 entered June 8, 2007, which was brought by
16 "Borough Properties, LLC, Mazza and Sons,
17 Dominick and James, and Mazza Recycling
18 Technology and Magnum Management and
19 Acquisition, LLC versus Tinton Falls." I would
20 like to mark this in as A-12 in evidence.

21 (Whereupon, A-12 was received and marked
22 into evidence.)

23 MR. FALVO: If you look at the boundary
24 survey, which is in your package, you will see
25 the subdivision I'm referring to.

LURIE - Direct

1 I would like to have Mr. Lurie sworn,
2 please?

3 MR. CHRISTOPHER: Just one second, Mr.
4 Falvo.

5 MR. FALVO: Sure.

6 (Timothy Lurie, P.E., is sworn and
7 testifies as follows:

8 DIRECT EXAMINATION BY MR. FALVO:

9 Q. Mr. Lurie, would you please give the
10 Board the benefit of your educational and
11 professional background?

12 A. Sure. I have both a Bachelor's and
13 Master's Degree in engineering from Stevens in
14 Hoboken. I am a licensed professional engineer in
15 the State of New Jersey and also a licensed
16 professional planner. I am currently the Director of
17 Engineering for D.W. Smith. I've been in front of
18 many zoning boards and planning boards throughout the
19 State of New Jersey.

20 CHAIRMAN PALMIERI: Just not ours.

21 MR. LURIE: This is the first time with
22 your Board.

23 CHAIRMAN PALMIERI: Okay. I guess we
24 are going to accept you as an engineer?

25 MR. LURIE: Yes. Professional engineer.

LURIE - Direct

1 CHAIRMAN PALMIERI: Okay.

2 MR. CHRISTOPHER: You are testifying as
3 an engineer and not as a planner?

4 MR. LURIE: Correct.

5 Q. Mr. Lurie, referring to whatever
6 exhibits you would like to refer to, could you please
7 give the Board an overview of what is being proposed
8 by this application with regard to the subdivision,
9 size of lots, et cetera?

10 A. Sure. If I don't speak loud enough,
11 please let me know, because I tend to get softer.

12 MR. CHRISTOPHER: Is there anybody in
13 the audience that has interest in this
14 application, other than the Applicant's people?
15 If you can't hear, speak up.

16 AUDIENCE MEMBER: I'm also going to move
17 around, so I can see the exhibits.

18 CHAIRMAN PALMIERI: Mr. Lurie, the
19 exhibit you are referring to, it's marked --

20 MR. LURIE: It's marked A-9.

21 CHAIRMAN PALMIERI: Is that also similar
22 to the one that was handed to the Board as A-8?

23 MR. CHRISTOPHER: What is the caption on
24 A-9?

25 MR. FALVO: "Composite Plan."

LURIE - Direct

1 MR. CHRISTOPHER: Similar to the reduced
2 first page of A-8.

3 MR. LURIE: Correct.

4 MR. FALVO: If there are any copies up
5 there --

6 MR. CHRISTOPHER: Copies for the
7 interested party?

8 MR. FALVO: Yes.

9 CHAIRMAN PALMIERI: You can have mine.

10 CHAIRMAN PALMIERI: Okay, Mr. Lurie.

11 MR. LURIE: The subject property is
12 located to the east of existing Lot 26.01, Block
13 145, which is currently the Mazza Transfer
14 Station Recycling Center. The project has
15 access through a private road off the entrance
16 driveway of Lot 26.01, and it consists of
17 approximately 8 lots, 7 of the lots are
18 buildable lots in the zone. The eighth lot is
19 the infiltration basin. All of the lots average
20 in size from 3.7 acres up to 9.96 acres for the
21 Lot 2.02.

22 The property is bounded by the east by
23 Wardell Road and also bounded in the east by a
24 tributary of the Shark River, which is a C-1
25 waterway. There are currently wetlands that

LURIE - Direct

1 surround the property on the north and also to
2 the east.

3 Q. If I could, Mr. Lurie, Wardell Road is
4 on the east. Between the edge of this property and
5 Wardell Road, there is another lot; is that correct?

6 A. That is correct.

7 Q. So, and that lot has a depth of
8 approximately, I believe, 600 or 700 feet before you
9 get to Wardell Road?

10 A. That is correct.

11 Q. Okay. Also, if I might, just for the
12 Board's clarification, between Wardell Road and this
13 piece of property to the northeast of the proposed
14 site is a piece of property owned by the Borough of
15 Tinton Falls, right?

16 A. That's correct.

17 Q. Is that property -- those two lots that
18 actually extend to Wardell Road?

19 A. That is correct.

20 Q. This parcel, for all intents and
21 purposes, is land-locked.

22 A. That is correct.

23 Q. Okay.

24 A. We are proposing to subdivide this piece
25 with approximately 48.9 acres into the eight

LURIE - Direct

1 manufacturing lots. One lot is an infiltration
2 basin. We are proposing an 1,800 linear foot
3 cul-de-sac road, which is going to have a drainage
4 system. All of the lots are combined into a regional
5 detention basin for all eight lots. There is going
6 to be a water line which collects the 12-inch water
7 main from Shafto Road, which loops up through the
8 proposed cul-de-sac and comes back down and ties into
9 an existing water main that is in Lot 26.01. We are
10 proposing street trees along Road A and streetlights
11 in addition.

12 Q. With regard to the entrance road that
13 that will come off of, at the present time there is a
14 gate at or near Shafto Road; is that correct?

15 A. That is correct. There is an existing
16 gate that is located way in the entrance road, which
17 is going to be re-located to section off the transfer
18 station and then in addition we are going to line a
19 row of evergreen trees with a board-on-board fence to
20 separate this roadway from the transfer station.

21 Q. So that the transfer station and the
22 Mazza recycling operation, et cetera, that will be
23 segregated, if this subdivision is approved?

24 A. That is correct. At the entranceway, we
25 are proposing one lane in and two lanes out. As we

LURIE - Direct

1 get approximately 200 feet into the entranceway, this
2 is going to go into two lanes in and then the
3 transfer station will have its own dedicated lane and
4 the other lane is dedicated to go back to the eight
5 lots. As vehicles exit the site onto Shafto Road,
6 there will be a dedicated left turn around,
7 right-turn lane from those.

8 Q. I'm sorry. Continue.

9 A. The Shark River tributary is a C-1
10 waterway, so we propose our infiltration basin
11 outside the 300 foot not to disturb that buffer. In
12 addition, we have some proposed wetlands line which
13 is into the DEP for verification of the line
14 approval.

15 CHAIRMAN PALMIERI: Going back to the
16 Shark River 300-foot setback, how close does
17 that run to the property?

18 MR. LURIE: The 300-foot, as shown on
19 the map, it runs right along the northern side
20 of Lots 2.01 and 2.02 and then it's to the east
21 of 2.03 and 2.04, approximately 200 feet off
22 these lots.

23 CHAIRMAN PALMIERI: I didn't hear that.

24 MR. LURIE: Approximately 200 feet off
25 of Lot 2.03 and 2.04.

LURIE - Direct

1 CHAIRMAN PALMIERI: Those are proposed
2 lots.

3 MR. FALVO: Right.

4 CHAIRMAN PALMIERI: They are not
5 existing lots?

6 MR. FALVO: Proposed.

7 A. We have laid out -- when we designed
8 this eight-lot subdivision, we regraded the lots and
9 we provide each lot has its own drainage calculation
10 to tie into the basin. In addition, the Board
11 engineer asked us to provide a typical warehouse
12 layout for approved use in the manufacturing zone, so
13 we provided a typical lot layout of a proposed layout
14 parking. Each of these lots will have their own
15 septic system in addition.

16 CHAIRMAN PALMIERI: On the proposed Lot
17 2.05, which is the larger lots that you are
18 proposing, what kind of warehouse or proposed
19 warehouse do you envision? Is it going to be
20 restricted to the same size of the other lots of
21 26,000 square feet or are you looking for
22 something different?

23 MR. LURIE: It's going to be something
24 different, because of the depth of that lot.
25 This is also a 100 scale map, so we have

LURIE - Direct

1 approximately 250 feet of depth there. It will
2 be something broken up into the two sides.

3 As a result of this subdivision, we are
4 correcting some issues of the survey of overlap
5 between the two properties. As a result, there
6 is a strip of land which is going to be
7 dedicated back to Lot 26.01 and there is a
8 potential overlap between proposed Lot 2.04 and
9 2.05 with Lot 1, which will be resolved in the
10 future.

11 CHAIRMAN PALMIERI: I guess the question
12 I'm going to ask is related to the manufacturing
13 zone, the proposed typical building of the
14 warehouse that meets all of the normal
15 requirements for not needing variances as far as
16 setback, building height and all parking
17 requirements. On a typical warehouse, you are
18 saying 26,000 foot building, warehouse, or
19 whatever, would fit on that lot, on the proposed
20 smaller lots, without needing any substantial
21 variances?

22 MR. LURIE: The square footage will
23 change somewhat, because this is for a typical
24 4.7-acre lot and we have 3.8, 4.5 and we have
25 9.9.

LURIE - Direct

1 CHAIRMAN PALMIERI: I lost you. It's
2 typical for a 4 point --

3 MR. LURIE: 4.7-acre lot. It will be a
4 little smaller.

5 CHAIRMAN PALMIERI: What would be a
6 typical size building say for just, as I'm
7 looking to the smaller lot here, 3.79 acres,
8 which is proposed Lots 2.07 and 2.08, what size
9 building would you be able to fit on something
10 like that typical? Did you do that calculation
11 at all? None of the lots, except for the one
12 that is Lot 2.05 --

13 MR. LURIE: It's probably going to be
14 around 20,000 square feet.

15 CHAIRMAN PALMIERI: It would change all
16 of the parking requirements.

17 MR. LURIE: It would reduce it down,
18 yes.

19 CHAIRMAN PALMIERI: I would think it
20 would be better to show if you had typical. Not
21 saying that's what's going to occur, but it
22 gives the Board a better idea.

23 MR. FALVO: Any development on any of
24 the lots, should they be approved, at the
25 minimum they are going to require site plan

LURIE - Direct

1 approval, because each one will go into site
2 plan approval. If it's not a -- if somebody
3 wants to locate something that's not a specific
4 permitted use under the present manufacturing
5 zone, it would be before this Board for a
6 variance and site plan approval.

7 CHAIRMAN PALMIERI: I think, Mr. Falvo,
8 the only reason I was going in that direction
9 was to get some idea, because we have to look at
10 the whole project. I mentioned to you before
11 projects like this end up before the Planning
12 Board. I'm not saying the Zoning Board can't
13 handle it --

14 MR. FALVO: I think this Board has just
15 as much sophistication to handle this project.

16 CHAIRMAN PALMIERI: I think it would be
17 better suited for the Board to see what a
18 typical building would look like.

19 MR. FALVO: We will have that for the
20 next meeting?

21 MR. BATTISTA: Can I ask for
22 clarification? Lot 2.05, is there any reason
23 for the size of that? If you were to cut that
24 right in half, you would have two lots at 4.8
25 which would fit. Is there any reason that's

LURIE - Direct

1 kept as proposed as one lot?

2 MR. LURIE: In laying this out with the
3 client, that's what he wanted, a mixture of
4 smaller lots and bigger lots for marketability.

5 MR. BATTISTA: Okay.

6 Q. Let's finish with regard to proposed Lot
7 2.02. If this subdivision were granted, it's
8 proposed that that property would be developed as an
9 auction house; is that correct?

10 A. That is correct.

11 Q. And what type of auction facility --
12 this is a specific type of auction house. This is
13 not your -- I mean, you are not going there to buy an
14 antique.

15 A. No. This is for auctioning off
16 construction equipment, like front-end loaders,
17 bulldozers where they come in and they advertise for
18 an auction, and they store all of the pieces that
19 they are up for auction in this back gravel area.
20 And then they bring them through to the proposed
21 building here, and in the proposed building, there is
22 a ramp and it's set like an auditorium where people
23 stand in and they bring the vehicles in and you bid
24 on the vehicle. This auction doesn't happen every
25 day. It happens at certain times, certain intervals

LURIE - Direct

1 throughout the year.

2 Q. That auction house is designed to have
3 its own parking area as well as its own landscaping
4 area and detention facility; is that right?

5 A. Well, the detention facility is designed
6 as part of the regional infiltration basin.

7 Q. Okay. With regard to that regional
8 infiltration basin, has a percentage of drainage been
9 attributable to each of the lots? That basin is
10 designed to handle potential runoff from the various
11 lots to be created.

12 A. That is correct. Each lot was
13 calculated to send their drainage contribution to
14 this basin. We have one basin for all eight lots.

15 Q. Is this typical in subdivisions of this
16 nature?

17 A. Yes, it is.

18 Q. Now, with regard to the plan itself, a
19 variance is going to be required, because none of
20 these lots will face on a public road; is that
21 correct?

22 A. Yes.

23 Q. Could you please describe to the Board,
24 with regard to this road, what would be the size of
25 the road that will accommodate this subdivision?

LURIE - Direct

1 A. The pavement width for the roadway is 30
2 foot pavement width in a 50-foot right-of-way.

3 Q. At the present time, this is solely
4 within -- will be solely owned and maintained by the
5 property owners?

6 A. That is correct.

7 Q. And with regard to the detention basin,
8 that, too, will be owned and maintained by the
9 property -- by either a property owner's association
10 or by the owners of the property; is that correct?

11 A. That is correct.

12 Q. At the present time, it's anticipated --
13 is it anticipated these lots will be sold or will
14 they be maintained by Borough Properties as the owner
15 and then leased to the various users.

16 A. I'm not 100 percent sure if they are
17 going to be ownership.

18 Q. We will skip that and have that
19 testified to later. Now, with regard to the
20 subdivision itself, Mr. Staiger, in his letter, of
21 July 27th, has requested that general site plan
22 review comments with regard to the subdivision and
23 also with regard to the proposed site plan, if we get
24 to that point, should be complied with. On Page 7 of
25 that report, there are a list of 13 -- let's take the

LURIE - Direct

1 first 12 items. Those items can be complied with; is
2 that correct?

3 A. That is correct.

4 MR. CHRISTOPHER: Mr. Falvo, what was
5 that?

6 MR. FALVO: I'm sorry. With regard to
7 Mr. Staiger's letter of July 27th, on Page 7,
8 his general site plan review comments --

9 MR. CHRISTOPHER: Right.

10 MR. FALVO: I said with regard to the
11 first 12 items, they can be complied with and
12 his answer was yes.

13 MR. CHRISTOPHER: Thank you.

14 Q. With regard to Item 13, Block 145, Lot
15 26.01, is this part of this project?

16 A. Yes, it is. It's a portion that we are
17 conveying a strip of land that we are conveying.

18 Q. The entrance road would also factor into
19 that; is that correct?

20 A. That is correct.

21 Q. With regard to Page 8, Items 14, 15, 17,
22 19, 20, 21, 23 and 24, can be complied with; is that
23 correct?

24 A. Correct.

25 Q. Item 18, we can comply with that as to

LURIE - Direct

1 Lot 2.02, proposed Lot 2.02, but with regard to the
2 remainder of the lots that would have to await the
3 intended use?

4 A. Correct. The site plans have to come in
5 for each lot.

6 Q. With regard to Item 22, there are
7 certain lots that are mentioned as accepted. These
8 lots are the ones that are subject to the Court Order
9 of Judge Laird regarding the Municipality's
10 obligation to obtain titles of those properties?

11 A. That is correct.

12 MR. CHRISTOPHER: Could you point out
13 those lots?

14 MR. LURIE: If you go to Sheet 1 of 1
15 entitled, "Boundary Survey."

16 MR. LURIE: A-2. I can hold up my plan,
17 if you want me to.

18 MR. CHRISTOPHER: Is it on the reduced
19 copy?

20 MR. LURIE: No, it's not. It's in the
21 plans.

22 MR. CHRISTOPHER: Boundary survey. Go
23 ahead.

24 MR. LURIE: The shaded paper lots shown
25 are the ones --

LURIE - Direct

1 MR. CHRISTOPHER: Those are the ones
2 included in the Court Order of June 8, 2007?

3 MR. LURIE: Yes. We designed this
4 subdivision to allow us, as you see on Block
5 144, that is where the entranceway of the road
6 comes up. I'll show you on the map. The
7 entrance road we designed this existing Block
8 144. There is no encumbrances on that area.
9 It's where this main road comes in right here
10 and we designed this so we can come around to
11 the first lot with the auction house and the
12 basin. This cul-de-sac is designed to where the
13 grade increases, so everything by gravity can
14 drain down to this lowest spot. That way, we
15 can construct this portion while they are
16 continuing on with the Court Order to complete
17 that.

18 Q. With regard to Page 9 of the engineer's
19 letter, Item 25, we can comply with that, right?

20 A. Yes.

21 Q. Item 27 --

22 MR. SLAYZK: Hold on one second. The
23 shaded lots on 1 of 1 are what is owned by you
24 guys?

25 MR. FALVO: No. No. They were the

LURIE - Direct

1 subject -- the original agreement was that the
2 Borough would acquire all of the lots that it
3 did not own within this paper subdivision that
4 you see.

5 MR. SLAYZK: Who owns the shaded lots?

6 MR. FALVO: Various individuals.

7 MR. CHRISTOPHER: These are title
8 issues?

9 MR. FALVO: Yes. What occurred was is
10 that the Municipality, in the previous
11 administration or present administration, was
12 not pursuing diligently, therefore, we sought
13 relief from the courts to have them proceed
14 diligently to clear the title, so they can
15 convey them to us, to Borough Properties, LLC.

16 MR. CHRISTOPHER: In other words,
17 according to the Court Order, they should be
18 pursuing title actions or whatever it takes.

19 MR. FALVO: Yes. They are doing
20 whatever they have to do to clean up those lots.

21 MR. CHRISTOPHER: Obviously, this
22 application is going to be subject to that being
23 accomplished.

24 MR. FALVO: Correct.

25 MR. SLAYZK: That is just for the shaded

LURIE - Direct

1 lots.

2 MR. FALVO: Correct.

3 MR. CHRISTOPHER: The other lots, who is
4 the owner? You are contract purchasers for the
5 whole subdivision?

6 MR. FALVO: Yes. All 48 acres.

7 MR. CHRISTOPHER: Who owns the lots that
8 are not shaded?

9 MR. FALVO: Borough Properties has taken
10 titles of those.

11 MR. CHRISTOPHER: Borough Properties
12 owns that?

13 MR. FALVO: Yes. Borough Properties,
14 LLC.

15 MR. CHRISTOPHER: Would you consider
16 them contract purchasers on the ones that are
17 subject to the Court Order?

18 MR. FALVO: Correct.

19 MR. CHRISTOPHER: Because the Borough
20 hasn't conveyed them yet?

21 MR. FALVO: Right. I have to check, but
22 I believe they are in the process of filing
23 declarations of taking, so they can claim title
24 to the properties.

25 MR. CHRISTOPHER: Thank you.

LURIE - Direct

1 Q. Again, going to Page 9, Item 25, you
2 will work that out with the engineer. Item 27, with
3 regard to all streams, flood planes, ponds, lakes et
4 cetera within 1,000 feet, at the present time you've
5 located everything within approximately 750 feet?

6 A. Yes.

7 Q. Can we get the other 250 feet?

8 A. Yes.

9 Q. So 27 can be complied with. Item 28 can
10 be complied with?

11 A. Yes.

12 Q. And Item 29 can also be complied with?

13 A. Yes. There is testimony regarding if
14 any other leaks happen in the parking lot.

15 Q. We can testify to that later.

16 A. Yes.

17 Q. With regard to the plat survey, on Page
18 9, Item H, Items 1, 2, 3 and 4 can be complied with?

19 A. That is correct.

20 Q. Item 5, once the title acquisitions are
21 complete, we will, by a Quit Claim Deed or by a
22 Condition Variance, resolve the overlap; is that
23 correct?

24 A. That is correct. This other lot is the
25 boundary overlap that is approximately --

LURIE - Direct

1 Q. On the east side?

2 A. East side of Lot 2.04 and 2.05, which
3 the client is in contract to purchase that.

4 MR. FALVO: The property immediately
5 east of the property, which is the subject of
6 the subdivision, is also under contract to be
7 purchased by the Applicant.

8 MR. CHRISTOPHER: That would be Borough
9 Properties, LLC?

10 MR. FALVO: Borough Properties, LLC is
11 buying it.

12 MR. CHRISTOPHER: The only reason I ask
13 is the Court Order confused me a little bit,
14 because there are several plaintiffs. Who will
15 be the ultimate owner? It's not a big thing,
16 I'm sure, but it should be clear for the record.

17 MR. FALVO: Borough Properties is the
18 owner of the 48 acres that we are discussing.

19 MR. CHRISTOPHER: Not the individuals.

20 MR. FALVO: Those were named as all of
21 the plaintiffs, because those are all of the
22 various entities involved.

23 MR. CHRISTOPHER: Okay.

24 MR. FALVO: Suffice it to say, when the
25 title is finally effectuated --

LURIE - Direct

1 MR. CHRISTOPHER: The Order says,
2 "Conveyed to the plaintiffs," plural. That
3 would be straightened out and it will be Borough
4 Properties?

5 MR. FALVO: It may be Borough Properties
6 depending what they decide to do with it. One
7 of the things the Municipality was to provide an
8 easement, so they can have access to their
9 property. Whether it's Borough Properties or
10 another entity, it will be the same principles.
11 The overlap will be corrected.

12 MR. CHRISTOPHER: Okay. At some point,
13 prepare to -- assuming approval, for argument's
14 sake, at some point the owners of those entities
15 would have to be clarified, so we're all on the
16 same page.

17 MR. FALVO: Correct. That can be a
18 condition of any approval. Item 6, Jeff, is
19 this a waiver or not having the lot line -- is
20 that a waiver or a variance?

21 MR. STAIGER: That would be a waiver, a
22 design waiver.

23 Q. On Number 6, we would ask for a design
24 waiver so the lot line is not radial. Can you please
25 explain?

LURIE - Direct

1 A. The lot line between proposed Lot 2.04
2 and 2.05, which creates a perfect rectangle for Lot
3 2.04. If it was radial, it would have to be on an
4 angle and you would have frontage wider than your
5 rear portion of your lot. It's to create this as a
6 perfect rectangle of a lot. We are requesting that
7 waiver.

8 CHAIRMAN PALMIERI: Is there any problem
9 with that, Jeff?

10 MR. STAIGER: No. The Ordinance
11 requirement -- I believe the intention of the
12 Ordinance is to try to create as close to a
13 rectangular lot as you can by creating the lines
14 being 90 degree angles or radial to curves. In
15 this case, the lot line is located on the
16 cul-de-sac and it's not radial to the
17 cul-de-sac. If the lot line were to be moved to
18 the north, along the straight portion of the
19 road, then it could be at a 90 degree angle. As
20 it is, I don't see any major issue with it.

21 Q. With regard to Page 10, Item I, Grading,
22 Items 1, 2, 3 -- we have two number twos. The first
23 and second two can be complied with.

24 MR. CHRISTOPHER: Is that the left 2 or
25 the right 2?

LURIE - Direct

1 MR. FALVO: North 2 and south 2.

2 MR. LURIE: We will take care of them

3 both.

4 Q. Item 3 is okay. Item 4?

5 CHAIRMAN PALMIERI: Meaning, you will

6 comply with it?

7 MR. LURIE: Yes.

8 Q. The first four paragraphs will be

9 complied with.

10 MR. CHRISTOPHER: That would be

11 paragraphs numbered 1 through 3 or 1 through 4?

12 MR. FALVO: One through 3.

13 Q. On Number 4, we are asking for a waiver.

14 I'm going to have the engineer indicate what is the

15 problem here. Part of this application is also

16 variances to allow the mining of the soil on this

17 site and tree removal which also requires us to be

18 before the Zoning Board versus the Planning Board.

19 With regard to that item, Mr. Lurie, would it be fair

20 to say this site has a very radical or erratic grade

21 to it with regard to what would be necessary in order

22 for these lots to be created?

23 A. That is correct. The existing grade

24 that's located along the east side of existing Lot 21

25 is approximately elevation 116. The elevation in the

LURIE - Direct

1 center of the auction house is 180. It comes up
2 steep. As a result of the soil removal, we have the
3 soil removal in two phases, which has been approved
4 by S.E.D. to reduce down this portion of the site as
5 Phase 1 and this portion of the site as Phase 2, to
6 enable a transition from existing Lot 26.01 into the
7 new development.

8 CHAIRMAN PALMIERI: How much of a
9 reduction?

10 Q. You are going to take it from 18 onto
11 what?

12 A. Eighteen onto Elevation 116. The rear
13 portion of this site is right around Elevation 124 or
14 125. It's a little blurry in the plan. The
15 elevation at the rear of Lot 2.02 is Elevation 130.
16 The existing elevation right in the center of Lot
17 2.02 is Elevation 185.

18 MR. FALVO: Once you reduce this down to
19 your elevation of -- what are you reducing it to
20 again?

21 A. At the rear of the property line, it
22 will be Elevation 130.

23 Q. But, in the center of the lot where it's
24 180, you are proposing to reduce that down to what?

25 A. 124.

LURIE - Direct

1 Q. And then at 124, would that be the
2 finished grade or is that the grade which the lot is
3 going to be before they develop it?

4 A. That will be the finished grade shown on
5 the auction house.

6 Q. Until the soil removal and the reduction
7 is complete, you can't do any soil borings?

8 A. Correct. We have to do soil borings on
9 the top where you are removing it anyway.

10 CHAIRMAN PALMIERI: My question is, the
11 property to the rear or to the east, I mean
12 what's going to occur? Is there going to be a
13 retention wall? Are you going to wait until the
14 Applicant purchases that property first to do
15 the same thing?

16 MR. LURIE: There is a grading
17 transition to get back down to grade on that
18 piece of property there.

19 CHAIRMAN PALMIERI: I'm referring to
20 your Soil Erosion Phase 1, I guess, 3 of 5
21 looking at where it's going to go to. I'm
22 curious about that lot. You are saying it's
23 going to grade back? Am I looking in the right
24 location?

25 MR. LURIE: Yes. For the soil removal,

LURIE - Direct

1 it grades to the property line. As a result of
2 the site plan, it does extend a little more onto
3 Borough property. As you can see on that grade
4 there, you can see the eye of the cone up to
5 180, so we have to get back to the transition.

6 CHAIRMAN PALMIERI: Is it fair to say
7 without purchasing the property to the rear it's
8 going to inhibit the grading? Obviously, you
9 are saying it's going to go into the property of
10 the rear with the grading.

11 MR. LURIE: The other option is to put a
12 wall alongside of there.

13 MR. MOAFI: It's not your property.

14 MR. LURIE: Correct. The Town would
15 have to agree to it, yes.

16 CHAIRMAN PALMIERI: Jeff?

17 MR. STAIGER: The plan on Sheet 4 of 17
18 indicates that the Applicant would try to obtain
19 a Temporary Grading Easement on that adjoining
20 property which is owned by the Borough. One of
21 the conditions would be they would have to get
22 the Temporary Grading Easement from the Borough
23 in order to go onto Borough property.

24 CHAIRMAN PALMIERI: They would have to
25 go in front of the Council, Mr. Falvo; is that

LURIE - Direct

1 correct?

2 MR. FALVO: We're not trying to
3 purchase. The property is owned by the
4 Municipality and we're not attempting to
5 purchase it at this time. They would have to
6 agree to put it up for sale. We've agreed with
7 them that we would provide an access easement,
8 should the Borough decide to develop. It has
9 substantial wetlands on it. Plus, it will
10 require the 300-foot buffer, because it has the
11 C-1 stream running through it.

12 MR. CHRISTOPHER: Is a temporary grading
13 easement in the process of --

14 MR. FALVO: It's been requested. We've
15 also requested them to produce the appropriate
16 Resolution to vacate the roads.

17 CHAIRMAN PALMIERI: I guess the question
18 next would be say if there is a situation where
19 the Town or the Municipality says the grading
20 easement you are proposing doesn't meet what
21 they would like to see?

22 MR. FALVO: We've received an indication
23 it's a formality and they will do the necessary
24 work.

25 CHAIRMAN PALMIERI: Is this something

LURIE - Direct

1 reviewed by the Town's engineer?

2 MR. FALVO: I would assume the Municipal
3 engineer might have some say in it, but perhaps
4 in this situation I would refer to Mr. Staiger,
5 since he is reviewing the entire plan.

6 CHAIRMAN PALMIERI: Would this go to the
7 Town engineer?

8 MR. STAIGER: If it's an easement being
9 dedicated to the Borough, the Borough engineer
10 and Borough attorney would review the easement
11 documents.

12 MR. CHRISTOPHER: Could you not interact
13 with the Borough engineer, since it's all part
14 in parcel of this application?

15 MR. STAIGER: Certainly. Yes.

16 MR. LURIE: That is the basis for asking
17 for the waiver on the soil borings.

18 CHAIRMAN PALMIERI: Because you are
19 going to remove it all?

20 MR. STAIGER: I believe that specific
21 requirement of 4052 deals with the Ordinance
22 section that relates to mining operation. I
23 believe that the intention of that Ordinance
24 would be before you go out and start mining all
25 of these acres you want to know what's down

LURIE - Direct

1 there before you do all of that work. It's not
2 a typical requirement for a subdivision or site
3 plan. That is specifically to mining
4 operations.

5 MR. FALVO: In other words, you want the
6 soil borings of the existing grades?

7 MR. STAIGER: I believe what the
8 Ordinance is looking at is if you had a site
9 that wasn't disturbed, if you're going to mine
10 down 60 feet that they want to know what's going
11 to be in that 60 feet, plus four feet below of
12 what you are taking out.

13 CHAIRMAN PALMIERI: I guess the reason
14 being because of what they are doing with the
15 soil removal in the Phase 1, if they are going
16 from the highest peak of 185 down to 116 is more
17 than 60 feet that this is now.

18 MR. STAIGER: That is also a specific
19 location where you have a high point. You don't
20 necessarily have to take the soil boring in that
21 location and go down 60 feet. I mean, you have
22 areas around it at 160 where you just shaved off
23 20 feet to go down to the proposed 115 or 120.

24 CHAIRMAN PALMIERI: Is there anything
25 specifically that says where the borings have to

LURIE - Direct

1 be made or does it just say --

2 MR. STAIGER: It's three per acre. I
3 would imagine you would scatter them around the
4 acre. You are not going to do one boring right
5 next to another.

6 MR. CHRISTOPHER: Reasonably
7 representative samples.

8 MR. FALVO: We can perhaps do it one of
9 two ways, either we can meet with Mr. Staiger
10 and have him indicate where he would like the
11 borings taken from or once we reduce it to the
12 grade that we are looking to get to we will then
13 take borings there and report then. Either one.

14 MR. CHRISTOPHER: Mr. Staiger?

15 MR. STAIGER: When you say the grade you
16 are going to get to, are you referring to the
17 grade on the Soil Removal Plans or the grading
18 that's shown on the subdivision plans?

19 MR. LURIE: On the subdivision plans,
20 because that Phase 2 -- we can talk about it
21 now. That Phase 2 soil removal was for S.E.D.
22 required that. We went in and got approval for
23 it. Now, as a result of the subdivision, this
24 Phase 2 soils will be spread out around to help
25 fill in the site, because construction-wise we

LURIE - Direct

1 are working our way -- we are starting here and
2 construction-wise the cul-de-sac increases to
3 grade at the high end of the cul-de-sac and we
4 are coming here first, because we have to remove
5 that dirt. Then we come back and take that dirt
6 off-site. Then we take this dirt over here and
7 we bring it over to level out the rest of the
8 site as we move as a construction issue or
9 construction procedure.

10 MR. FALVO: All of that soil back there
11 is virgin. It's as old as dirt. There is
12 nothing that's been there.

13 MR. STAIGER: The Ordinance requirement
14 is that you have the three borings per acre to a
15 depth 4 feet below the final grade. It's in
16 Section 4052, which is mining, which is one of
17 the uses you are seeking.

18 MR. CHRISTOPHER: I think the question
19 is what would you prefer to do?

20 MR. FALVO: Right.

21 MR. CHRISTOPHER: What do you think
22 would be more appropriate, in line of the
23 Ordinance, from an engineering standpoint?
24 Whatever serves the purpose.

25 MR. STAIGER: I believe that the

LURIE - Direct

1 intention of the Ordinance was to gather
2 information.

3 MR. CHRISTOPHER: Prior to the grading.

4 MR. STAIGER: Prior to conducting a
5 mining operation. I don't have X-ray vision. I
6 don't know what's below grade there. Before the
7 Applicant proposes to scrape off 40 feet of
8 dirt, and move that around the site, you might
9 want to know what type of soil is there.

10 MR. BATTISTA: What would those borings
11 test? What do you do with that 4 feet of soil?
12 Do you look at it for what?

13 MR. STAIGER: One of the concerns might
14 be acid-producing soils.

15 MR. BATTISTA: Okay. You are testing
16 for certain things that might prevent you
17 needing to go to that. My question would be
18 then, if you're in the -- you've got to go to
19 that final depth, because if you test the 4 feet
20 above and you scrape off 40 feet, it's too late
21 before you find out something is wrong. You've
22 already taken 40 feet off. You need to see all
23 the way down to what that is. That is a
24 significant -- that is 60 feet of soil being
25 taken away. Maybe I'm missing something here.

LURIE - Direct

1 Wouldn't you want to make sure you knew before
2 you scrape 60 feet of soil out what was down
3 there? I mean, that is two houses or three
4 houses stacked up.

5 CHAIRMAN PALMIERI: We need to get the
6 borings before anything is done on the site,
7 basically.

8 MR. STAIGER: Before the grading is done
9 for the mining operations of the site.

10 MR. FALVO: Why don't we then have the
11 two engineers talk?

12 CHAIRMAN PALMIERI: And let them pick
13 where they want to pick their borings.

14 MR. FALVO: Fair enough.

15 MR. STAIGER: Yes.

16 CHAIRMAN PALMIERI: All right. Mr.
17 Falvo, one thing I want to bring to your
18 attention, we have to go into executive session
19 tonight. I know it's 10:30. I know we are
20 going to be hearing this application again.
21 This is definitely not a small one.

22 MR. FALVO: Right. Besides, the
23 engineer, just so the Board knows, I'm going to
24 have a principal from the Applicant testify, and
25 I also have traffic and I also have planning.

LURIE - Direct

1 CHAIRMAN PALMIERI: We know we're not
2 getting to those tonight.

3 MR. FALVO: Oh, no. They are not even
4 here tonight.

5 CHAIRMAN PALMIERI: We have some
6 extensive things to do tonight.

7 MR. FALVO: I can appreciate that.

8 CHAIRMAN PALMIERI: I don't like cutting
9 you off in the middle and bring back the
10 engineer again, but --

11 MR. FALVO: We are at grading. There is
12 still eight pages to go and we're not going to
13 finish that in a short time.

14 CHAIRMAN PALMIERI: One of the things
15 brought to my attention by Mr. Christopher is
16 that our system is not recording, so I know when
17 we go into executive session we have the public
18 is not here.

19 MR. FALVO: You will have to discuss
20 that with Norman.

21 MR. CHRISTOPHER: Executive sessions
22 often have trouble with recording devices.

23 MR. FALVO: That will happen in the Oval
24 Office, too.

25 MR. CHRISTOPHER: Is this a good place

LURIE - Direct

1 to break?

2 MR. FALVO: Yes. There are eight pages
3 to go. Given the nature of this application, I
4 don't know where we can put it. If we go to the
5 next meeting or a meeting and we are the first
6 case, whoever is on that night is not going to
7 get reached.

8 CHAIRMAN PALMIERI: A whole meeting for
9 just for Mr. Falvo.

10 MR. FALVO: Either that or a special
11 meeting.

12 CHAIRMAN PALMIERI: Special meetings are
13 tough. It looks like September 20th is open.
14 We have no information on that right now. If we
15 carry this to that date, we can safely say we're
16 not going to schedule anything else for that
17 evening. You can have the whole evening.
18 Hopefully, we will have our recording devices
19 fixed.

20 MR. FALVO: In the interim, can we have
21 the Board's permission to meet with the engineer
22 and go over the site items?

23 CHAIRMAN PALMIERI: Like a technical
24 review?

25 MR. FALVO: Yeah. We can have another

LURIE - Direct

1 TRC meeting --

2 MR. FALVO: I think they've also
3 suggested a TRC meeting on 3230. Maybe we can
4 set it up on the same day. Those are daytime
5 meetings, which are nice.

6 CHAIRMAN PALMIERI: It will be carried
7 to September 20th with no additional notice. We
8 would like to carry this application to
9 September 20th. For the audience who is here,
10 it doesn't preclude you from asking questions
11 which will be open to the public when they are
12 finishing with the engineer.

13 We are now going to go into executive
14 session, which means you are going to vacate the
15 room.

16 (Whereupon, the application is carried
17 to September 20, 2007.)

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CERTIFICATE

I, LISA NORMAN, a Notary Public and
Certified Court Reporter of the State of New Jersey,
do hereby certify that prior to the commencement of
the examination, the witness was duly sworn by me to
testify the truth, the whole truth and nothing but
the truth.

I DO FURTHER CERTIFY that the foregoing
is a true and accurate transcript of the testimony as
taken stenographically by and before me at the time,
place and on the date hereinbefore set forth.

I DO FURTHER CERTIFY that I am neither a
relative nor employee nor attorney nor counsel of any
of the parties to this action, and that I am neither
a relative nor employee of such attorney or counsel,
and that I am not financially interested in the
action.

Notary Public of the State of New Jersey
License No. 30X100177700
Dated: August 17, 2007

