

PLANNING BOARD
MONTVALE TOWNSHIP
COUNTY OF BERGEN

BLOCK 2802, LOTS 2 AND 3,
300 WEST GRAND AVENUE, VOLUME 2

BLOCK 1002, LOTS 3 AND 5

159-161 SUMMIT AVENUE -

MONTVALE DEVELOPMENT ASSOCIATES,
LLC - SHOPS AT DEPIEROS application
For Preliminary and Final Site Plan
Approval, Preliminary and Final
Subdivision Approval, Planned Unit
Development and Soil Moving Permit

Tuesday, September 3, 2013
Council Chambers
12 Mercedes Drive, 2nd Floor
Montvale, New Jersey
Commencing 7:26 p.m.

B E F O R E :

JOHN CULHANE

JOHN DEPINTO, CHAIRMAN

MICHAEL GHASSALI, COUNCIL MEMBER

WILLIAM LINTNER

FRANK STEFANELLI

DANTE TEAGNO

WOLFGANG VOGT

CHET WEBBER

ROBERT REGAN, BOARD ATTORNEY

JEFFREY FETTE, CONSTRUCTION CODE OFFICIAL

ANDREW HIPOLIT, BOROUGH ENGINEER

LORRAINE HUTTER, BOARD SECRETARY

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1	P R E V I O U S L Y M A R K E D E X H I B I T S			
2	EXHIBITS MARKED 8/6/2013			
3	A-1 Affidavit of Notice Document, Two Volumes			
4	A-2 Site Plan Drawings Prepared by L2A,			
5	A-3 42 sheets, 6/21/2013			
6	A-4 Architectural Plans by JP2, Consisting of			
7	A-5 8 sheets, 6/18/2013			
8	A-6 Wegman's Elevation Drawings, single sheet			
9	A-7 7/24/2013			
10	A-8 Floor Plans Prepared for Wegman's Building,			
11	A-9 5/14/2013			
12	A-10 Roof Plan (Wegman's) Single Sheet, 6/20/2013			
13	A-11 RRXL Master Plan Booklet			
14	Thumb Drive Containing Two Power Point			
15	Presentations			
16	Stone Sample Board			
17	Split Base Sample			
18	Material Board, Wegman's			
19	BOARD EXHIBITS			
20	B-1 Letter, 8/5/2013, from Chief of Police,			
21	B-2 Site Plan			
22	Letter, 8/5/2013, from Chief of Police,			
23	Soil Movement			
24	EXHIBITS MARKED 09/03/2013			
25	A-12 Paper Version, Colored Floor Plate			
	Of Wegman's			

(Flag Salute)

(Opening)

CHAIRMAN DePINTO: Roll call.

MS. HUTTER: Mr. Culhane.

MR. CULHANE: Here.

MS. HUTTER: Councilman Ghassali.

COUNCILMAN GHASSALI: Here.

MS. HUTTER: Mr. Fette.

MR. FETTE: Here.

MS. HUTTER: Mr. Lintner.

MR. LINTNER: Here.

MS. HUTTER: Mr. Stefanelli.

MR. STEFANELLI: Here.

MS. HUTTER: Mr. Teagno.

MR. TEAGNO: Here.

MS. HUTTER: Mr. Vogt.

MR. VOGT: Here.

MS. HUTTER: Mr. Webber.

MR. WEBBER: Here.

MS. HUTTER: Chairman DePinto.

CHAIRMAN DePINTO: Here.

(Miscellaneous Matters)

CHAIRMAN DePINTO: We will continue with the public hearing on Block 2802, Lots 2 and 3, 300 West Grand Avenue, Block 1002, Lots 3 and 5, 159-161

Summit Avenue, Montvale Development Associates, LLC, Shops at Depieros. Application for preliminary and final site plan approval, preliminary and final subdivision approval and planned unit development and soil moving permit.

However, before we do that, I'm going to ask Mr. Mark Leibman, if he could, to step forward.

Mr. Leibman has identified himself to me as a New Jersey attorney at law representing the Borough of Woodcliff Lake.

Mr. Leibman, I believe, has another commitment. He had asked if he could be heard on behalf of his clients this evening. And, I allowed him to step forward and state what's on his mind.

Mr. Leibman.

MR. LEIBMAN: Mr. Chairman, would you like me to stand here?

CHAIRMAN DePINTO: You're fine right there, sir.

MR. LEIBMAN: As you said, I represent the Borough of Woodcliff Lake. The client has asked that we inquire of the applicant here if they would make a commitment to avoid truck traffic from exiting in Woodcliff Lake. I believe it's at Exit 171.

I don't believe that trucks are permitted on the

1 roadway in that area.

2 At any rate, I did speak with Mr. Del Vecchio

3 about it and we're talking, obviously, about during

4 the construction phase and that delivery trucks and, I

5 think there was an agreement that they would agree to

6 that stipulation if this application is approved.

7 CHAIRMAN DEPINTO: Mr. Del Vecchio, your

8 comments with respect to Mr. Leibman's comments.

9 MR. DEL VECCHIO: Mr. Leibman accurately

10 represents our conversation and the applicant's

11 position.

12 CHAIRMAN DEPINTO: And, therefore, you

13 will provide a copy of such documentation to Mr.

14 Leibman and to the Board as well?

15 MR. DEL VECCHIO: We're stipulating, on

16 the record, that we will not have delivery vehicles,

17 construction vehicles exiting 171 through Woodcliff

18 Lake. And we, if the application is approved, we have

19 no problem with that being a condition of our

20 approval.

21 CHAIRMAN DEPINTO: And, Mr. Regan, is that

22 a condition that this Board could place?

23 MR. REGAN: It can.

24 CHAIRMAN DEPINTO: And, is there anyone

25 from the Board that does not find such a stipulation

1 acceptable in the event that there is a resolution

2 granting site plan approval?

3 Hearing none, Mr. Leibman.

4 MR. LEIBMAN: I don't think there is any

5 more that I could ask.

6 Thank you very much.

7 CHAIRMAN DEPINTO: Thank you. Have a good

8 evening, sir.

9 Okay. I had indicated at the public hearing

10 that we would pick up with Mr. Segreto. Mr. Segreto

11 is representing some interested parties with respect

12 to their opposition to this application, I believe.

13 Mr. Segreto, please identify yourself.

14 MR. SEGRETO: Yes. John J. Segreto, from

15 the law firm of Segreto, Segreto & Segreto on behalf

16 of A & P.

17 CHAIRMAN DEPINTO: And, Mr. Segreto, we

18 had heard testimony from Mr. McCoach and Mr. Pett

19 about a month ago when we had our first segment of

20 this hearing.

21 (7:49 p.m.)

22 I had given you some opportunity to

23 cross-examine those witnesses. I then opened it to

24 the public to allow them an opportunity to ask

25 questions of the testimony they heard that evening,

1 cutting you short. And, now is your time to finish up
2 on your cross.

3 MR. SEGRETO: Okay. Thank you, Mr.
4 Chairman. Yes.

5 MR. DEL VECCHIO: If I may just be heard
6 on a procedural matter.

7 CHAIRMAN DePINTO: Sure.

8 MR. DEL VECCHIO: Very briefly.

9 Since we last met, the Board had asked that we
10 make some revisions to the Wegman's elevations. We
11 had received comments from the Borough Planner with a
12 markup attached to his memo. And, I think there was a
13 request that we ghost in the clock tower on one of our
14 elevations. And, we have done that and we have
15 submitted the drawing.

16 What I would suggest, if Mr. Segreto is okay
17 with it and the Board is okay with it, Mr. Pett is
18 here, if I could have about a minute and a half to
19 have Mr. Pett testify on those revisions. And, Mr.
20 Segreto will have an opportunity to cross-examine on
21 everything.

22 CHAIRMAN DePINTO: I have a problem with
23 that, quite frankly, because you may have had
24 discussions with Borough professionals with respect to
25 that but the Board Members have not been made privy to

1 that.

2 And, I would rather not subject Board Members to
3 that at this particular time. I would rather that
4 that be carried to some point in the future and let's
5 just move on with the plan as originally laid out, Mr.
6 Del Vecchio.

7 Mr. Segreto, please.

8 MR. SEGRETO: Yes. Thank you.

9 I think, for purposes of procedure, I know the
10 two gentlemen testified separately or one after
11 another. I have some questions for Mr. McCoach first
12 and then I'll get to Mr. Pett.

13 CHAIRMAN DePINTO: That's fine.

14 MR. REGAN: Mr. McCoach, you were
15 previously sworn at the initial public hearing on
16 August 6th and you remain under oath.

17 (7:50 p.m.)

18 CROSS-EXAMINATION BY MR. SEGRETO:

19 Q Good evening, Mr. McCoach.

20 I want to start my questioning out on your Power
21 Point presentation, primarily at Pages 2 and 3 where
22 you show pictures of various projects that you
23 designed.

24 Is that correct?

25 A There have been some and by some members

1 of my firm.

2 Q Well, one of the projects there is

3 Pentagon Row in Virginia.

4 Is that correct?

5 A Yes, Arlington, Virginia.

6 Q That's a mixed use project?

7 A Yes, it is.

8 Q And, that's -- it looks like there's, at

9 least in the depiction there, it looks like

10 residential on top of retail shops.

11 Is that correct?

12 A That's correct.

13 Q I also see, it looks like there is an ice

14 skating rink.

15 Is that correct?

16 A Correct.

17 Q Is there a large anchor store in that

18 project?

19 A Yes. There's a grocery store.

20 Q What's the grocery store there?

21 A I don't recall the operator.

22 Q All right. Do you know the size of that

23 anchor grocery store?

24 A I do not know the size. It's significant.

25 Q Is it anywhere near 140,000 square feet?

1 A I don't know.

2 Q Now, some of the other projects, the

3 Reston Town Center also in Virginia, is there a large

4 anchor store involved in that project?

5 A Reston has a number of different types of

6 retailers. They're -- I don't, I don't recall the

7 grocery store and the portion -- I don't recall that

8 there is a grocery store in a portion of the Reston

9 Town Center that we designed.

10 Q Now, this is also, again, a mixed use

11 project that is residential as well as retail.

12 Is that correct?

13 A The overall Town Center in Reston has a

14 variety of uses, office, residential, commercial,

15 hospitality.

16 Q And, how about the Silver Spring, downtown

17 Maryland.

18 Is there a large anchor store involved in that

19 project?

20 A There a number of entertainment anchors in

21 the downtown Silver Springs project.

22 Q What do you mean by entertainment?

23 A It's home to the American Film Institute,

24 it's a restored community theater.

25 Q Is there any large retail store, let's say

1 in the area of 100,000 square feet?

2 A I don't know.

3 Q You have no recollection?

4 A Nope.

5 Q All right. Maryfield Town Center,
6 Virginia.

7 You have a depiction of that area again.

8 That's a mixed use project?

9 A Yes. It is.

10 Q There is residential as well as retail
11 and, I assume, restaurants?

12 A Yes, and commercial.

13 Q Is there any large, large retail anchor in
14 that project?

15 A Yes, there is.

16 Q What is that?

17 A I believe it's a 100,000 square foot
18 Target.

19 Q That's, obviously, not shown in the
20 depiction.

21 Is that correct?

22 A I, I would have to look at the pictures --
23 yes.

24 Q Oh, yeah. On Page 2?

25 A Yes. That's not shown in the photograph.

1 Q Is it on a separate piece of property?

2 A No. It's at the heart of this project.

3 Q And, what's depicted on Page 2 in the
4 Power Point presentation is not the heart of the
5 project?

6 A It's an adjacent area.

7 Q And, how big is that retail store?

8 A Actually, what you'll see, as I look at
9 the Page 2, the rendering that is second from the
10 right on the lower row, actually you'll see an earlier
11 conception, you'll actually see the Target level on
12 the second floor up there.

13 Q On the right-hand side?

14 A Yeah. Right-hand, right-hand side of the
15 page in the artist's rendering there is a Target logo.

16 Q All right. Let's go to Page 3. You have
17 the river walk at Court Imperial.

18 Is there a large retail anchor in that project?

19 A That's our residential project.

20 CHAIRMAN DEPINTO: Mr. Segreto, I'm going
21 to interrupt you.

22 What is the relevancy of the questions with
23 respect to this project?

24 You seem to be talking about projects or at
25 least the depiction of projects that this firm was

1 involved in.
 2 What direction are you going with this?
 3 MR. SEGREGO: Mr. Chairman, I mean, he
 4 testified in direct about all these projects. Nobody
 5 said it was irrelevant. No one objected.
 6 Now I'm going over --
 7 CHAIRMAN DEPINTO: He testified as to his
 8 involvement in those projects. But, what do the
 9 specifics of the project --
 10 What is the relevancy of the specifics this
 11 project has to the subject matter here?
 12 MR. SEGREGO: This gentleman has designed
 13 a project that has a 140,000 square foot Wegman which
 14 we believe is not appropriate for this area or for
 15 this project. So, that's the relevancy.
 16 I'm getting into the projects that they design
 17 and whether or not you can design a project without
 18 the 140,000 square foot anchor store.
 19 CHAIRMAN DEPINTO: Perhaps you should ask
 20 him that question rather than go through all of these
 21 depictions and what they represent.
 22 MR. SEGREGO: If I, if I ask him that
 23 question, I know what the answer is going to be. He's
 24 going to tell me that it's, that it's something that
 25 he can't do. That's why I'm asking it this way.

1 I think you have to give me a little leeway, Mr.
 2 Chairman.
 3 CHAIRMAN DEPINTO: I'll give you a little.
 4 MR. SEGREGO: This is -- we do this for a
 5 living.
 6 CHAIRMAN DEPINTO: Mr. Segreto, I
 7 understand that. You do it for a living and I have
 8 sat here for 32 years. So, I kind of know the drill.
 9 Okay.
 10 So, with that said, let's get to the point of
 11 the subject so we could all get through this
 12 application and go home.
 13 MR. SEGREGO: All right. I, I don't think
 14 I've been cross-examining for more than 15 minutes now
 15 combined.
 16 CHAIRMAN DEPINTO: That's okay. I have no
 17 problem with that. Let's maintain the relevancy.
 18 MR. SEGREGO: How about, anything that he
 19 testified in direct is relevant for cross-examination.
 20 Anything about this project that he designed is
 21 relevant.
 22 MR. DEL VECCHIO: Mr. Chairman.
 23 CHAIRMAN DEPINTO: He did not testify to
 24 the exact elements of each of the projects that he
 25 stated or testified that he was involved in.

1 Mr. Del Vecchio.

2 MR. DEL VECCHIO: I need to enter our
3 objection as well.

4 Mr. McCoach testified on these pages in
5 particular, as it concerns his background and
6 qualifications in being a designer.

7 Mr. Segreto never raised any objection to the
8 qualifications of Mr. McCoach when he was offered as a
9 witness in that regard.

10 Whether or not a project, outside of this
11 particular property, can or cannot do something is
12 irrelevant as the zoning for that particular property
13 in another jurisdiction will control and happen just
14 as Montvale's ordinances control what can happen here.

15 I completely don't understand the relevance of
16 where he's going and he needs to confine his
17 questions.

18 And, I don't measure them in time. He can have
19 as many questions as he likes if they're relevant.
20 But, talking about projects that are outside of this
21 jurisdiction controlled by another set of laws is not
22 relevant to what's proceeding here.

23 CHAIRMAN DePINTO: I'm sure Mr. Segreto is
24 going somewhere with the question.

25 Please continue and let's see where you go with

D. B. McCoach - Cross - Mr. Segreto

1 this.

2 MR. SEGRETO: All right.

3 CONTINUED BY MR. SEGRETO:

4 Q Mr. McCoach, you indicated, in your direct
5 testimony, that there is seven acres of open space on
6 this project.

7 Is that correct?

8 And, this project meaning the DePiero farm
9 project.

10 A I would want to circle back to confirm
11 that number. I don't recall what I testified prior to
12 this point.

13 CHAIRMAN DePINTO: Well, do you have a
14 copy of the transcript?

15 Why don't we take a look at the transcript? You
16 either said it or you didn't say it.

17 Q You have no recollection of testifying
18 that there's seven acres of open space on this
19 project?

20 A I just am not sure if I said 7 or 7.2.

21 Q All right. So, somewhere in the vicinity
22 of seven acres of open space?

23 A Yes. I suppose that's true, Yes.

24 Q Does that include, does that include
25 macadam parking lots?

1 A I do.
2 CHAIRMAN DEPINTO: Okay. Mr. Segreto,
3 while they're researching the transcript, could you
4 move on to another question?
5 MR. SEGRETO: While they're looking in the
6 transcript, I should ask him a question?
7 CHAIRMAN DEPINTO: Well, I understand. I
8 understand.
9 A Yes. My testimony earlier was almost
10 seven acres of open space.
11 Q And, my follow-up question was, does that
12 include the macadam parking lots on the project?
13 A I don't believe so.
14 Q So, there's seven acres of what,
15 landscaping?
16 A Yes, of green space, landscaping, site
17 amenities of different types.
18 (8:00 p.m.)
19 Q Does that include the detention ponds?
20 A Yes, it would.
21 Q And, how much of the detention ponds make
22 up that seven acres?
23 A I would defer to the engineer.
24 Q Now it seems to me, based upon the
25 depiction on Page 8 of your Power Point presentation

1 at the majority of the turf area or the green space is
2 upon the Phase 2 Lifestyle Village.
3 Is that correct?
4 A Looking at the site plan, I would, I would
5 suggest that the open space is pretty evenly
6 distributed between Phase 1 and Phase 2.
7 Q I'm talking about the actual green
8 areas --
9 A Yeah.
10 Q -- that you're showing here, the turf
11 area.
12 A Yes. I think it is very evenly
13 distributed across both phases.
14 Q That Phase 2. When is that going to be
15 constructed in conjunction with the, Phase 1 of the
16 project?
17 A I think that's a question the developer
18 would have to answer.
19 Q Let us assume that it gets approved,
20 there's no challenges to it and Phase 1 of the project
21 is all built. And, how much time will Phase 2 --
22 When will Phase 2 be developed after Phase 1?
23 A I would have to say that that's not part
24 of what I do as a designer.
25 MR. REGAN: Mr. Segreto, I don't believe

1 this witness ever testified as to a time table for
2 Phase 1 or Phase 2.

3 MR. SEGRETTO: Okay. That's fine.

4 Q Now you testified in your direct testimony
5 about diversity of uses here on a lot.

6 All of the uses here are retail uses.

7 Right?

8 A Yes, they are.

9 Q All right. And, do we know what's going
10 to, what type of stores are going to go in the
11 Lifestyle Village, Phase 1?

12 A In Phase 1, the ordinance describes uses
13 including food and beverage, service, general retail,
14 merchandise, fashion, jewelry. So, I think a pretty
15 good range of different types of merchants.

16 Q Now I see, on Page 8, there's that -- it's
17 depicted as a pink building but it doesn't have a
18 number on it. It's in the north part near Mercedes
19 and Grand.

20 Does that identify it?

21 A That's what we refer to as the junior
22 anchor.

23 Q All right. But, it's not identified on
24 Page 8, right, of your Power Point presentation?

25 A That's correct, presence within the

1 Lifestyle Village, Phase 1.

2 Q All right. I see that.

3 And, how large is that building?

4 A 22,000 square feet, I believe.

5 Q Does the applicant know what's going to go
6 in that 22,000 square foot building?

7 A Mr. Pett can respond to the architectural
8 specifics of that.

9 Q Perhaps we'll try to keep this separate
10 but since Mr. Pett is here -- ah, Mr. Pett, there you
11 are?

12 MR. SEGRETTO: All right. Mr. Pett, does
13 the applicant have a proposed user for that anchor?

14 MR. REGAN: Just for the record, Mr. Pett
15 was previously sworn on August 6th.

16 MR. PETT: At this juncture, we do not
17 have a specific tenant for that building identified.

18 CHAIRMAN DEPINTO: Mr. Pett.

19 MR. PETT: Or tenants.

20 CHAIRMAN DEPINTO: I'm a little confused.

21 I did not hear you testify as to any proposed
22 tenancies other than Wegman's.

23 MR. PETT: That's correct, Mr. Chairman.

24 CHAIRMAN DEPINTO: Okay. So, was that

25 part of your charge, to design structures to

1 accommodate specific intended users?

2 MR. PETT: No, sir. At this time, it was
3 not.

4 CHAIRMAN DEPINTO: So, therefore, Mr.
5 Segreto, any questions that you have along those lines
6 would not be allowed. Quite frankly.

7 Let's wait to hear from the developer.

8 MR. SEGRETO: I don't know if we're going
9 to hear from the developer.

10 CHAIRMAN DEPINTO: Well, I don't know
11 either.

12 But, why would you ask an architect a question
13 as to the use and occupancy of premises if he clearly

14 stated that he was under no instructions from his
15 client to design a building for a specific use?

16 MR. SEGRETO: Well, now he just stated
17 that.

18 I didn't know that five minutes ago, did I.

19 CHAIRMAN DEPINTO: Well, now we know.
20 Why don't we move on from there, Mr. Segreto.

21 Q The term junior -- this is for Mr.
22 McCoach.

23 The term junior anchor, is that defined anywhere
24 in the ordinance?

25 A I believe the ordinance does make

1 provisions for a junior anchor, yes.

2 Q It does?

3 CHAIRMAN DEPINTO: Mr. Preiss, can you
4 answer that question, please?

5 MR. PREISS: The term specifically junior
6 anchor is not mentioned. But, buildings of various
7 sizes are permitted in the lifestyle retail. I think
8 it's under 25,000 square foot.

9 So, the building that's been identified as the
10 junior anchor is permitted.

11 CHAIRMAN DEPINTO: Mr. Segreto.

12 MR. SEGRETO: Yes.

13 CHAIRMAN DEPINTO: Please continue.

14 Q Is there any significance to using the
15 term junior anchor for this building that we're
16 talking about?

17 A I would -- we consider it a term of art.

18 Simply a term that the team has used to identify it to
19 distinguish it from the other smaller retail
20 structures.

21 Q All right. Now, when you first got your
22 assignment with regard to this project, were you told
23 that there's going to be a 140,000 square foot
24 Wegman's in the project or is that part of your
25 design?

1 MR. DEL VECCHIO: Mr. Chairman, I'm going
2 to object. The question was asked at the first
3 meeting and answered, twice.

4 CHAIRMAN DePINTO: Mr. Segreto.

5 MR. REGAN: I believe it was. But, I
6 would recommend some liberality be allowed on
7 cross-examination.

8 CHAIRMAN DePINTO: Please answer the
9 question again.

10 A When we were engaged in the project, we
11 initially we were not told to design around any
12 particular user. We were just told to design a
13 140,000 square foot pad site with the associated
14 parking.

15 Q Now you also testified that there were
16 various recommendations from the Borough that went
17 into your design.

18 Is that correct?

19 A As the design progressed, we were working
20 with the existing zoning ordinance to make sure that
21 the design complied with the language on the books.

22 Q Now you're familiar that there were a
23 number of versions of this AH PUD ordinance, is that
24 correct, over probably a year and a half?

25 A We went -- yes, we went through a number

1 of different versions of the language to make sure
2 that our designs were compliant.

3 Q Right. Isn't it true that you had the
4 basic design that's depicted on Page 8 of your Power
5 Point presentation before the AH PUD Ordinance ever
6 came into existence.

7 Isn't that true?

8 A Yes. Yes.

9 Q And, isn't it true that the ordinance is
10 tailor made to your design?

11 A I have no idea how the ordinance was made.

12 We did the design, that we worked with the
13 Borough to, to, I guess to make sure that we were
14 compliant with the, with the desires of the Borough.

15 Q When did you get these recommendations
16 from the Borough with regard to your design?

17 A I would say we would have been about a
18 year into the process. So, that would have been 2012.

19 Q Right. Did these recommendations come at
20 public hearings or were there private meetings with
21 Borough officials?

22 A I wasn't a party to any private meetings,
23 to my knowledge. We met with the Borough. We made a
24 presentation to, to the Borough and then Mr. Preiss
25 was asked to develop guidelines that we then had to

1 respond to.

2 Q Is there any plans to put fast food
3 restaurants on this project that you designed?

4 A It is outside the boundaries of our task
5 to do the Master Planning. There will be restaurants
6 but I don't know if they would be fast food as defined
7 by the language of the ordinance.

8 Q You'll agree with me that the prior
9 versions of the HU PUD Ordinance only provided for sit
10 down restaurants and not fast food restaurants.

11 Is that correct?

12 A We had restaurants.

13 Q I'm talking about the ordinance. The
14 prior versions of the ordinance was just sit down
15 restaurants.

16 Right?

17 A Again, we had restaurants. I don't know
18 that we specifically defined fast food as any
19 particular type of any type of criteria.

20 Q All right. And, you indicate that the
21 applicant has restaurants.

22 What do you mean by that?

23 A My understanding is that one of the
24 buildings, the lifestyle on Phase 1 is a restaurant.
25 There may be more.

1 Q Do you have any idea which building is
2 going to house a restaurant?

3 A I -- to the best of my knowledge, it would
4 be the building that is closest to Grand Avenue.

5 Q That would be the junior anchor?

6 A No. No. It's a 5,000, approximately
7 5,000 square foot retail building.

8 Again, the conversations within the development
9 team about who will be the tenants is something that
10 is not -- they're not conversations I'm party to. So,
11 I don't know where the plans are with regard to a
12 tenant.

13 MR. REGAN: Mr. Segreto, it seems to me
14 that this is really speculative in nature.

15 The only tenant that has been reported by the
16 applicant is Wegman's.

17 I mean, it could be a restaurant. There are a
18 myriad of uses. I think -- I'm looking at Page 7 of
19 the ordinance, some 20 type of uses in addition to an
20 anchor retail store. It may be a restaurant. It may
21 not be.

22 But, there substantially, a substantially large
23 number of uses that would be permitted.

24 So, where are we going?

25 MR. SEGREGIO: I'm asking questions about

1 the projects.

2 MR. REGAN: I know. But, I think it's
3 pretty clear, I think at least to me. Maybe I'm
4 missing something that it could be a restaurant, there
5 could be other uses as well.

6 But, they don't know who the ultimate tenants
7 are other than Wegman's.

8 Is that correct, Mr. McCoach?

9 MR. McCOACH: Certainly from our
10 perspective.

11 MR. SEGRETO: Prior to me asking that
12 question, neither the Board nor myself or anybody else
13 in the audience knew that the restaurant is at least
14 proposed for the building in Life Style Village,
15 Phase 1, closest to Grand Avenue.

16 Now, you didn't know that. I didn't know that.
17 No one in the audience knew that. And, he just told
18 us that as a result of my question.

19 So, now we know what the plan is.

20 Right?

21 MR. REGAN: I don't think he's locked into
22 that.

23 MR. SEGRETO: I know he's not locked into
24 that. I know that.

25 MR. REGAN: What are we talking about?

1 MR. SEGRETO: We're talking about this
2 gigantic project that they're proposing for your
3 municipality.

4 CHAIRMAN DEPINTO: But, Mr. Segreto, Mr.
5 McCoach was qualified as an expert in --

6 MR. SEGRETO: Yes.

7 CHAIRMAN DEPINTO: -- in the field of
8 design.

9 MR. SEGRETO: Architectural design, yes.
10 I know that.

11 CHAIRMAN DEPINTO: Architectural design.

12 MR. SEGRETO: I know that.

13 CHAIRMAN DEPINTO: He asked the question
14 and I'll ask the question again.

15 Mr. McCoach, were you instructed by your client
16 to envision, in your concept plan, restaurants on the
17 property whether they were sit down or not sit down
18 restaurants?

19 And, if so, where, in fact would they be located
20 on this property?

21 THE WITNESS: We were never instructed by
22 the client to identify specific restaurant locations
23 or what type of restaurant.

24 CHAIRMAN DEPINTO: So, when you speak of
25 the 5,000 square foot building, as that or one that

1 could accommodate a restaurant, that's purely
2 speculative on your part.

3 Right?

4 THE WITNESS: That's true.

5 CHAIRMAN DEPINTO: Well, then qualify it,
6 sir, so that we're all on the same page.

7 Otherwise, we'll be here for three nights
8 talking about this.

9 Mr. Segreto, please continue.

10 MR. SEGRETO: We're not going to be here
11 for three nights --

12 CHAIRMAN DEPINTO: I'm sure we won't.

13 MR. SEGRETO: -- examination. I can

14 promise you that.

15 CHAIRMAN DEPINTO: Okay.

16 Q All right. Mr. McCoach, you talked about
17 various teams and one of your themes was the, you
18 know, the farming theme. And, you indicated you
19 talked about rows of trees like an orchard.

20 And, I'm looking at Page 8 of your Power Point
21 presentation. I think the only place that I see the
22 orchard like theme is in that six with the town green.

23 Is that correct?

24 Is that what you're talking about, the orchard
25 like plantings?

1 MR. DEL VECCHIO: Mr. Chairman, I'm going
2 to enter an objection as Mr. McCoach talked about an
3 overall equestrian theme and how it should apply to
4 the site. He did not speak about site specifics.

5 Our landscape architect is the one who has been
6 charged to implement that theme. And, he would be
7 better equipped to respond.

8 That's my objection.

9 MR. REGAN: Mr. Chairman, I think he can
10 either answer if he knows or he doesn't.

11 CHAIRMAN DEPINTO: Do you have an answer
12 to that question, Mr. McCoach?

13 THE WITNESS: Yes.

14 A There are elements of landscaping
15 identified on Page 5 in the area in the vicinity of
16 No. 5. The Main Street landscaping is intended to
17 create and ally of trees. And then, Area No. 6 is the
18 type of green where it's intended to give the people
19 an idea of an orchard.

20 Q Area 5 is the main entrance.

21 Right?

22 It's all macadam and it's lined with trees.

23 Right?

24 A The entrance from Mercedes Drive is one of
25 the entrances.

1 Q Well, that's the main entrance, isn't it?
2 A I wouldn't call it necessarily the main
3 entrance.
4 Q All right. It's not the main entrance.
5 A I think we have a significant entrance off
6 of Grand Avenue in Area 4 where we have the traffic
7 circle and a major sign element and a major open
8 space.
9 Q You'll agree with me that if you reduce
10 the size of the Wegman's from the 140,000 square feet
11 to let's say 80,000 square feet you'll have
12 substantially more room for landscaping and open
13 space.
14 Isn't that true?
15 A In our first hearing, I indicated that if
16 we reduce the size of the Wegman's, you would have a
17 substantial amount of room for many other things.
18 Q And, the ordinance defines an anchor store
19 as a store greater than 60,000 square feet.
20 Right?
21 A Yes.
22 Q So, the Wegman's doesn't have to be
23 140,000 square feet, does it?
24 It could be substantially less under the
25 ordinance criteria?

1 A Yes.
2 Q And, the anchor store in an ordinance
3 could also mean four 15,000 square foot buildings,
4 couldn't it?
5 A I don't believe in, in this particular
6 ordinance that that's true.
7 CHAIRMAN DePINTO: Let me interrupt you,
8 Mr. Segreto.
9 Mr. Preiss, with respect to that statement or
10 question by Mr. Segreto, could the plan, could 60,000
11 square feet be divided into four 15,000s.
12 MR. SEGRETO: Specifically the anchor
13 store as defined.
14 CHAIRMAN DePINTO: The anchor?
15 MR. PREISS: That is correct.
16 CHAIRMAN DePINTO: Okay. That's the
17 answer.
18 Please continue.
19 MR. SEGRETO: All right.
20 Q So, this project didn't have to have one
21 big 140,000 square foot Wegman's, you could, just like
22 you did on the Lifestyle Village Phase 1, construct
23 another Lifestyle Village of four 15,000 square foot
24 buildings.
25 Isn't that true?

1 A Yes. I concur.
2 Q And, you could have provided the same
3 amenities that you do for the Lifestyle Village Phase
4 1 instead of having this large 140,000 square foot
5 building with that very large parking lot in front of
6 it.
7 Right?
8 A I guess there are many things that we
9 could have done. But, we were asked to design this
10 particular specification.
11 Q Do you believe that a 140,000 square foot
12 Wegman's is appropriate for this project in this town?
13 A I think that that's a question of design.
14 And, I think that, as it's been designed, it fits
15 quite well.
16 Q This Wegman's is going to attract
17 customers from a large area, isn't that correct,
18 well-beyond Montvale?
19 MR. DEL VECCHIO: I'm going to object.
20 It's outside this witness's area of expertise.
21 CHAIRMAN DEPINTO: I believe that's the
22 case.
23 Please continue.
24 Q Well, sir, you have experience with all
25 these projects that we talked about in your Power

1 Point presentation.
2 Right?
3 A Yes.
4 Q You have experience with large anchors in
5 these types of developments.
6 Right?
7 A Yes.
8 Q And, you, when you're designing a project,
9 you take into account whether or not that you believe
10 that large anchor retail store is going to be able to
11 survive in that project.
12 Right?
13 Because, you don't want that, you don't want to
14 design something that is not going to work or be
15 profitable.
16 Right?
17 A Well, when we look at a project and
18 specifically anchors, we are very much aware that
19 every, every potential tenant has a different market
20 response based on the demographics of the area and
21 their competition. So, our job, as planners and
22 designers, is really to try and, and make each project
23 successful within its context.
24 Q Now, you indicated that this project is
25 going to generate activity on a 24/7 basis.

1 Is that correct?

2 A When we designed the project we weren't
3 aware of any particular use. So, we weren't -- even
4 now I can't speak to the hours of operation for a
5 Wegman.

6 Q But, do you remember telling us it's going
7 to generate activity on a 24/7 basis?

8 A I do not remember that.

9 Q Now, the sidewalks that you have on your
10 project, what's the width of those sidewalks?

11 A We have a range of widths. But, our
12 engineer can testify to, specifically to the sidewalks
13 on the site.

14 Q You don't know what they are?

15 A They range from 6 to 7 foot depending
16 where they are and we're also entertaining comments
17 from the Borough Engineer and, and considering
18 applying uniformly.

19 But, again, the team's engineer.

20 Q Am I correct that the project that you
21 design requires no waivers and no variances.

22 Is that correct?

23 A I'm not sure that I can answer that
24 question accurately. I don't know.

25 CHAIRMAN DePINTO: Mr. Del Vecchio, can

1 you answer the question?

2 MR. DEL VECCHIO: As far as we believe, we
3 believe that the plans, as submitted, are fully
4 compliant.

5 Q All right. Mr. McCoach, are you familiar
6 with the surrounding areas, a lot of the corporate
7 headquarters that are on Mercedes Drive?

8 A I'm broadly familiar with them, yes.

9 Q You'll agree with me that, that those
10 properties have substantially more open space than the
11 project that you designed.

12 Is that correct?

13 MR. DEL VECCHIO: I'm going to object to
14 the question.

15 Mr. McCoach designed a retail center for this
16 project. He did not design the other centers.

17 And, they are in a different zone.

18 I'm not sure what the relevance of open space in
19 another zone has to this hearing.

20 MR. REGAN: Mr. Chairman, I agree that,
21 again, in the issue of allowing some liberality to the
22 question, I think, if he knows the answer, that's
23 fine. If he doesn't, he'll so indicate.

24 CHAIRMAN DePINTO: Mr. McCoach, do you
25 have an answer to that question?

1 A Only that the, to characterize the
2 surrounding area as commercial office development with
3 office buildings, parking lots and open space.

4 CHAIRMAN DEPINTO: But, you agree with,
5 Mr. Del Vecchio, that the plan is compliant with the
6 municipal code with respect to coverage and open
7 space?

8 THE WITNESS: Yes. I would.

9 CHAIRMAN DEPINTO: Please continue, Mr.
10 Segreto.

11 Q Now, with regard to the, again, the
12 Wegman's, you'll agree with me that if the Wegman's
13 was reduced to 60,000 square feet, that would give you
14 almost two acres of space to work with, correct, for
15 open space, gardens, parks, benches and the like?

16 MR. DEL VECCHIO: Mr. Chairman, I'm going
17 to object to the question.

18 He's cross-examining the witness on a plan that
19 isn't before this Board.

20 We aren't seeking a variance on floor area
21 ratio, building size or anything related to the size
22 of the Wegman's.

23 We can talk about what size the petunias are on
24 the site as well. But, they have no relevance to the
25 size of the building.

1 We'll stipulate that a smaller building is
2 possible to be built. But, that's not what we applied
3 for before this Board.

4 MR. SEGRETO: That's not what I asked.
5 I asked the architect, the architect who
6 designed this, all right, who told us that it has a
7 substantial amount of open space and landscaping.

8 And, I'm asking questions about whether or not there
9 would be an alternative design. And, it's absolutely
10 relevant.

11 MR. REGAN: Well, there is no alternative
12 design before the Board.

13 CHAIRMAN DEPINTO: There is no alternative
14 design before the Board.
15 You're asking a hypothetical question.

16 Mr. McCoach, could you answer that question?
17 Could you design a building of less square
18 footage that would fit on the property?

19 THE WITNESS: Absolutely.
20 CHAIRMAN DEPINTO: Okay.

21 Q And, that would open up the property for a
22 substantial amount of open space and landscaping.
23 Correct?

24 A I can't speculate what it would open up
25 the property for in terms of other uses. It could be

1 open space. It could be other types of development.
2 Q And, if you had a 60,000 square foot
3 Wegman's, you would need only 300 spaces as opposed to
4 700 parking spaces.

5 Right?

6 A For that particular use, although if I had
7 other uses, I would need additional parking for other
8 uses.

9 Q Well, if you had four 15,000 square foot
10 buildings making up the anchor, you would only need
11 300 spaces in that area and not the 700 that are
12 depicted for the 140,000 square foot Wegman's.

13 Right?

14 A I would have to accommodate the parking
15 for the additional development, square foot of
16 undesignated development. That would need to be
17 replaced. So...

18 Q Why does it need to be replaced?

19 Why can't it just be eliminated and create more
20 open space and more parks?

21 Why does it have to, that 80,000 have to be
22 replaced?

23 A Again, we were asked to design a certain
24 size project. You know, there are many -- of course
25 it's possible that you could fit a smaller building on

1 this site with less parking. That really wasn't our
2 purview. And, that's a development decision.

3 So, I just don't know how to answer your
4 question. It doesn't make sense to me.

5 Q All right. Do you agree with me that the
6 design that you came up with maximizes the amount of
7 retail that you could put on this site?

8 MR. REGAN: Mr. Segreto, when you say
9 maximize, do you mean a variance condition is created
10 or some non-conforming condition under the Code?

11 MR. SEGRETO: Without seeking variances.

12 MR. REGAN: Without seeking variances.

13 MR. SEGRETO: Yes.

14 MR. REGAN: Without?

15 MR. SEGRETO: Without.

16 A Yes.

17 Q And, your charge was to maximize the
18 amount of retail space you could put on this site
19 without variances?

20 A My charge was to design a 140,000 square
21 foot anchor pad site and then to have a 60,000 square
22 foot retail lifestyle component in Phase 1 and then
23 additional 24,000 square foot in Phase 2.

24 Q That was your specific charge?

25 A Yes, it was.

1 Q Now you talked about 1.5 miles of trails.
2 Do you remember that?
3 A Yes.
4 Q I guess that's depicted on, I guess it's
5 Page 17 or Slide 17 of your Power Point presentation?
6 A Also on Page 8.
7 Q All right. I think it's easier to see it
8 on Page 17.
9 Is that correct?
10 A Yes.
11 Q It stands out on Page 17?
12 A The purpose of 17 was to illustrate
13 aspects of sustainability as they could apply to the
14 plan.
15 Q Right. Now the pink areas are the trail
16 areas.
17 Is that correct?
18 A The pink areas showed areas where we could
19 apply different types of paving, both permeable and
20 impermeable.
21 Q The pink areas are not necessarily trails.
22 Right?
23 A That's correct.
24 Q All right. Am I correct that the trails
25 are, for lack of a better word, the skinny pink area

1 that seems to surround the perimeter of the site?
2 A Sure. Yes.
3 Q And, what kind of materials are these, the
4 trails going to be comprised?
5 A Our landscape architect can answer that
6 specifically.
7 Q You don't know?
8 A I, I would prefer to let the landscape
9 architect answer that question.
10 (8:27 p.m.)
11 Q You don't consider that, that pink area
12 right through the parking lot in front of the Wegman's
13 as a trail area, do you?
14 A That was never the intention of the
15 design.
16 Q Well, that's fine. That's all I'm asking.
17 I notice that the trails on the perimeter is,
18 it's actually not connected. You can't walk all the
19 way around the perimeter on the trail.
20 Is that correct?
21 A The trail network and the path network
22 works its way around the perimeter of Mercedes and the
23 southern boarder of the property, cuts in and runs
24 through the center of the Phase 2 site and then runs
25 back up along Grand Avenue but moves into the interior

1 of the site to avoid the entrance and exit traffic
 2 lanes along Grand Avenue.
 3 Q Now, on buildings, I guess it's A, B, C, D
 4 and E, that's in the Phase 1 Lifestyle?
 5 A Um-hum.
 6 Q Does your architect plans show any loading
 7 dock areas for those five buildings?
 8 A We have loading bays adjacent to the
 9 buildings on their north sides. And, well -- and,
 10 then the junior anchor to the west side and Building 5
 11 to the East Side.
 12 Q That's in like a light purple, I guess --
 13 A Yes.
 14 Q -- on your Power Point presentation?
 15 A That's correct.
 16 Q The amount of loading bays are compliant
 17 with the ordinance?
 18 A I believe so.
 19 MR. SEGRETO: All right. I have some
 20 questions for -- no, actually, I think I have one more
 21 for Mr. McCoach.
 22 Q I think you indicated that this project is
 23 a rare design concept.
 24 Do you remember using that terminology?
 25 A I remember using the terminology similar

1 to that, yes.
 2 Q And, you indicated that the Borough -- it
 3 is rare because the Borough designed what the project
 4 should be.
 5 Do you remember that testimony?
 6 A No, not at all.
 7 Q To that effect?
 8 A No.
 9 Q All right.
 10 A Definitely not.
 11 MR. SEGRETO: All right. I have some
 12 questions for Mr. Pett.
 13 CROSS-EXAMINATION BY MR. SEGRETO:
 14 Q Now, Mr. Pett, in your direct testimony --
 15 MR. DEL VECCHIO: If you could give Mr.
 16 Pett --
 17 MR. REGAN: Mr. Pett was previously sworn.
 18 MR. SEGRETO: I'm trying to speed it up,
 19 Mr. Chairman.
 20 Do you see that?
 21 CHAIRMAN DEPINTO: You're doing good.
 22 MALE SPEAKER: Good job. Good job.
 23 MR. SEGRETO: I told you I wasn't going to
 24 take forever.
 25 (8:30 p.m.)

1 CHAIRMAN DEPINTO: I'm starting to believe
2 you.

3 MR. SEGRETO: You should believe me.

4 Q All right. Mr. Pett, settled in?

5 A Sure.

6 Q All right. Mr. Pett, you indicated, in

7 your direction testimony you said, it's what I have in
8 my notes, that the jurisdiction and the client reached
9 out to RTKL.

10 Do you remember testifying to that effect?

11 A I don't recall those specific words but I
12 may have said that.

13 Q What did you mean by that, that the
14 jurisdiction -- you used the word jurisdiction.

15 You meant the town of Montvale.

16 Right?

17 A Yes, I do.

18 Q Did someone, some Borough official from

19 Montvale suggest that the applicant should hire RTKL?

20 A Not to my knowledge.

21 Q All right. Why did you say it? What did
22 you mean by that?

23 A I only understood that RTKL and the client
24 had been working on the Master Plan for the project
25 for some period of time and that there was an on-going

1 PUD process that, all of which predated my involvement
2 with the project.

3 Q All right. Is it your understanding that
4 the applicant was working with the Borough officials
5 to come up with the AH PUD Ordinance and all the
6 design criteria in it?

7 MR. DEL VECCHIO: I'm going to object to
8 the question. It's outside of this witness's
9 testimony on direct.

10 MR. SEGRETO: Not when he testifies about
11 the jurisdiction and the client reached out to the
12 design architect.

13 CHAIRMAN DEPINTO: I'm going to repeat the
14 question.

15 Mr. Pett, specifically what did you mean by that
16 statement that the jurisdiction reached out for RTKL?

17 MR. REGAN: If you recall making that
18 statement.

19 THE WITNESS: Yeah. I genuinely don't
20 recall making that statement specifically. And, I
21 have no knowledge of the jurisdiction.

22 CHAIRMAN DEPINTO: Mr. Segreto, do you
23 have a reference to the transcript?

24 MR. SEGRETO: No.

25 MR. REGAN: I have the transcript here,

1 Mr. Segreto.

2 If you give me a page number, I would be happy
3 to look it up.

4 MR. SEGRETO: I didn't get a copy of the
5 transcript yet.

6 Q All right. With regard to Mr. Pett, with
7 regard to the rear of Buildings A and B, is there any
8 particular reason why they can't have the same
9 architectural amenities as the front of the buildings
10 do, just like the rear of C and D have, very similar
11 architectural design, both in the front and back of
12 the buildings?

13 A There's a retaining wall behind them and
14 the grade of Mercedes Drive adjacent to those
15 buildings is above the floor level of the buildings.

16 Q Are you telling me that you're not going
17 to be able to see the rear of Building A and B from
18 Mercedes as you're driving down Mercedes?

19 A You're not going to see portions of that
20 wall which I think was evident in the exhibits that I
21 used during that testimony.

22 Q All right. But, are you going to see
23 portions of the rears of those buildings?

24 A You are going to see the upper portions of
25 the rears of those buildings, yes.

1 Q Do the upper portion of the rear of those
2 buildings have the same architectural design as the
3 fronts of those buildings?

4 A To some extent they do, yes.

5 Q But, you'll agree with me that they don't
6 look like the rear of Building C and D?

7 A They are intentionally different
8 architecturally. But, they are within the same family
9 or vocabulary in terms of all four of the buildings
10 working together.

11 Q Now, the Wegman's is going to have cafe
12 seating both indoors and outdoors.

13 Is that correct?

14 A That's my understanding, yes.

15 Q And, I think you also testified that
16 there's going to be a separate entrance to the
17 Wegman's specifically to that area where there's
18 prepared foods and cafe seating.

19 Right?

20 A That's my understanding, yes.

21 Q Now the roof top screening, you indicate
22 that there's going to be walls that screen that.

23 Is that correct?

24 A I'm not sure what you're specifically
25 referring to.

1 Q All right. You're going to have roof top
2 mechanicals, right, on all these buildings?

3 A Yes.

4 Q And, they're going to be screened in some
5 way.

6 Right?

7 A Yes.

8 Q So that you can't see any of those roof
9 top mechanicals.

10 Right?

11 A Per the ordinance, yes.

12 Q What type of screening are you going to
13 use?

14 Let's start with the Wegman's.

15 A The Wegman's, I believe, is all raised
16 parapet areas.

17 Q Right. And, then what is the parapet
18 going to be constructed of?

19 A It's typically the exterior wall of the
20 building. So, it's a variety of materials depending
21 on which location you're in.

22 Q And, is the -- and, how high are those
23 parapet walls?

24 A They, they will vary to some extent in
25 height. And, I have to say I'm not specifically

1 familiar with the elevations of the roof at Wegman's
2 since we are not the architects of record for that
3 building.

4 MR. SEGRETO: Mr. Mccoach, do you have an
5 idea of how high those parapet walls are?

6 MR. MCCOACH: No, because we were not the
7 architects of record.

8 MR. SEGRETO: All right.

9 Q Who is the architect of record with regard
10 to the Wegman's?

11 A I, I don't know.

12 Q What about the buildings, the Junior
13 anchor and the Lifestyle Village, Phase 1, the four
14 buildings there, what type of screening is going to be
15 used for the roof top mechanicals?

16 A Again, those buildings have currently
17 raised parapet areas around the perimeter. Their
18 order of magnitude is in the range of about 4 feet
19 right now above the adjacent roof within inches. And,
20 because these are speculative retail buildings and
21 mechanical systems are not fully engineered at this
22 juncture in light of the fact that we don't know who
23 the tenants will be or if in fact this application
24 will be successful, we, we have not determined the
25 final locations and sizes of that equipment.

1 So, if additional screening is necessitated, it
2 will occur on the roof adjacent to the mechanical.

3 Q Those parapet walls for the screening, are
4 they depicted on your elevations?

5 A The parapet walls for the screening on the
6 perimeter of the building are part of the elevations
7 which are made.

8 Q Are the parapet walls for the screening
9 included in the height calculations for each of the
10 buildings?

11 A Yes, they are.

12 Q Now, on the slide, I guess it's slide No.
13 9 of the Power Point presentation, Mercedes Drive
14 elevation, and you start at that depiction there on
15 the left.

16 Is that Buildings A and B?

17 A This particular elevation was an RTKL --
18 Q Right. For --

19 MR. SEGRETO: Mr. McCoach, I'm sorry.

20 MR. McCOACH: Yes. I can answer that
21 question.

22 Yes. That was the left side of that picture and
23 the lower section.

24 MR. SEGRETO: Right.

25 MR. McCOACH: That represents Lifestyle

1 Village Phase 1 and those were the sort of general
2 massings of the design when the section was created
3 about a year and a half ago.

4 CONTINUED CROSS-EXAMINATION BY MR. SEGRETO:

5 Q All right. So you'll agree with me, as
6 you drive down Mercedes, you can see a substantial
7 part of Buildings A and B there, can't you, at rear of
8 those buildings?

9 A Yes.

10 MR. SEGRETO: No further questions.
11 (8:41 p.m.)

12 CHAIRMAN DEPINTO: Thank you.

13 The Board Members -- starting with Mr. Del
14 Vecchio, any questions following up on Mr. Segreto's
15 questions, do you have any further questions of either
16 Mr. McCoach or Mr. Pett?

17 I'm sorry. Mr. Stefanelli.

18 All these Italian names sound alike. What can
19 you do?

20 MR. STEFANELLI: No questions.

21 CHAIRMAN DEPINTO: No questions.

22 Okay. Mr. Vogt.

23 MR. VOGT: I have a bunch of questions but
24 I think I'm going to maybe ask them later.

25 CHAIRMAN DEPINTO: Questions of these

1 R. J. Pett - Cross - Mr. Segreto 55
2 witnesses or other witnesses?
3 MR. VOGT: No, actually for Mr. Segreto.
4 CHAIRMAN DEPINTO: Well, he's not
5 testifying. He's not the guy to ask questions.
6 MR. VOGT: No, NO other questions.
7 MR. SEGRETO: We'll have to talk about
8 that on the break, sir.
9 CHAIRMAN DEPINTO: Okay. Mr. Webber.
10 MR. WEBBER: No, no questions at this
11 time.
12 CHAIRMAN DEPINTO: Mr. Lintner.
13 MR. LINTNER: No questions, Mr. Chairman.
14 CHAIRMAN DEPINTO: Thank you.
15 Councilman Ghassali.
16 MR. GHASSALI: I have a question for you,
17 Mr. Chairman.
18 CHAIRMAN DEPINTO: Okay. Are you going to
19 stump me or what?
20 MR. GHASSALI: It's a process question as
21 far as time.
22 How much time would the witness be allowed to
23 spend on this?
24 Is there a limited amount of time?
25 CHAIRMAN DEPINTO: In terms of the
objector?

1 R. J. Pett - Cross - Mr. Segreto 56
2 MR. GHASSALI: Yeah.
3 CHAIRMAN DEPINTO: Well, I guess there's a
4 couple of theories with respect to that.
5 And, I think all benefit from Counsel for the
6 objector raising questions that may not have been
7 raised by Board professionals or board members. So,
8 therefore, we're going to give Counsel as wide a berth
9 as we possibly can.
10 If we find, though, that his questions are
11 repetitive or redundant or irrelevant, the Chair will
12 shut him down.
13 But, with respect to time, there's no particular
14 time limit. I believe that Mr. Segreto, being a
15 professional, he's going to get to the point with
16 respect to what his concerns are and we will all
17 benefit from that. Okay.
18 Mr. Teagno?
19 MR. TEAGNO: Nothing at this time.
20 CHAIRMAN DEPINTO: Thank you.
21 Mr. Culhane.
22 MR. CULHANE: Not at this time, Mr.
23 Chairman.
24 CHAIRMAN DEPINTO: Thank you.
25 Mr. Fette.
MR. FETTE: Nothing.

1 CHAIRMAN DePINTO: Okay. Thank you.
2 Now, Mr. Del Vecchio, it's your turn.

3 MR. DEL VECCHIO: We are prepared to call
4 our next witness.

5 I know the Board normally likes to take a break.
6 I would think it might be better to take it before we
7 start the witness.

8 CHAIRMAN DePINTO: I think that's a good
9 idea. And, I think the stenographer would appreciate
10 that as well.

11 So, why don't we take a 10 minute break?
12 And, when we return, who will your next witness

13 be.
14 MR. DEL VECCHIO: We have Mr. Dan Jaken
15 from Wegman's.

16 CHAIRMAN DePINTO: Thank you.
17 (Recess all the 8:44 to 8:56 p.m.)

18 CHAIRMAN DePINTO: The meeting will come
19 to order.

20 Mr. Del Vecchio.
21 MR. DEL VECCHIO: Yes. Thank you, Mr.
22 Chairman.

23 As indicated before, before we broke, the
24 applicant's next witness is a representative from
25 Wegman's, the intended tenant for the anchor retail

1 building.

2 I have with me Mr. Dan Jaken. I ask Dan to come
3 forward.

4 MR. REGAN: Sir, will you raise your right
5 hand.

6 Do you swear or affirm that the testimony you
7 give in this proceeding will be the truth, so help you
8 God.

9 THE WITNESS: I do.

10 MR. REGAN: State your full name, please.
11 And, spell your last name.

12 THE WITNESS: Daniel Jaken, J A K E N.

13 CHAIRMAN DePINTO: Mr. Del Vecchio, before
14 you get started, I just want to make an announcement
15 to the members of the public that are here that have
16 an interest in this application.

17 We are now going to hear the testimony of the
18 applicant's next witness. Following that testimony,
19 the Board Members will have an opportunity to ask
20 questions of any testimony that he may offer.

21 Following that, I will open the meeting to the
22 public.

23 I will then ask if you are, have an intention of
24 speaking, please put your name on the list that was
25 available for you to sign before you entered the

1 chambers.

2 After everyone from the public is heard, I will
3 then go back to Mr. Segreto to allow Mr. Segreto to
4 ask his questions of this witness.

5 Does everyone understand the procedure? Good.
6 Let's move from here. Mr. Del Vecchio, it's
7 yours.

8 DIRECT EXAMINATION BY MR. DEL VECCHIO:

9 Q Mr. Jaken, can you tell the Board what
10 your position is with Wegman's Corporation?

11 A Sure. I'm the Manager of Site
12 Development.

13 Q And, as the Manager of Site Development,
14 what are your responsibilities?

15 A I assist with civil engineering, site
16 selection and due diligence and we assist with other
17 civil engineering exercises on the maintenance side of
18 operations as well.

19 Q And, you are familiar with the operations
20 of Wegman's as a store once it opens?

21 A I am, yes.

22 Q And, how long have you been with Wegman's?
23 A A little over seven years now.

24 Q And, this is not the first store you have
25 assisted in siting?

1 A No, it is not.

2 Q Let's start with some of the questions
3 that I know the Board has raised some questions with.

4 First, with the Board's permission, I'd like to
5 mark as A-12 the paper version of the colored floor
6 plate of the Wegman's building which was submitted in
7 advance of this meeting. It is entitled or I -- it is
8 entitled Wegman's colored floor plan, has a last
9 revision date or a date of May 14, 2013.

10 And, it is prepared in-house by Wegman's itself.

11 MR. REGAN: A-12?

12 MR. DEL VECCHIO: Yes, with the Board's
13 permission.

14 Q Mr. Jaken, does A-12 represent the typical
15 floor plate of a Wegman's of the size that is proposed
16 for the Montvale location?

17 A Yes, it does.

18 Q And, you are aware that the Montvale
19 ordinance which governs the use of buildings in this
20 zone as a general prohibition in it or a limitation,
21 if you will, concerning how much of an anchor retail
22 building can be used for certain type of what I would
23 call general merchandise? That's my word, not
24 necessarily the ordinance language.

25 But, you have been provided with a copy of the

- 1 ordinance, have you not?
 2 A Yes, I have.
 3 Q And, you have looked at those restricted
 4 uses within anchor retail?
 5 A Yes.
 6 Q And, how much of a typical Wegman's floor
 7 plate would be devoted to those restrictive type
 8 merchandise?
 9 A We've gone through the typical floor plan
 10 as indicated and we've highlighted those in the, it's
 11 a little tricky on that one in blue. We have labeled
 12 them, it's general merchandise and pet supplies.
 13 We're about 5 percent of the floor area.
 14 Q And, I'm going to read to you the
 15 restricted items from the Ordinance and ask that if
 16 you can confirm whether or not the area in blue that
 17 you just identified is the only areas where these type
 18 of uses could or would take place..
 19 Toys, clothing, sporting goods, automotive
 20 supplies, electronics, appliances, home and garden
 21 supplies, pool supplies and equipment, discount dollar
 22 item, bedding, photo processing, a portrait studio,
 23 cell phone sales, a bank, pet shop, video rental,
 24 set-aside, hair and/or nail salon, hardware, jewelry,
 25 banks and fast food outlets.

- 1 Can you confirm that only the areas in blue are
 2 the areas where those type of uses would exist if they
 3 were to exist within the store?
 4 A Yes, I can.
 5 Typically in the areas that I have highlighted
 6 in the darker blue, that's where those types of
 7 products would be located. And, it would be limited
 8 to that area.
 9 Q And, that area is less than 20 percent
 10 restriction set forth in the ordinance.
 11 Correct?
 12 A It is. It averages about 5 percent.
 13 Q Can you tell us the typical hours for a
 14 Wegman's store?
 15 A Yes. In New Jersey we are operating right
 16 now from 6:00 a.m. to midnight.
 17 Q And, between the midnight and 6:00 a.m.
 18 hours, is there any activity at the store?
 19 A Yes. There still would be activity. The
 20 store would not be open to the general public but we
 21 would have approximately two dozen employees on-site
 22 that are engaged in cleaning floors, restocking
 23 shelves, taking care of items in the back room and
 24 general cleanup.
 25 Q And, at that time, obviously, the store is

1 not open to the general public?

2 A That is correct.

3 Q And, the employees and their activities
4 are all constrained to the inside of the building?

5 A That is also correct.

6 Q How many employees does a typical Wegman's
7 of this size employ?

8 A When we open, we will have approximately
9 600 employees for this store. 450 of them, again
10 roughly, would be part-time, 150 would be full-time.

11 Q And, at any given time, how many employees
12 would be on-site to maintain the operation of the
13 store?

14 A Anywhere, a typical -- we don't really
15 work in shifts but a typical time frame throughout the
16 course of the day would be on the low end, around 85
17 or 90. That would ramp up to about 120 during the
18 peak periods.

19 Q And, obviously, during the holiday
20 seasons, when we're stuffing ourselves more often than
21 not, does that increase at all?

22 A It does. We would probably max out at
23 about 150 during that holiday period, typically just
24 before Thanksgiving up through New Year's.

25 Q There has been some question raised about

1 the method or route by which a tractor-trailer
2 delivery to the site could or would take place.

3 With regard to the tractor-trailer deliveries
4 that are anticipated to be received at this store,
5 first of all, those tractor-trailers controlled by
6 Wegman's or Wegman's distributor?

7 A Yes. Most of the large trucks, the
8 tractor-trailers that you're referring to are
9 controlled by, by Wegman's.

10 Q And, as of today, where would they
11 originate from if they were to service the store?
12 A We have two locations where most of that
13 would be coming from, Rochester, New York or

14 Pottsville, Pennsylvania, approximately 90 percent of
15 this store would be coming from that Pottsville
16 distribution center.

17 Q And, based upon the origination point, is
18 it your understanding that those tractor-trailers
19 would get to Montvale by way of Chestnut Ridge Road
20 and either make a right or left hand turn onto Grand
21 Avenue to approach the site?

22 A That is correct.

23 Q And, you have, in fact, been advised by
24 the applicant for this project that it will require
25 the tractor-trailer deliveries to be routed by way of

1 Phillips Parkway to the delivery points for the store?

2 A Yes, I have.

3 Q And, Wegman's has no issue with complying
4 with that request?

5 A No, we don't.

6 Q And, that's because the originator or the
7 distribution points are controlled by Wegman's?

8 A Yes, again, for the large
9 tractor-trailers, we control those.

10 Q Now, with regard to garbage and recycling
11 handling, is there a dedicated spot to the rear of the
12 store where that takes place?

13 A Yes, there is. It's located up in this
14 upper left hand corner upon this, on the exhibit that
15 is there. It's two units. One is an entirely
16 enclosed trash compactor of 30 yard unit. And, there
17 is a small off-shoot to that which is recycling. Both
18 of them are enclosed and accessible at the dock
19 position of the store.

20 Q And, how often would those need to be
21 emptied?

22 A Again, it depends on the volume of the
23 store.

24 But, on average, about two to three times a week
25 that they would be emptied.

1 Q Now, with regard to tractor-trailer
2 deliveries, how many tractor-trailers would you
3 envision servicing a store of this size?

4 A During the regular course of the year, we
5 would be about five a day. That would ramp up to
6 about 10 during the holidays.

7 Q And, other than the tractor-trailer
8 deliveries, I assume Wegman's, like most food stores,
9 have vendor deliveries?

10 A Yes, we do.

11 Q And, those vendor deliveries would take
12 place where?

13 A The vendor deliveries would take place at
14 this flat dock right across the middle of the store.

15 Q You're referring to the back middle?

16 A The back middle, yes.

17 Q Those deliveries would never take place
18 through the front door, would they?

19 A No, they would not.

20 MR. DEL VECCHIO: I have no further
21 questions of Mr. Jaken and make him available to the
22 Board for their questions.

23 CHAIRMAN DEPINTO: Thank you.

24 Questions starting with Mr. Vogt.

25 MR. VOGT: I actually have no questions,

1 Mr. Chairman.

2 CHAIRMAN DEPINTO: Okay. Thank you.

3 And, Mr. Webber.

4 MR. WEBBER: I have two questions.

5 The tractor-trailer deliveries, what time would
6 they be operated at?

7 Would they be during the overnight when the
8 store is closed or would that be --

9 THE WITNESS: No. Typically, they

10 wouldn't be during the overnight. Typically, they

11 would be spaced out throughout the course of the day

12 so, you know, starting probably around 6:00, 6:30 in

13 the morning and it would be spaced out every couple of

14 hours until, you know, 10 o'clock at night or

15 something along those lines.

16 MR. WEBBER: So, you wouldn't be having

17 traffic coming through constantly, 24/7.

18 A No. And, again, for those, for those

19 trucks that we control, it's typically only about five

20 throughout the course of the day.

21 MR. WEBBER: And, the other trucks that

22 you don't really have the full handle on the vendor

23 deliveries, how many times of day are they?

24 And, again, what times would he be there?

25 A We do have anywhere from 20 to 40 a day

1 that are your box trucks, your bread guys, your Pepsi

2 delivery guys, you're Frito Lay type of trucks. Those

3 would also be spread out during the course of the

4 date. They're typically more on affixed route so that

5 I remember more on like 8:00 a.m. to 5:00 p.m.

6 operation.

7 So, I don't anticipate that those would be into
8 the wee hours either.

9 MR. WEBBER: Okay. Thank you. That's all

10 I have at this time. Thank you.

11 CHAIRMAN DEPINTO: Thank you.

12 Mr. Lintner.

13 MR. LINTNER: Thank you, Mr. Chairman.

14 CROSS-EXAMINATION BY MR. LINTNER:

15 Q My questions are basically about the

16 square footage of the store.

17 I know we don't have a significant number of

18 Wegman's in the area. But, could you describe the

19 size of this store compared to some of the other local

20 stores in this area in terms of square footage and

21 indicate what the other stores are used for in terms

22 of square footage?

23 This 140,000 square foot, is this a typical

24 Wegman's now?

25 Is this what your building -- is this your model

- 1 store?
- 2 A Yeah. This is our typical building
- 3 footprint where we can fit this size. This is our
- 4 preferred floor plan.
- 5 Q Are there other stores of this size in the
- 6 area?
- 7 A There -- we have seven stores operating in
- 8 New Jersey. Other grocers, as far as competitors in
- 9 this area, I don't think there's anything even close
- 10 to this within the area. I'm not intrinsically
- 11 familiar with anybody in the area.
- 12 Q I'm talking about your stores. Are there
- 13 other Wegman's this size in the area?
- 14 A Within -- the seven that we're operating
- 15 within New Jersey are very close to this, yes.
- 16 Q I'm trying to get a feel as to what a
- 17 140,000 square foot store is.
- 18 What are the sizes of some of the other stores
- 19 in New Jersey?
- 20 A Typically, they would be 50 to 60,000
- 21 square feet.
- 22 MR. DEL VECCHIO: No. He's asking
- 23 typically.
- 24 A Wegman's again. Yes?
- 25 Q Your stores, yes.

- 1 A The only other stores that we operate in
- 2 New Jersey are all in the neighborhood of 120 to
- 3 140,000 square feet in New Jersey.
- 4 We have seven stores in New Jersey. They're all
- 5 about this size.
- 6 Q Okay. So, for example, the Woodbridge
- 7 store is one of your newer ones?
- 8 A Correct.
- 9 Q Similar size to this?
- 10 A It's 128,000 or something like that, yeah.
- 11 Q The Woodbridge store has a liquor
- 12 location, liquor sales?
- 13 A It does.
- 14 Q This store does not. So, what is taking
- 15 the place of that in this store?
- 16 What is expanded if a model store is Woodbridge
- 17 at 128,000, this is 140,000?
- 18 What's changed to that model?
- 19 A There's, there's a large, a little bit of
- 20 expansion throughout the entire footprint primarily
- 21 since we built the Woodbridge store. This prepared
- 22 foods and bakery area has been a large focus of ours.
- 23 That's where we're seeing sales growing.
- 24 So, as a result of that, that area has expanded
- 25 fairly significantly.

1 The other thing is, with the Woodbridge store, I
2 believe that is two floors and there is seating
3 upstairs.

4 Here we're proposing all of that seating to be
5 on that, on the first floor along the left-hand side
6 of the building.

7 Q What other stores are in New Jersey?

8 A We have one in Ocean Township. We have
9 one in West Windsor Township, Cherry Hill, New Jersey,
10 Bridgewater, Woodbridge.

11 Someone is going to be very upset with me. I
12 don't recall the last one.

13 Q Okay. How about any --

14 A Oh, Manalapan.

15 Q Any stores north of here, local to us?

16 A None that I can think of. I think -- no,
17 none that I can think of.

18 Q So, if we wanted to see a Wegman's,
19 Woodbridge would be the store?

20 How about Bridgewater? How big is Bridgewater?

21 A I don't know off the top of my head. But,
22 it's approximately that same size.

23 MR. LINTNER: All right. Thank you, Mr.

24 Chairman. No other questions.

25 CHAIRMAN DEFINTO: Councilman Ghassali.

1 COUNCILMAN GHASSALI: Thank you, Mr.

2 Chairman.

3 EXAMINATION BY COUNCILMAN GHASSALI:

4 Q The two stores that are near here,
5 Woodbridge and Bridgewater, I just happened to pull
6 the floor plan just to compare the ratio between the
7 prepared food versus the grocery.

8 And, that blue area is a lot bigger here than
9 these stores.

10 Is that correct?

11 A If I'm understanding correctly, the
12 prepared foods on this plan is larger than those other
13 stores.

14 Q Yes?

15 A That is correct.

16 Q And, decide not to go with a more prepared
17 food area versus what you have here in these two
18 stores?

19 A Correct. We have expanded the offerings
20 in the prepared food section.

21 Q Okay. And, as far as your process to
22 handle the hazardous material, the sprays that are
23 damaged, things that come back from the consumers,
24 what's your process to handle that?

25 A We have a very robust process as far as

1 having environmental specialists in-house. We would
 2 take that product and, and conceal it or contain it in
 3 the back room. And, we would provide, we would
 4 dispose of it back at our facility either in Rochester
 5 or Pottsville, P. A..

6 We would typically put that on a tractor-trailer
 7 as part of a back haul operation and dispose of it at
 8 one of those two facilities.

9 Q Do you hire a third party to pick it up or
 10 have trucks to pick up the hazardous material?

11 A I'm sorry. Can you repeat that?

12 Q Do you hire a third party to pick up the
 13 hazardous material or your own trucks?

14 A If, if it was a, if it was a spill that
 15 required immediate attention, then it would be a third
 16 party type operator that we would use to immediately
 17 respond to that.

18 If it was something along the lines of returned
 19 batteries or fluorescent lights or things along those
 20 lines, that there's no immediate threat, then we would
 21 use -- we would package those up appropriately and
 22 ship those back in our own vehicles, yes.

23 Q And, the storage would be in the back room
 24 where the recycling is?

25 A Correct. It runs along this area in

1 yellow here. We labeled this back room and there's
 2 dedicated areas for that type of product.

3 COUNCILMAN GHASSALI: Thank you. Nothing
 4 further.

5 CHAIRMAN DePINTO: Thank you.

6 Mr. Teagno.

7 MR. TEAGNO: Yes.

8 EXAMINATION BY MR. TEAGNO:

9 Q 600 employees, round numbers. You intend
 10 to source that locally.

11 Is there a wide area that you look at?

12 A Yes. The way we would typically -- the
 13 answer is, yes. The way we would typically operate is
 14 we would have a core team of 25 to 30 employees from
 15 other stores that we, that would make up that base
 16 management team for the store. They would, they would
 17 typically move to the community and become a part of
 18 that community and start the hiring process and hire
 19 the remainder of those 600 folks locally.

20 Q And, parking for the employees, is that
 21 separate from customer parking?

22 A It's not which is part of the reason that
 23 we are in need of such high parking numbers. We would
 24 typically place those employees further out in the
 25 parking lot, at the periphery. But, they are

1 contained outside.

2 Q Part of the general parking?

3 A Correct.

4 MR. TEAGNO: Thank you. Nothing further.

5 CHAIRMAN DEPINTO: Thank you.

6 Mr. Culhane.

7 MR. CULHANE: I have a couple questions,

8 if I may, Mr. Chairman.

9 EXAMINATION BY MR. CULHANE:

10 Q 450 part-time employees. Could you tell

11 us approximately the number of hours a week they would
12 be working, a range?

13 A It, it roughly would be about 15 to 20

14 hours. Quite a few of those are, are high school

15 students. You know, so we're governed by the number

16 of hours that they can work so -- but, that, I think,

17 would be a pretty good average.

18 Q As you may have heard, there's been

19 testimony prior to your testimony about the size of

20 the store. And, the number I have heard is 140,000

21 square feet, the drawing I notice on the top there,

22 gross floor area 130.

23 (9:17 p.m.)

24 130,902 square feet, is that the size of the

25 store?

1 A That is correct, that is the size of the

2 store. The distinction typically is that the gross

3 floor area that's shown on that plan is the heated

4 occupiable space. The 140,000 is a number that we use

5 as part of approvals because it encompasses the entire

6 footprint. Some of the vendor dock areas in the front

7 arcade areas that aren't technically building space

8 but we don't want to get ourselves in a position where

9 we're over some magic number and ordinance.

10 Q So, it's fair to say, as I understand it,

11 encompasses basically the overall footprint of the
12 building structure as opposed to being an enclosed

13 space?

14 A That's correct, yes.

15 Q Is there a mezzanine area in this

16 building?

17 A In this particular building, there is not

18 one being proposed, no.

19 Q And, another question I would have is

20 though not depicted on this particular drawing. It

21 strikes me as the vertical height of the building is

22 kind of height --

23 What dictates the overall height of the

24 building?

25 A It really comes down to our architectural

1 design and the type of atmosphere we're trying to
 2 create within the building, you are correct, we do
 3 have higher ceilings. We want to give our customers a
 4 more friendly open area experience.

5 When you walk into the prepared foods area for
 6 those of you that haven't been a to a Wegman's it
 7 presents itself more like an open air market and
 8 having the ceilings up that high help us accomplish
 9 that.

10 MR. CULHANE: No other questions at this
 11 time, Mr. Chairman.

12 CHAIRMAN DePINTO: Thank you.
 13 Mr. Fette.

14 MR. FETTE: Just a couple questions

15 EXAMINATION BY MR. FETTE:

16 Q Mr. Jaken, you were commenting about
 17 deliveries starting at 6:00 or 6:30.

18 A Approximately, yes.

19 Q Okay. We have an ordinance that doesn't
 20 allow prior to 7:00?

21 A Perfect. We'll be here at 7:00.

22 Q I like the cooperation already.

23 I have some problems in other parts of towns but
 24 delivery not only delivery, idling trucks, garbage,
 25 pickups and crashing dumpsters when they put them down

1 the whole bit?

2 A That's true.

3 Q So, it's certainly a concern.

4 Mr. Culhane talked about the discrepancy in the
 5 square footage. I know the Bridgewater store very
 6 well.

7 How old is that store?

8 A I don't know for certain I'm going to.
 9 I'm going to guess it's about 12 years old.

10 Q Okay. Would that be fairly representative
 11 of what we're talking about?

12 A It's, it's -- yes, it's very similar as
 13 far as the intensity of the operation.

14 Q Okay.

15 A We're, we're a little bit larger as far as
 16 the footprint for the offerings that I had mentioned
 17 earlier.

18 Q And that one has a liquor store?

19 A That one does have a liquor store, yes.

20 Q Okay. There, is there any intention to
 21 try to secure a liquor license or I know it's based on
 22 generally what municipal availability is?

23 A It is. And, not that I'm aware of at this
 24 moment, no. I wouldn't rule that out but, I'm not
 25 aware that we're actively seeking one.

1 Q Okay.

2 MR. FETTER: No further comments.

3 CHAIRMAN DEPINTO: Thank you.

4 Mr. Stefanelli.

5 MR. STEFANELLI: Yes. Thank you, Mr.

6 Chairman.

7 Q Just to go back on your testimony. It

8 mentions 6:00 or 7:00 a.m. to 12:00.

9 Is that seven days a week?

10 A It is, yes.

11 Q Okay. And you mentioned about 140 and, I

12 think the -- but, I guess typically some of your

13 competitors, are you saying would your size be the

14 same as some of your other typical competitors?

15 A No, not at all. I think we're

16 approximately double what most of our competitors are.

17 MR. STEFANELLI: Okay. I have no further

18 questions.

19 CHAIRMAN DEPINTO: I have a few questions.

20 But, before I ask mine, Mr. Preiss, do you have

21 anything at this time?

22 MR. PREISS: Yes, I do.

23 EXAMINATION BY MR. PREISS:

24 Q There's an indication in the application

25 that the gross floor area for the Wegman's is 140,000

1 square feet.

2 Is that correct?

3 A I believe the application does say 140,000

4 square feet, yes.

5 Q Okay. On Exhibit A-12, which is on the

6 screen, it says gross floor area 130,192 square feet.

7 Is that correct?

8 A That is also correct, yes.

9 Q And, you indicated there is no mezzanine

10 that's proposed for this store?

11 A Correct.

12 Q So, where, where is the other almost

13 10,000 square feet?

14 A Well, at the time that the application

15 was made, we used a generic footprint that we

16 didn't have a specific layout for this. So, these,

17 these layouts --

18 We have 81 stores. We don't have any of them

19 that are, that are identical. So, we went with

20 140,000 square feet which is our starting number. As

21 we've tweaked the plan and pulled walls in and out and

22 that we wind up with a gross floor area per the

23 ordinance calculation of 130,192.

24 A As far as this Board and this application

25 is concerned, that's the total gross floor area for

- 1 the Wegman's, is 130,192 square feet.
- 2 A For the application, it's 140,000 square
- 3 feet.
- 4 Q Well, where is the almost other 10,000
- 5 square feet?
- 6 A Again, we're, we're seeking approval for
- 7 140,000 square feet. We, we are, we have a plan that
- 8 is showing 130,192 square feet.
- 9 Q On, on the -- then this particular -- does
- 10 A-12 match the footprint that's shown on the site
- 11 plan?
- 12 A Yes, it does. The, the gross floor area,
- 13 as it was calculated per this plan is, is the sales
- 14 floor area. It's not including the loading dock areas
- 15 and some of those other areas plus the front arcade
- 16 which, I believe, those square footages were in that
- 17 140,000 square foot number..
- 18 Q Okay. So, that's where the other
- 19 approximately 10,000 square foot is?
- 20 A Yes.
- 21 Q Okay.
- 22 A The footprint is the same as what's on the
- 23 site plan.
- 24 Q Okay. Now I understand.
- 25 When was, when was the first store open to New

- 1 Jersey?
- 2 Do you know how long ago that was and which one
- 3 it was?
- 4 A I don't. I'm sorry.
- 5 Q But, you indicated Bridgewater is
- 6 approximately 12 years old?
- 7 A I believe that's correct.
- 8 Q And, that was one of the first stores that
- 9 were opened?
- 10 A Yes.
- 11 Q Have you ever closed a store in New
- 12 Jersey?
- 13 A No, not to my knowledge.
- 14 Q Have you, in the last 10 years in terms of
- 15 the prototype that you're proposing, the 120 to
- 16 140,000 square foot, have you, elsewhere in the
- 17 country, closed a Wegman's supermarket of that size?
- 18 A Of this size, no, we have not.
- 19 Q Okay. I believe, when you testified with
- 20 regard to A-12, Mr. Del Vecchio read you a list of
- 21 merchandise that you said would not exceed 20 percent
- 22 of the gross floor area.
- 23 Is that correct?
- 24 A That is correct.
- 25 Q Okay. I think Mr. Del Vecchio was reading

1 from the list under big box retail store which is,
 2 which is also in Section 128, 3.1. So, I would just
 3 like to go over the list of stores that is restricted
 4 to no more than 20 percent of the gross floor area of
 5 the anchor retail store.

6 Let me read that list and have you affirm that
 7 as depicted on A-12 that that area would not exceed 20
 8 percent of the gross floor area of the store. I'll
 9 just read that list. Clothing, furniture, sporting
 10 goods, auto parts, tires and batteries, home and
 11 garden supplies, televisions, computer and video
 12 games, sporting goods, pool supplies and equipment and
 13 pet supplies.

14 Do you affirm that that area in total is not
 15 going to exceed more than 20 percent of the gross
 16 floor area?

17 A Yes, I confirm that.

18 MR. PREISS: All right. Thank you, Mr.

19 Chairman.

20 CHAIRMAN DEPINTO: Thank you.

21 EXAMINATION BY CHAIRMAN DEPINTO:

22 Q Mr. Jaken, with respect to that list --

23 First, before I ask you that question, are you
 24 familiar with the Bergen County Blue Laws?

25 A No, I am not.

1 CHAIRMAN DEPINTO: I'm going to ask Mr.
 2 Regan if he could explain to Mr. Jaken what Bergen
 3 County Blue Laws are and specifically what may be
 4 permitted or prohibited under such laws.

5 MR. REGAN: Mr. Jaken, Bergen County is
 6 unique of the 21 counties in the State of New Jersey
 7 in that it has repeatedly prohibited, by referendum,
 8 Sunday sales of certain items.

9 Certainly food and pharmaceutical items, beer,
 10 wine and liquor and other items under the definition
 11 of anchor retail stores are permitted, permitted to be
 12 sold on Sundays. But, there are other items in the
 13 definition of anchor retail stores which are not
 14 permitted which, clothing and furniture, auto parts,
 15 sporting goods and so on. So, you should be aware of
 16 that.

17 If approval is ever granted and the store opens,
 18 a number of those items would not be permitted to be
 19 sold on Sunday.

20 THE WITNESS: We will certainly comply
 21 with all of those laws.

22 Q How would you comply, Mr. Jaken?

23 A I -- that's slightly outside of my area of
 24 expertise. But, we have an entire operations team
 25 that is operating.

1 Q It would seem to me that the floor plan
 2 should depict an area where those products, which are
 3 prohibited by law from sale on Sunday, should be shown
 4 on this plan so that we could truly understand the
 5 operations of the facility.

6 Do you agree?

7 A I'm not quite sure -- we can certainly
 8 comply with that but how the store handles --

9 Q Well, how else are you going to do it if
 10 you are selling clothing in a store and someone comes
 11 into the store and they're buying groceries which are
 12 permitted to be purchased and they pick up a T-shirt
 13 while they're there, do you expect them to go to the
 14 cash register and for that clerk to say you could buy
 15 all these groceries but let me take that T-shirt and
 16 throw that in a box, you can't buy that?

17 A They would certainly do that if they had
 18 to. But, they're going to put signs and make it known
 19 to the folks in the store that they can't purchase
 20 those items on a Sunday.

21 MR. REGAN: It would seem to me the items
 22 that would be prohibited from being sold on Sunday
 23 should be in a specific area so that area can be --

24 THE WITNESS: With all due respect, they
 25 might, they might be. And, I'm not arguing that at

1 all. That might be the best way to do it. But,
 2 that's not my position to say.

3 CHAIRMAN DEPINTO: Mr. Del Vecchio, are we
 4 going to hear testimony from someone who truly knows
 5 the operation of the store?

6 MR. DEL VECCHIO: We will provide --

7 CHAIRMAN DEPINTO: Because, I am against,
 8 I'm aghast that this gentleman is unaware of Bergen
 9 County Blue Laws which he is qualified as an expert on
 10 the operations of Wegman's stores, more particularly
 11 involved in the design and the location of this store.
 12 I am, I am surprised how this wasn't addressed
 13 beforehand.

14 MR. DEL VECCHIO: Mr. Chairman, internal
 15 operations, particular items, particularly as Mr.
 16 Regan properly identified the Bergen County Blue Laws
 17 as being very unique in its application, we can
 18 certainly get you a representation of whether an aisle
 19 will be roped off, an area will be roped off as is
 20 customary in many of the stores that we frequent that
 21 are open that have both permitted and prohibited items
 22 from being sold.

23 We definitely can provide that to you.

24 In terms of compliance with the Blue Laws, I
 25 think Mr. Jaken properly indicated Wegman's is

1 committed to complying with it and will in fact
2 comply.
3 We will get you the information that you asked
4 for.
5 I am not certain how it plays into the process
6 other than needing an affirmation that we will in fact
7 comply because the internal operations or the internal
8 layout of the store, while I agree is critical for
9 this ordinance because of the limitations of its, of
10 its definition of certain merchandise, doesn't
11 necessarily play into traditional site plan issues.
12 But, we'll get you that representation.
13 CONTINUED BY CHAIRMAN DEPINTO:
14 Q I don't know if you can make that argument
15 in Paramus, quite frankly. There's a community nearby
16 and you may want to drive by there, Mr. Jaken, and see
17 how they handle the Bergen County Blue Laws on
18 Sundays. Nothing is open or hardly anything is open?
19 I, for one, would like to see a site plan or a
20 plan, building plan that shows how you are going to
21 separate this material.
22 If we are concerned about how this site is going
23 to be able to handle the traffic that's going to be
24 generated, I believe we should know that.
25 Okay. Let's go to the truck traffic.

1 You said, on an average day, five
2 tractor-trailer trucks will be providing product to
3 the store.
4 Is that correct?
5 A Yes.
6 Q Okay. And, during the holidays, that
7 would be increased to possibly 10 trucks.
8 Is that correct?
9 A Yes.
10 Q Okay. With these five trucks, how many
11 loading bays do you have on this site?
12 A There are six depicted on that floor plan.
13 Q Inclusive of the garbage bay.
14 Is that correct?
15 A No. There are --
16 Q So, there are five available for the five
17 trucks that come?
18 A There are six bays shown on that plan plus
19 the trash compactor.
20 Q So, therefore, we can rely upon the fact
21 that a tractor-trailer truck will not be idling
22 somewhere to the rear of the Wegman's waiting for a
23 bay to open because you have one more than typically
24 you would need to service a facility of this size.
25 Is that correct?

- 1 A That is correct.
- 2 Q And, therefore, there is one there that
- 3 this Borough would have the opportunity to do what
- 4 they have to do in order to eliminate that truck from
- 5 idling back there?
- 6 A That is correct.
- 7 Q How do you deal with 10 trucks a day?
- 8 A They are -- again, the 10 trucks are
- 9 spread throughout the course of the day. It's not
- 10 like all 10 trucks are there at the same time.
- 11 So, again, we're controlling those 10 trucks.
- 12 So, they are leaving our distribution facility spread
- 13 out with enough time to cover the distance, get to one
- 14 of the dock positions, unload the merchandise that
- 15 they need to unload and get back on the road while
- 16 going to a different store so the next truck can come
- 17 in.
- 18 Q That's very important. They are unloading
- 19 the merchandise, not unloading the trailer?
- 20 A I'm not following your line of
- 21 questioning.
- 22 Q I could drive past other supermarkets that
- 23 I know and, when you drive to the rear of them and you
- 24 look at their loading bays, you see trailers that do
- 25 not have cabs attached to them.

- 1 A Okay.
- 2 Q The delivery was done by dropping off a
- 3 trailer and then that cab goes somewhere else.
- 4 I expect not to see that here.
- 5 Is that correct?
- 6 A No, I don't know that that's entirely
- 7 correct. The, the -- quite frequently, the cab will
- 8 pull the truck to the rear loading dock position.
- 9 And, while the thing is being unloaded and it may drop
- 10 that off and then it -- I don't think we can say that
- 11 entirely that that's not going to happen.
- 12 Q How can you say entirely that the loading
- 13 facilities that you're providing on the plan are
- 14 adequate to meet the five trucks a day if you cannot
- 15 testify that these tractor-trailer trucks are going to
- 16 come in and have --
- 17 A Because we are operating 81 stores and we
- 18 haven't had any issues with it.
- 19 Q My question is, in other communities where
- 20 you're operating the 81 stores, do they allow them to
- 21 drop off their trailers?
- 22 Because, it's this Borough's concern that we
- 23 don't want the stacking of tractor-trailer trucks
- 24 behind this facility. Because, if in fact a driver
- 25 were to drop off the trailer for the store employees

1 to unload that trailer, it disappears somewhere, that
 2 trailer is going to remain on-site until another cab
 3 is dispatched to the property to pull that empty
 4 trailer.

5 Is that correct?

6 A Yes. But, it would be at a truck position
 7 so it would be no different than if the cab was on the
 8 truck sitting at that dock position.

9 Q Here is the bottom line. What are you

10 going to say, what are you going to do to assure the
 11 Borough that we are not going to see tractor-trailer
 12 trucks parked behind the facility beyond the numbers
 13 that you projected or trailers that are either at the
 14 dock or behind the facility waiting for a cab to come
 15 and take them away?

16 A That's, we will convey that to the
 17 receiver's office. There is a full time receiver that
 18 sits back there and manages the trucks and make them
 19 aware that that can't happen.

20 I assume you have Code Enforcement here.

21 Q We do. He's sitting right here.

22 A I understand that, sir and that he would
 23 enforce those same issues if there is a problem.

24 Q It will be memorialized in any resolution
 25 on any decision that this Board may render because,

1 quite frankly, we have no other facility in the
 2 Borough of Montvale with the amount of truck traffic
 3 that you're proposing. And, I think we have to be
 4 very careful and not be quite so glib as to how it's
 5 going to be handled and leaving it to the discretion
 6 of some dispatcher on-site.

7 I believe we need a schedule of when these
 8 deliveries will occur and how they will occur so that
 9 we can protect the Borough.

10 Do you agree with that?

11 A I don't have a problem.

12 Q When can I expect to see that?

13 A We'll work on it.

14 Q When the next guy from Wegman's testifies?

15 A Yes, when the expert shows up, yes.

16 Q That should be good then.

17 CHAIRMAN DEPINTO: So, therefore, we're
 18 going to have another witness from Wegman's this
 19 evening, Mr. Del Vecchio?

20 MR. DEL VECCHIO: We're not anticipating
 21 another witness this evening.

22 CHAIRMAN DEPINTO: Well, I think we should
 23 for the next meet meeting.

24 Q Let's talk about architecture. The
 25 question came up a number of times, I think a number

1 of times by Mr. Segreto, Mr. Pett with regard to that
2 architecture who is the architect that designed the
3 plan that was presented to this Board.

4 A The first is Bignell, Watkins & Hasser.

5 Q And, I presume they are licensed in New
6 Jersey?

7 A I believe they are licensed in New Jersey,
8 yes. However, his question specifically was who the
9 architect of record is. And, the architect of record
10 for the building would be Robert J. Salvaggio who is
11 licensed in New Jersey and is on Wegman's staff.

12 Q So, who drew this plan, the architecture
13 of this plan?

14 A For those elevations, it was Bignell
15 Watkins & Hasser.

16 Q And, those elevations have been submitted
17 as an exhibit before this Board.

18 Is that correct?

19 A Yes.

20 CHAIRMAN DePINTO: Okay. And, Mr. Del
21 Vecchio, this Board is to rely upon those elevations
22 or is there any anticipated change?

23 MR. DEL VECCHIO: As I indicated early on,
24 before we started this evening, we had received
25 comments in a written letter from Mr. Preiss where he

1 offered his comments by marking up the original
2 elevations submitted.

3 We have reacted to those comments in his written
4 review letter by submitting, prior to this evening's
5 meeting, an updated elevation which essentially
6 incorporates all of the changes that we were requested
7 to make in that written review letter.

8 We anticipate putting those elevations into
9 evidence and offering testimony on a later date per
10 the Chair's suggestion when we started this evening
11 rather than this evening.

12 But, the architect who is presenting those --
13 CHAIRMAN DePINTO: I'm sorry. I'm talking
14 specifically about the elevations relative to
15 Wegman's.

16 MR. DEL VECCHIO: Yes.

17 CHAIRMAN DePINTO: Not the elevations
18 relative to the other. I misunderstood you. I
19 misunderstood you.

20 Please present or have this witness or recall
21 Mr. Pett or anyone else.

22 MR. DEL VECCHIO: Sure.

23 CHAIRMAN DePINTO: You want to explain to
24 us what this building is going to look like. Because,
25 right now, I'm utterly confused.

1 (9:37 p.m.)
2 MR. DEL VECCHIO: When we are concluded
3 with Mr. Jaken, I would be happy to recall Mr. Pett.
4 CHAIRMAN DEPINTO: Okay. Please.
5 Q Mr. Jaken, you are familiar with the store
6 that you operate down in Woodbridge. I believe you
7 testified to that effect.
8 A Yes, sir.
9 Q Are you familiar with their signage?
10 A Some of their signage, yes.
11 Q How about the banners that are displayed
12 on the front of the sign -- I'm sorry, on the facade
13 of the building?
14 A I am not familiar with those.
15 Q Are you familiar with the Borough code
16 with respect to such signage?
17 A Your Borough's code, yes, sir.
18 Q Okay. And, what does the Code say?
19 A I believe those are not permitted, sir.
20 Q Okay. So, therefore, I can rely upon the
21 fact that Wegman's will comply with the Code and I
22 will never have to drive by that store and see some
23 banner pronouncing your \$6.99 lunch deal?
24 A Yes.
25 Q Or whatever price it is?

1 A Right. It might be a little higher price.
2 Q When I drove by the Woodbridge store,
3 there was a sign about 40 foot long, 10 foot high, eat
4 lunch here for 6.99.
5 I know you're an upscale retailer. And, I guess
6 6.99 is up-scale and relative to that location,
7 whether it's 6.99 or 10.99, I'm not a big fan of
8 banners on facades of buildings. So, it's clearly
9 going to be pronounced in any resolution of approval
10 that we'll never, ever see such a banner.
11 A That sounds good to me, sir.
12 Q Me, too.
13 Now, let's talk about neon signs. I saw a few
14 of them down there as well.
15 What's your position on neon signs?
16 A We typically do not use neon signs.
17 Q Good. Typically or in the case of
18 Montvale, you will never, ever use a neon sign.
19 A That's also fine with me.
20 Q Now, do you make a distinction between the
21 neon sign and an LED sign?
22 A Yes, we do.
23 Q Do you? And, what is that distinction?
24 A LED --
25 Q To me, they all look like neon.

1 A The signs that we are proposing are
 2 channelized letters, Plexiglass covered. You don't
 3 see the lights.
 4 Q I'm not concerned about your
 5 identification signs.
 6 A Okay.
 7 Q I'm concerned about the ones that pop up
 8 in windows when nobody is looking.
 9 A Understood.
 10 And, again, all I can represent is what we're
 11 asking for on the building. And, I would strongly
 12 encourage your code enforcement officer to have, to
 13 discuss with the store manager, if we get that far,
 14 that those aren't allowed as well.
 15 Q He discusses everything in writing.
 16 A Perfect.
 17 Q In a little book that measures about 5 by
 18 8. And, he goes, he sees and if it's not right, he
 19 writes.
 20 A Perfect.
 21 Q Okay. And, as long as Wegman's
 22 understands that because, quite frankly, I guess the
 23 Town of Woodbridge doesn't have anybody like Mr.
 24 Fette.
 25 Otherwise, it wouldn't be an abomination that I

1 saw when I was there and I don't want that for
 2 Montvale.
 3 A I fully understand.
 4 CHAIRMAN DePINTO: Okay. My other
 5 questions I'll hold for another Wegman's
 6 representative. Thank you.
 7 And, with that said, the Chair will entertain a
 8 motion to open -- Mr. Lintner; second, Mr. Culhane.
 9 All in favor.
 10 I have a list here somewhere. Hold on.
 11 I had a secretary, too, at one time. What
 12 happened to that secretary?
 13 MR. LINTNER: Makes copies of something.
 14 (9:41 p.m.)
 15 CHAIRMAN DePINTO: It's a list --
 16 MALE SPEAKER: It's a sign-in sheet for
 17 the meeting.
 18 CHAIRMAN DePINTO: That was to speak.
 19 Anybody who signed this thing that was what I
 20 recognized to be a speaker.
 21 Let's start with Karen Socker (phonetic).
 22 FEMALE SPEAKER: Excuse me, Mr. DePinto,
 23 you were very specific in the last meeting to make
 24 something like the people coming up were to only ask
 25 questions, they could not give an opinion.

1 Is that set forth for this meeting as well?
 2 CHAIRMAN DEPINTO: Absolutely. And, I
 3 apologize. My voice is not what it used to be.
 4 So, therefore, I will say it. Members of the
 5 public that have an interest in coming before the
 6 Board at this particular time, your involvement is
 7 limited to asking questions just like the Board
 8 Members did.
 9 If you choose to make a comment, you'll have an
 10 opportunity to do so at the end of the hearing.
 11 So, it's just questions of the testimony that
 12 you heard tonight or any statements that may have been
 13 made by any of the Board professionals or Board
 14 Members.
 15 Is that what I said?
 16 FEMALE SPEAKER: Yes.
 17 CHAIRMAN DEPINTO: Okay. I said it again.
 18 FEMALE SPEAKER: Good.
 19 CHAIRMAN DEPINTO: Now, Carey Solomon.
 20 MS. SOLOMON: S O L O M O N, 16 Pine
 21 Street.
 22 EXAMINATION BY MS. SOLOMON:
 23 Q A question for you, Mr. Jaken, I guess,
 24 regarding the image that's up on the screen.
 25 The produce area is small compared to some of

1 the other areas.
 2 Can you tell me what the percentage is?
 3 (9:42 p.m.)
 4 A No, I don't, off the top of my head. I do
 5 not know what that area is but it's very typical of
 6 all our other stores.
 7 Q Okay. And, do your other stores have
 8 anything that supports local produce, that being
 9 produce within 100 miles of the store?
 10 A Yes. They do. We typically would try to
 11 partner with local farmers to do displays within our
 12 produce area that would display their produce within a
 13 whole home grown type of event throughout the course
 14 of the year which we can.
 15 Q Do you think, kind of percentage-wise,
 16 local, too, to other produce, what that would be?
 17 A I don't know, no.
 18 Q Okay.
 19 A It varies by locality and what's in
 20 season.
 21 Q And, what's available?
 22 A Yes.
 23 Q Now, did Wegman's come up with that
 24 140,000 square feet?
 25 Is that what they deemed as this would be the

1 ideal given what we want to sell and the economics of
2 it?

3 A That's correct.

4 Q All right. Now, did they look at any of
5 the other -- I know there are some, I guess, small --
6 I don't know if they're being called boutique stores
7 or smaller footprint stores that I believe Wegman's
8 has done in recent years.

9 And, was that ever considered for this area?

10 A No, it was not ever considered for this
11 area. And, we only have one smaller store, one
12 smaller new store that has opened and measures 92,000
13 square feet and that was replacing a 40,000 square
14 foot store. So, it wasn't a new location. It was a
15 rebuild.

16 We do have one other location in the urban area
17 right outside of Boston that is under construction
18 that is approximately 82,000 square feet. But, that
19 store does not open until next spring.

20 Q Where is the 90,000 square foot?

21 A That's in Rochester, New York.

22 Q Okay. And, my other question has to do
23 with some of the other stores in New Jersey,
24 Bridgewater happens to be Route 202; Cherry Hill,
25 Route 70; Manalapan, U. S. Highway 35; Ocean, U. S.

1 Highway 35; Montvale, Grand Avenue --

2 CHAIRMAN DePINTO: Ms. Carey, twist it
3 into a question.

4 MS. SOLOMON: I'm getting to the question.
5 CHAIRMAN DePINTO: Okay.

6 Q Which one of these doesn't belong is what
7 my question is.

8 CHAIRMAN DePINTO: That's a good question.
9 A We look for where we can fit from a
10 demographic standpoint, from a household income
11 standpoint and where the land is available to -- it's
12 a fit. This works on all three of those accounts.

13 Q This is proposed to be a larger square
14 footage compared to these other stores.

15 How is that justified?

16 A Again, it's a combination of household
17 income, population, drive time areas, all of the
18 demographic analysis that we would do as we're trying
19 to identify specific sites.

20 This is also an area where we don't have a
21 store. So, that's helpful.

22 Q So, it's mainly just economics on your end
23 and doesn't have a lot to do with what the other
24 traffic is and appropriateness of the traffic that's
25 being bought in?

1 A I'm not -- I can't speak to the
 2 appropriateness of the traffic. I don't know that
 3 I've heard that terminology before. But, it is
 4 primarily an economic and a demographic analysis that
 5 we would go through to determine certain markets that
 6 we want to be in.
 7 Q All right.
 8 A So, areas that are -- again, high income
 9 and desirable, those are the areas where we want to go
 10 into.
 11 MS. SOLOMON: Okay. Very good. Those
 12 were all my questions. Thank you.
 13 CHAIRMAN DEPINTO: Thank you.
 14 Okay. Next I'd like to ask for J. Kimball.
 15 MR. KIMBLE: Good evening. James Kimball,
 16 20 Franklin Avenue, K I M B A I L.
 17 EXAMINATION BY MR. KIMBALL:
 18 Q First question is, the hours of operation,
 19 is that 6:00 a.m. to 12:00 midnight?
 20 A That is correct.
 21 Q It's 18 hours a day, seven days a week?
 22 A Also correct.
 23 Q Okay. Is that the same for your other
 24 stores in New Jersey?
 25 A Yes, it is.

1 Q Any consideration to the use of the time
 2 at all other than 18 hours a day?
 3 A No.
 4 Q You threw out a number before, 50,000 to
 5 60,000 square feet. I think it was misunderstanding
 6 the question. But, I think what you were getting at
 7 was, those are the size of the competitor grocery
 8 stores in this area.
 9 Is that true to your understanding?
 10 A We are typically about twice the size of
 11 our competitors. So, I just, from walking through
 12 some of the stores in the area, I'm estimating that
 13 that's about the size that they are. I don't know
 14 specifically that they are that size. That's my
 15 estimate.
 16 Q I think it's correct. I think it's a fair
 17 estimate that the local A & Ps, the Shop-Rites in the
 18 area are about 50 to 60,000 square feet.
 19 Is that kind of your understanding as well, just
 20 from an estimator?
 21 A Once again, going through those areas,
 22 that is my estimate. I don't have specifics on those
 23 floor plans.
 24 Q So your 130 to 140 is quite a bit more
 25 than even twice as large as these other local grocery

1 stores.

2 Correct?

3 A Than the local ones, yes, that is correct.
4 MR. KIMBALL: I don't have any other

5 questions for Mr. Jaken. But, I did have one for you.
6 I'm also here as a representative of, a
7 representative of 157 Summit Avenue and, as an
8 attorney.

9 And, my understanding is that there is no site
10 plan approval being sought for the 159 Summit Avenue
11 property, the affordable housing component.

12 Is that correct?

13 CHAIRMAN DePINTO: I'm going to defer the
14 question to Mr. Del Vecchio.

15 Mr. Del Vecchio, could you please explain to Mr.
16 Kimball the exact specifications of this application.

17 MR. DEL VECCHIO: The applicant has
18 applied, pursuant to the Municipal Land Use Law and
19 the ordinance governing this property and the Summit
20 Avenue property for PUD approval only as it concerns
21 the Summit Avenue property.

22 The applicant has not filed or seeks preliminary
23 final or any other approvals relative to the Summit
24 Avenue property at this time.

25 MR. KIMBALL: Okay. And, just in that

1 same vein, this applicant is no longer obligated to
2 actually build out the affordable housing component?

3 CHAIRMAN DePINTO: Again, I defer that to
4 Mr. Preiss.

5 Mr. Preiss.

6 MR. PREISS: Yes, the applicant has to
7 convey the, the Summit Avenue property which includes
8 the lot owned by the DeFieros as well as the Dean lot
9 and that will have satisfied their obligation insofar
10 as that portion is concerned.

11 MR. KIMBALL: I'm sorry. They have to
12 convey it?

13 MR. PREISS: Yes.

14 MR. KIMBALL: So, as soon as -- and, then
15 the person they convey it to would have to then come
16 for site plan approval?

17 MR. PREISS: It will be conveyed to the
18 Borough or it may be conveyed through the Borough to a
19 third party who will build the third --

20 MR. KIMBALL: That is to be determined?

21 MR. PREISS: That person will have to come
22 forward and seek site plan approval, preliminary and
23 final in the same manner as the retail portion has
24 been.

25 MR. KIMBALL: Thank you very much.

CHAIRMAN DEPINTO: Thank you.

Okay. Next, Art Lavis.

MR. LAVIS: Art Lavis, 20 Milton Place, Montvale; L A V I S.

EXAMINATION BY MR. LAVIS:

Q Mr. Aken is it?

A Jaken.

Q Jaken. I'm sorry.

9 What do you regard as a parking area when you
10 did your demographic studies?

11 My point being where are people going to be

12 coming from to go to your store?

13 A I would only be guessing. I'm not -- I

14 don't recall the exact...

15 Q Didn't you do a demographic study and a

16 marketing area study?

17 A Our real estate department did, yes.

18 Q And, where are the customers coming from?

19 A Typically we would look at a 15 minute

20 drive time trade area, roughly.

21 Q And, how many miles would that be?

22 Have you determined that in this area?

23 A I haven't determined that but

24 approximately a five mile radius or so.

25 Q When the other hearings were going on, I

1 looked at your web site and saw representations. One
2 in Maryland had a huge parking garage.

3 Can you envision, if you're extremely successful
4 at this location, it might come back to the

5 municipality in the future and request a right to
6 build a parking garage or does he have the right?

7 I don't know.

8 A I can't speak --

9 CHAIRMAN DEPINTO: He doesn't have a
10 right, No. 1, under the current zoning.

11 MR. LAVIS: Okay.

12 Q Could you conceive of that happening in
13 the future?

14 A I could not.

15 Q Where you have a parking garage, has that
16 been planned originally or did that occur subsequent

17 to the success of the store?

18 A No. That concurred with the construction

19 of the store because the property was so small.

20 Q Right. Again, the web site, I saw some of

21 your stores. It might have been with the opening of

22 the store that there was huge traffic jams in the

23 area.

24 Do you initially or on an on-going basis provide

25 your own employee traffic control?

1 A Yes, we do.

2 And, I think most of those pictures you are
3 referring to are of the grand opening.

4 Q Right.

5 A And, and we would have, typically have our
6 own asset professional, former New York State trooper
7 staff on-site working with the local bureau and their
8 law enforcement agencies to manage the traffic for
9 several weekends until that initial rush from the
10 store opening settled down.

11 Q But, do you have your own employee --

12 The reason I ask, Mercedes-Benz, at rush hour,
13 used to provide a traffic control person.

14 Do you ever do that in your store?

15 A Yes.

16 Q With your own employees?

17 A Yes, we do.

18 Q Okay. How many seats are at your cafe in
19 this proposed store?

20 A In this, I don't know for this specific
21 one because it's changed so I don't know off the top
22 of my head.

23 Q Ballpark?

24 A Ballpark, 200.

25 Q 200? A typical store said 300.

1 A I think those are older plans. We're
2 typically averaging between 200 and 250.

3 Q Have you experienced -- and, you have
4 every right to compete in the market place. But, you
5 have experienced in other areas where you put a store,
6 in that other local supermarkets have been, had closed
7 as a result of the competition you offered?

8 A I can't speak to the specifics. I believe
9 that has occurred, yes.

10 Q If the traffic is extremely -- I think
11 your traffic expert grossly mis-underrepresented the
12 amount of traffic that's going to be coming in the
13 Borough and the Borough accepted his traffic study.

14 But, if the --

15 CHAIRMAN DePINTO: Mr. Lavis, I don't
16 think the Board has heard any testimony relative to
17 that at this point?

18 MR. LAVIS: Okay.

19 CHAIRMAN DePINTO: Are you referencing
20 traffic discussions that have been held in connection
21 with the amendment to the zoning ordinance?

22 MR. LAVIS: Yes.

23 CHAIRMAN DePINTO: Okay. I don't think --

24 MR. LAVIS: Okay. Okay.

25 CHAIRMAN DePINTO: -- this is the

1 appropriate time or individual.

2 Q There is a Lifetime Fitness going, right
3 opposite you, going up.

4 At a speed trailer they said they're going to
5 have up to 7,000 members.

6 CHAIRMAN DEPINTO: Mr. Lavis, he's not
7 qualified --

8 MR. LAVIS: Okay. No traffic. I get you.
9 Okay.

10 Then I think that that is all the questions that
11 I have.

12 Thank you.
13 CHAIRMAN DEPINTO: Very good. Thank you.

14 Linda Bongardino, please.
15 (9:54 p.m.)

16 MS. BONGARDINO: Good evening. Linda
17 Bongardino, B O N G A R D I N O, 14 Ellsworth Terrace.

18 And, I just have a few questions. I'll try to
19 do it in like a format so I don't violate any of the

20 -- okay.
21 EXAMINATION BY MS. BONGARDINO:

22 Q I know that the Wegman's upstate was
23 50,000 and then you have expanded it now to 90,000.

24 Is there any chance at all that you would
25 consider capping this store to copy that format?

1 A No. We are currently not considering
2 that.

3 Q Okay. Are you aware of the Ikea which is
4 a Swedish furniture store in Paramus, New Jersey?

5 A I'm not specifically familiar with the one
6 in Paramus but I do know Ikea as a retailer and they

7 are at several locations.
8 Q Based on the Ikea web site, that store is
9 90,000 square feet.

10 We were speaking before about trying to get a
11 handle of how big is this project. I would encourage

12 you to go on to the web site and check it out yourself
13 because I did the research and that's what I found.

14 Are you aware that the Hillside Shop-Rite on
15 Kinderkamack Road is 50,000 square feet?

16 That's based on the corporate representation?
17 A I am not familiar with that particular

18 store.
19 Q So what you're proposing is going to be

20 three times the size, probably one of the largest food
21 stores that we have in the community.

22 CHAIRMAN DEPINTO: Ms. Bongardino, you are
23 testifying.

24 MS. BONGARDINO: I apologize.
25 CHAIRMAN DEPINTO: If he's qualified,

1 he'll answer it. Otherwise, we'll have to --

2 Q Would it be possible to schedule the 40 or

3 50 vendors that are not coming in on tractor-trailers?

4 How will you control that traffic coming into

5 the Borough?

6 A The 40 to 50 vendor trucks are -- again,

7 those are independent operators. We can convey to

8 them delivery routes via our receiver's office at the

9 store. But, we don't have direct control over those

10 vendors.

11 Q Have you ever been asked by a community to

12 try to coordinate that?

13 A Yes, we have, several times and we have

14 done so.

15 Q Just, just by making a request?

16 A Correct, conveying a message to both our

17 drivers and to the vendor trucks that are there.

18 Q Okay. And, my last question, have you

19 ever closed a Wegman's regardless of the location?

20 A Yes, we have closed several smaller,

21 older, out of date Wegman's.

22 Q And, what's replaced those stores?

23 A In, in approximate 70 percent of the

24 cases, it was a newer, larger store.

25 Q So, when you close it, it's not that you

1 close and you left the community, you just closed it

2 so that it could be expanded?

3 A So that we could build a larger, new

4 store.

5 Q You said about 70 percent of the time,

6 not --

7 A -- ball parking the ones I'm familiar

8 with, the ones that we closed and approximately the,

9 70 percent of those have been replaced and the other

10 30 percent -- and, I'm talking three maybe just so

11 we're all -- it's approximately 10 that we've done and

12 three of those maybe were in, in very older stores

13 that were 30 to 40,000 square feet that were out of

14 date and were not profitable.

15 Q And, who took up the space is my question?

16 A I believe in each of those three cases a,

17 a competitor of ours took up the space.

18 MS. BONGARDINO: Thank you.

19 CHAIRMAN DEPINTO: Thank you.

20 Okay. Let's move on to a Donald Rotolo.

21 MR. ROTOLO: Good evening. Donald Rotolo,

22 R O T O L O. I live at 555 Baylor Avenue in River

23 Vale.

24 EXAMINATION BY MR. ROTOLO:

25 Q Good evening, Mr. Jaken.

1 MR. DEL VECCHIO: Mr. Chairman, just for
2 the record.
3 I need to protect the record. I apologize.
4 MR. ROTOLO: Me, too.
5 MR. DEL VECCHIO: But, I need to protect
6 the record.
7 This person is not an interested party as
8 defined by the Municipal Land Use Law. He's not
9 entitled to speak at these proceedings, not being an
10 interested party nor does he reside or is a taxpayer
11 in this community.
12 I apologize. I don't normally like to make
13 these objections.
14 CHAIRMAN DEPINNO: I'll ask for a ruling
15 from Mr. Regan.
16 MR. REGAN: Mr. Rotolo is your --
17 MR. ROTOLO: I work across the street at
18 Mercedes Benz. I'm a 27 year employee there. And, I
19 have some things --
20 MR. REGAN: I think he can be --
21 MR. ROTOLO: I'm really not going to be
22 confrontational. All of that doesn't really matter.
23 MR. REGAN: Mr. Del Vecchio, your
24 objection is so noted.
25 MR. DEL VECCHIO: I just want -- I

1 understand.
2 I want to make clear, given the additional
3 comment the intended speaker made, I want it to be
4 clear he's not here representing Mercedes Benz.
5 MR. ROTOLO: Not at all. I'm here
6 representing myself.
7 MR. REGAN: I believe he can ask
8 questions.
9 CHAIRMAN DEPINNO: Please, Mr. Rotolo, ask
10 your questions.
11 MR. ROTOLO: Thank you.
12 EXAMINATION BY MR. ROTOLO:
13 Q Mr. Taken, regarding the prepared foods
14 and bakery section shown in light blue on that image,
15 do you anticipate that those are going to be prepared
16 foods for on-site consumption?
17 A They would be prepared foods for both
18 on-site and off site consumption.
19 Q So, I could go to the prepared -- I
20 suppose I could go to the prepared food section, buy
21 some food, bring it to the cafe and consume it there?
22 A That is correct.
23 Q Okay. Thank you.
24 Can you tell me a little bit about your
25 recycling program, what types of things you recycle

1 and how that works in a typical store?

2 A It's -- sure. It's consolidated at the
3 rear of the store where I indicated before that we
4 would typically recycle all cardboard products, all
5 plastics, anything that can be recycled.

6 We strive for recycling. Our recycling rate is
7 somewhere around 67 percent.

8 Q Thank you very much.

9 You've been an employee with Wegman's for seven
10 years?

11 A A little over seven years.

12 Q Okay. How is it to work for a Wegman's?

13 A It's a great company.

14 Q Or Wegman's as a corporation?

15 A A great company to work for.

16 Q And, can you just characterize, in very
17 general terms, their financial stability?

18 Are they doing well?

19 MR. REGAN: Mr. Rotolo, I don't see how
20 that's relevant to this application.

21 MR. ROTOLO: Are they going to stay in the
22 community or leave?

23 MR. REGAN: I think there was testimony
24 that they have never closed a store. He closed the
25 one store --

1 MR. ROTOLO: Closing of the stores to
2 replace it with a larger store.

3 CHAIRMAN DePINTO: Mr. Rotolo, what is
4 your question, please?

5 Q My question is, what is the general
6 characteristic of the financial stability?

7 CHAIRMAN DePINTO: To your knowledge.

8 Q To your knowledge?

9 CHAIRMAN DePINTO: Can you answer that
10 question?

11 A We are a very successful company. We do
12 approximately 6 and a half billion dollars in sales a
13 year. We are a -- it's a family owned company. It's
14 incredibly stable. We are on the third generation of
15 ownership. We're operating 81 stores in seven
16 different states. I think --

17 Q Fair enough. That's a fantastic
18 characterization. Thank you.

19 I know you are not a traffic expert and we will
20 hear later, I believe, a traffic expert sometime.

21 CHAIRMAN DePINTO: Yes.

22 Q Okay. My question is regarding your
23 familiarity with stores. And, you may not have this
24 familiarity so that's fine, is the kind of traffic
25 volume that you would expect during the opening

1 phases.

2 Would you say it's much, much larger than

3 typical or just larger than typically -- you know

4 what, I withdraw that question.

5 CHAIRMAN DEPINTO: That question?

6 MR. ROTOLO: Withdraw that question.

7 CHAIRMAN DEPINTO: Thank you.

8 Mark Becker.

9 MR. BECKER: Good evening, everyone. My

10 name is Mark Becker, Mark with a K, B E C K E R. I

11 reside 400 Demarest Avenue in Hillsdale, New Jersey.

12 CHAIRMAN DEPINTO: I'm going to ask Mr.

13 Del Vecchio, this gentleman resides in the Borough of

14 Hillsdale. I presume you're going to want to put your

15 same statement on the record.

16 MR. DEL VECCHIO: Correct.

17 MR. REGAN: Mr. Becker, what is your

18 interest?

19 MR. BECKER: I'm co-director of Save the

20 Watershed Action Network, a non profit environmental

21 group which saves open space, environmental education

22 throughout the community for the past 25 years.

23 MR. REGAN: And, your organization has

24 members who will reside in Montvale?

25 MR. BECKER: We do.

1 MR. REGAN: I think --

2 CHAIRMAN DEPINTO: The Chair will accept

3 the recommendation of Council.

4 Please continue.

5 EXAMINATION BY MR. BECKER:

6 Q I will be very brief. A lot has already

7 been addressed.

8 Some basic questions for Mr. Jaken again.

9 One very minor issue is the mezzanine issue. I

10 know that there's been testimony provided that there's

11 no mezzanine proposed. However, can a mezzanine be

12 supported in this structure and contemplating that at

13 a future date?

14 CHAIRMAN DEPINTO: I don't believe this

15 gentleman can answer that question. You can direct

16 that question to Mr. Pett.

17 MR. Pett, from a construction point of view,

18 could this facility accommodate the interior creation

19 of a mezzanine, I guess, at some point in the future?

20 Is that what you're saying?

21 MR. BECKER: Yes, and would the ordinance

22 permit it?

23 CHAIRMAN DEPINTO: First, Mr. Preiss,

24 would the ordinance permit a mezzanine in the

25 structure?

1 MR. PREISS: Yes. Theoretically, if the,
2 if the building and everything else on the site
3 complies with the ordinance requirement, there would
4 be no prohibition of a mezzanine.

5 CHAIRMAN DePINTO: Okay. Mr. Pett, with
6 respect to the architectural integrity to support such
7 a mezzanine, is this building so designed that way?

8 MR. PETT: I can't say that this building
9 has specifically been designed that way. But,
10 theoretically, yes, a mezzanine can be incorporated
11 into the building.

12 CHAIRMAN DePINTO: Okay. And, you're
13 making that statement even though you're not the
14 architect responsible for the this?

15 MR. PETT: Correct.

16 CHAIRMAN DePINTO: You're saying in
17 theory?

18 MR. PETT: In theory.

19 CHAIRMAN DePINTO: If you want can exact
20 please to the question. We have to ask the designer.
21 Thank you very much.

22 MR. PETT: You are welcome.

23 Q Again, for Mr. Jaken, I've described a
24 little bit generally the process for doing your site
25 plan analysis.

1 Could you give me just a few more details about
2 how you come to arrive at this?

3 Is this the proper size for this location?
4 (10:06 p.m.)

5 A I think I have already stated that, sir.
6 CHAIRMAN DePINTO: Could you restate it?

7 A Sure. It's a combination of the
8 demographics, the population and available household
9 income in an area where we are currently serving that
10 market.

11 Q And, in your experience, doing this type
12 of work, has there ever been the case that you come to
13 a determination that you can be financially successful
14 and viable to the community at less than full build
15 out?

16 A If that's your way of asking can we do a
17 smaller store, I don't think we can adequately assess
18 that. As I mentioned earlier, we have two stores with
19 new programs that are smaller than this, 92,000 square
20 feet. One of them has only been open since May. The
21 second one is under construction right now.

22 So, I cannot accurately tell you we can survive
23 at some other, the smaller number.

24 Q Okay. Thank you.

25 I have done a little bit of homework. And, it

1 seems that the Bridgewater store is probably just
2 under 100,000 square feet.

3 A Okay.

4 Q Okay. Yeah.

5 CHAIRMAN DEPINTO: We're not going accept
6 that because we would have to swear you in.

7 MR. BECKER: Absolutely. I understand.

8 CHAIRMAN DEPINTO: You can put it in the
9 form of a question or withdraw the statement.

10 Q Can we have some testimony as to the exact
11 square footage at a future date of the other buildings
12 within New Jersey?

13 CHAIRMAN DEPINTO: Mr. Del Vecchio.

14 MR. DEL VECCHIO: We don't intend to offer
15 any testimony concerning any other Wegman store size.

16 We're not seeking approval for any other store but the
17 one before the Board.

18 MR. BECKER: Okay.

19 Q Then my last question is, just to put it
20 out there, would Wegman's -- I appreciate that it's a
21 very innovative company and supportive of some very
22 good programs.

23 Can you be open to the idea of being extremely
24 innovative?

25 CHAIRMAN DEPINTO: Mr. Becker, I hate to

1 interrupt you. That's another --

2 MR. BECKER: I'm bringing it to a

3 question.

4 CHAIRMAN DEPINTO: Please do that.

5 Q Can Wegman's entertain the idea of doing
6 something truly innovative in this community and
7 reduce the footprint of this building, actually
8 preserve some of it for some active farming, gardening
9 space that could then provide that local produce
10 within the store itself?

11 A I believe that's a question for the
12 developer. We don't control the site or anything else
13 that's going on there other than the --

14 MR. BECKER: When is the developer on?

15 CHAIRMAN DEPINTO: I beg your pardon.

16 MR. BECKER: When is the developer on?

17 CHAIRMAN DEPINTO: To be determined by the
18 applicant.

19 Thank you.

20 Let's move on to the next, Sean Roe.

21 (10:08 p.m.)

22 MR. ROE: My question has been answered.

23 CHAIRMAN DEPINTO: I'm sorry.

24 MR. ROE: My question has been answered.

25 CHAIRMAN DEPINTO: And, finally, Kevin

1 Roe.

2 MR. REGAN: Mr. Roe, for the record, are
3 you a plaintiff in litigation with the --

4 MR. ROE: I don't know what that has to
5 do, as a tax paying resident of this --

6 MR. REGAN: You are represented by Mr.
7 Segreto in that litigation.

8 MR. ROE: He did not announce himself as
9 representing my interest. He announced himself as
10 being a representative of A & P; Segreto, Segreto &
11 Segreto, that's correct.

12 MR. REGAN: Are you represented by Mr.
13 Segreto in litigation against the plaintiff?

14 MR. ROE: I am.

15 MR. REGAN: Why should you be permitted to
16 ask questions in this proceeding in as much as Mr.
17 Segreto is representing you in litigation against the
18 plaintiff?

19 MR. ROE: Because he did not enter an
20 appearance at this proceeding tonight as representing
21 me but rather only the A & P.

22 MR. REGAN: You are too cute by half.

23 But, I think we can --

24 Mr. Chairman, we can listen to Mr. Roe for a
25 time.

1 CHAIRMAN DePINTO: I'd like to hear Mr.
2 Del Vecchio on this.

3 MR. DEL VECCHIO: As I indicated early on,
4 when Mr. Segreto first entered his appearance, I don't
5 believe the A & P, as a corporation, has standing to
6 be making any comments in these proceedings as it is
7 not the owner of property within this community and
8 lacks standing as an interested party.

9 My objection was overruled.

10 In part, I allowed my objection to be overruled
11 and got protest, more knowing that the standing issue
12 was cutely handled in the prior litigation matters
13 that were filed by tag teaming with certain residents
14 within the community.

15 My position will --

16 MR. ROE: I object to that
17 characterization. But, go ahead.

18 MR. DEL VECCHIO: My position remains the
19 same, that without the cooperation of the Montvale
20 residents who are named plaintiffs in the Planning
21 Board matter, A & P lacks standing in these
22 proceedings.

23 And, if the Board is giving A & P standing, then
24 it must be doing so at least, I presume implicitly
25 because it's recognized in connection with the

1 Montvale residents.

2 So, I intend to agree with Mr. Regan, I might
3 phrase it slightly differently in that the only way
4 that A & P gets to continue in these proceedings is by
5 continuing its strategic decision to partner with
6 Montvale residents in order to maintain its standing
7 both in the court and in the proceedings before this
8 Board.

9 But, I don't necessarily believe they can have
10 it both ways.

11 MR. REGAN: I tend to agree, Mr. Chairman.

12 I would be willing to recommend that Mr. Roe be
13 permitted to question the witness.

14 However, I would advise the Board members of
15 that adversarial relationship with the Board. He is a
16 plaintiff in two lawsuits against the Board in
17 connection with --

18 CHAIRMAN DEPINTO: Thank you.

19 Please proceed, sir.

20 EXAMINATION BY MR. ROE:

21 Q You mentioned a couple of items. I would
22 like to address, first of all, with regard to the
23 tractor-trailers and the traffic.

24 You're familiar with your testimony? You,
25 obviously, just testified.

1 A I am.

2 Q Where do you get the numbers that it's
3 only five a day?

4 A Those come from our distribution folks
5 that manage and handle our distribution.

(10:12 p.m.)

6 Q A store of 140,000 square feet, how many
7 tractor-trailers go to such a store on a daily basis?

8 A I believe that's the same question I
9 answered before. It's an average of five a day and
10 that increases to about 10 per day during the

11 holidays.

12 Q All right. You stated that they would be

13 coming on Chestnut Ridge Road, is that correct, making
14 a left onto Grand Avenue or a right onto Grand Avenue,
15 I believe?

16 A I believe that was Mr. Del Vecchio's

17 testimony.

18 Q I didn't know that he was a witness, Mr.

19 Del Vecchio. I thought that was your testimony.

20 Didn't you say that they would be coming on
21 Chestnut Ridge Road and making rights and lefts off of
22 Chestnut Ridge Road onto Grand Avenue?

23 A I think I affirmed Mr. Del Vecchio's
24 question.
25

1 Q Making it your testimony.
 2 Is that correct?
 3 A Sure.
 4 Q All right. Now, coming north on Chestnut
 5 Ridge Road before getting to Grand Avenue, where would
 6 they originate from?
 7 A I believe we are -- let's see. I believe
 8 it's from Saddle River onto Chestnut Ridge is what I
 9 have in my notes.
 10 Q But, where would they go to get through --
 11 What roads would they travel through Saddle
 12 River to get onto Chestnut Ridge Road and from what
 13 major artery?
 14 A What I have from our distribution facility
 15 is from Route 17 to 59 East onto Saddle River, onto
 16 Chestnut Ridge and then onto Grand.
 17 Q Could you please repeat that?
 18 A Sure. Route 17, 59 East to Saddle River,
 19 Chestnut Ridge to Grand Avenue.
 20 Q And, has that been presented to the
 21 Borough of Saddle River that this is your intent?
 22 A Not by me, no.
 23 Q All right. And, how about in the other
 24 direction coming south on Chestnut Ridge Road passing
 25 by --

1 MR. ROE: My name is Kevin Roe, R O E. I
 2 live at 1 Hearststone Way. We failed to put that on
 3 the record. And, pleased to be here, allowed to talk,
 4 by the way.
 5 Q Coming south, where did they originate
 6 from on Chestnut Ridge Road?
 7 A That, I don't have in front of me, sir.
 8 Sorry.
 9 Q Do you know the distribution between north
 10 and south, how many are coming in either direction and
 11 from what origination points?
 12 A Both distribution facilities that we have
 13 are in Rochester and the one in Pennsylvania. The
 14 directions are the same as provided by our folks in
 15 distribution which is Route 17 to New York, 59 East to
 16 Saddle River to Chestnut Ridge Road to Grand Avenue.
 17 Q But, there's two opposite directions going
 18 on Chestnut Ridge Road.
 19 Are you able to distinguish how many tracts are
 20 on, coming south on Chestnut Ridge Road and how many
 21 are coming north on Chestnut Ridge Road?
 22 A What I can tell you, what our distribution
 23 folks have provided to me.
 24 CHAIRMAN DePINTO: This is redundant.
 25 I think Mr. Roe has asked a very good question,

1 quite frankly.

2 If there's going to be five trucks on a daily
3 average during non peak season and 10 during peak
4 season, I believe it's appropriate to know the route.

5 And, I think, when we hear the traffic testimony,
6 that's going to be important how that plugs into the
7 proposed intersection improvements.

8 So, you are relying upon information that was
9 provided to you. I would expect that you would
10 provide that information to the Board and to the
11 public at some future date.

12 Do you find that acceptable, Mr. Roe?

13 MR. ROE: Almost.

14 CHAIRMAN DEPINTO: All right. Thank you.

15 Next question please.

16 Q The question came up before in terms of
17 the liquor store and the liquor area.
18 You don't have a liquor license right now.

19 Is that correct?

20 A Not to my knowledge, no, we do not.

21 Q And, in the other stores where there is a
22 liquor license, how many square feet does the liquor
23 area occupy?

24 A It varies. But, it could be anywhere from
25 approximately 5,000 to 8,000 square feet.

1 Q You stated that the -- by the way, did you

2 look for space on Route 59 up in Nannet?

3 A Not to my knowledge, we did not.

4 Q You used -- you mentioned 59 before.

5 Do you know how many lanes highway Route 59 is?

6 A No sir, I do not.

7 Q I know.

8 And, are you familiar with the Fairway Market?

9 A No, sir. I am not.

10 Q Do you know Fairway is opening up in the
11 Nannet Mall up the street?

12 A Is that a question?

13 Q Yes. I'm asking, are you aware of the

14 fact that there's a Fairway Market about to open up in
15 the old Nannet Mall they're building, right now, on
16 Route 59 right now?

17 A I'm not aware of that, sir.

18 Q You said you based it upon demographics
19 that this was the site selection.

20 Is that correct?

21 A Amongst other things, yes.

22 Q Well, what were the other things you based
23 it upon?

24 A Again, its demographics, its population,
25 its household income, its drive time, available

1 property within those areas.

2 Q All right. Let's break it down.

3 How do you define demographics in this analysis?

4 A Population, household income, those are all demographic characteristics.

5 Q Okay. Well, the demographics, population and household income, did you look for the highest household income as a place to best put your store?

6 A It's --

7 Q I withdraw the question.

8 Did you look for an area with the highest household income as the ideal location to place your store?

9 A I don't believe it's the highest. I believe we, we look for a certain range.

10 Q What's that range?

11 A I don't know what those numbers are off the top of my head.

12 Q You recognize range and you can't even tell us what those numbers are?

13 A We have an individual in our office that does real estate analysis and that's his task. That's not mine.

14 Q The over or under a hundred thousand dollars household income?

1 MR. DEL VECCHIO: I object, Mr. Chairman.

2 He asked. He didn't know.

3 I mean, this --

4 CHAIRMAN DEPINTO: Please finish, Mr. Roe.
5 Q Would you say, again using your use of the word demographics, you have income but you don't know what the numbers are.

6 What was the other criteria you used in selecting the site?

7 A Population.

8 Q And, in terms of what population, a lot of population, a small population?

9 What do you mean by population?

10 A Number of households within a certain area.

11 Q Do you look for a dense population or a sparse population?

12 What's, what's the criteria? What's the index you used?

13 A Again, the number of households within a say, a certain area, say a five mile radius, if there is a number of households above a certain range within a five mile radius, that's a positive indicator that that is a good area for us.

14 Q And, you have no idea what those are,

1 numbers are as you sit here and testify?

2 A No, sir. I do not know off the top of my
3 head.

4 Q You stated that the anticipated drive time
5 to get to this Wegman's is 15 minutes.

6 Is that right?

7 A I believe what I said was that that would
8 typically be that drive time and area or that radius
9 that we would look for.

10 Q And, you would seek to draw from a radius
11 of only five miles.

12 Is that correct?

13 A That is not entirely correct.

14 Q That was the figure you used before, was
15 it not?

16 A The five miles was for a number of
17 households within that five mile radius. We will
18 certainly draw from outside of that five mile radius.

19 Q Well, that's the real question. How far
20 do you realistically expect to draw from?

21 A I don't know that answer.

22 Q In your other stores, in the Woodbridge
23 store, what's the radius from which you draw on the
24 Woodbridge store?

25 A Again, I do not know that answer, sir.

1 Q Would 90 miles surprise you to hear a
2 figure like that?

3 MR. DEL VECCHIO: Mr. Chairman, I'm going
4 to object. He testified that he didn't know.

5 MR. ROE: I'm refreshing his memory. If
6 he knows.

7 He's up here talking about anticipated draw
8 areas. He must have some inclination of what ranges
9 he's talking about. Otherwise, his testimony is
10 worthless.

11 So, I'll ask the question again.

12 Q Do you know what the range is, the radius
13 is for the draw for the Woodbridge store?

14 A No, sir. I do not.

15 Q Do you know what the drive time is for the
16 Woodbridge store?

17 A No, sir, I do not.

18 Q Where do you get the Figure 5 mile radius
19 and 15 minute drive time for this Montvale store on
20 Chestnut Ridge Road, where do you come up with that
21 figure to testify to, under oath to this Board?

22 Where do you get that number from?

23 A I got that number from our real estate
24 individual in our office.
25 (10:23 p.m.)

1 Q That's fairly non definitive to a time,
2 time or particular qualification.

3 A His name is Paul Gilbert. He's the
4 Director of Real Estate for Wegman's Food Markets.

5 Q Did he provide you with a summary of some
6 kind of written analysis whereby you were able to
7 familiarize yourself sufficiently with facts and
8 figures to come testify here tonight?

9 A Obviously not, sir.

10 He did share that information with me early on
11 in this process when we first started looking at this
12 site approximately three years ago. So, you have to
13 forgive me. The details are a little fuzzy at the
14 moment.

15 Q Not really because you're here testifying
16 for approval.

17 A On, on site development.

18 Q When was the last time you spoke to Mr.
19 Gilbert?

20 A Approximately a week ago.

21 CHAIRMAN DePINTO: Mr. Roe, with all due
22 respect, obviously, this witness cannot answer the
23 questions.

24 MR. ROE: All right.

25 CHAIRMAN DePINTO: And, therefore, this

1 Board may require this applicant to present someone
2 else representing Wegman's company to answer some of
3 these questions.

4 MR. ROE: Okay. I have a couple other
5 areas.

6 I don't want to waste anybody's time. That's
7 for sure. Certainly not anyone's.

8 Q Were you talking about before the number
9 of employees and part-time employees?

10 A Yes.

11 Q All right. How many full-time employees
12 are anticipated to be working at the Wegman's?

13 A Approximately 150.

14 Q All right. And, 450 part-time employees?

15 A Correct.

16 Q All right. And, I think I heard the
17 conversation come up about parking.

18 Is that correct?

19 A Yes.

20 Q And whether or not there would be
21 sufficient parking where these people would have to
22 park.

23 Is that correct?

24 A Correct.

25 Q Were you involved in the determination of

1 the number of parking spaces based upon the square
2 foot, footprint of the Wegman's store?

3 A Yes. I had input into that.

4 Q And -- hold on one moment please.

5 (10:24 p.m.)

6 MR. REGAN: Just for the record, I would

7 like to note Mr. Roe is consulting with Mr. Segreto,

8 the attorney.

9 MR. DEL VECCHIO: And, I renew my

10 objection based upon the consultation.

11 MR. REGAN: That was really cute --

12 MR. ROE: I just want to make sure I don't

13 misspeak. That's -- I want to be careful.

14 MR. REGAN: -- by speaking with your

15 counsel.

16 Q How many proposed parking spaces are going

17 to be on-site?

18 Do you know?

19 A I do not know the total number on-site.

20 Q And, you don't -- do you know how many

21 parking spaces the employees will require?

22 A Approximately 120 to 150 depending on the

23 day of the week and the time of the year.

24 Q Is it going to be 150 full-time employees?

25 Correct?

1 A Yes.

2 Q And, 450 part-time employees.

3 That would seem to require more spaces than you

4 just indicated, wouldn't it?

5 A The store is open 18 hours and there are

6 multiple times throughout the week that they work.

7 It's seven days a week. It's not a typical 40 hour

8 work week.

9 So, I don't think you can make that comparison

10 to an office environment where the office is open from

11 8:00 a.m. to 5:00 p.m..

12 We believe the site is adequately parked with

13 the number that's represented on the site plan.

14 Q You were asked a very good question before

15 by a member of the Board.

16 MR. ROE: And, it may have even been

17 yourself, Mr. Depinto, about the size or it was one of

18 you. It might have been you. You might go with your

19 red face up there.

20 MR. REGAN: Mr. Roe, don't, we don't need

21 characterization.

22 MR. ROE: I'm just going to --

23 Q About comparing the store, we're trying to

24 get a sense of the differential size in the stores.

25 Did you go to visit the A & P in Woodcliff Lake

1 up on Chestnut Ridge Road?

2 A I drove into the parking lot today, yes.

3 I did not go into the building.

4 Q Did you go around the building or just

5 into the front of the parking lot?

6 A Just into the front of the parking lot.

7 Q Not giving yourself a good opportunity of

8 seeing the size of the store by not going around it,

9 would you say?

10 A That's fair, yes.

11 Q Do you have an idea of your estimate of

12 what the A & P over here is?

13 No idea?

14 A No.

15 Q And, how about over on Kinderkamack Road,

16 the A & P on Kinderkamack Road?

17 Did you go over to see that store?

18 A That one I'm not familiar with, no.

19 Q Did you ever go to see the Shop-Rite in

20 Hillsdale which was referenced to you before?

21 A Yes. I believe I have seen that one.

22 Q When?

23 A Approximately two years ago, the last time

24 I was in for that.

25 Q All right. How would you compare having

1 seen at least the A & P on Chestnut Ridge Road to the

2 proposed Wegman's site, proportionately, if you could

3 ratio, 2 to 1, 3 to 1, 4 to 1?

4 What's the difference in size between the two

5 stores?

6 A The -- again, I would, I would ballpark

7 those stores at approximately 50,000 square feet based

8 on my limited exposure to them and we're 140,000

9 square feet.

10 Q So, it's more than triple the size of the

11 A & P.

12 Correct?

13 A I think that's probably a pretty fair

14 assessment.

15 Q And, that's confined only to Wegman's

16 aspect of the development because the whole

17 development is how many square feet?

18 Do you know?

19 A I do not, no.

20 Q Did you consult with any of the developers

21 looking at the overall plan how many total square foot

22 is proposed in this development?

23 A Our -- yeah, we, we have seen the plans

24 and we have provided comments to those plans.

25 Q How about in the overall number of total

1 square feet? It's in the application. It's part of
2 the public record.

3 Do you know what it is?

4 A I don't know what it is, no.

5 (10:28 p.m.)

6 MR. ROE: I'll save the question, the rest
7 of my questions for later.

8 CHAIRMAN DEPINTO: Okay. Thank you very
9 much.

10 Anyone else from the public wish to be heard?

11 The Chair will entertain a motion to close the
12 meeting to the public.

13 MR. VOGT: So move.

14 MR. STEFANELLI: Second.

15 CHAIRMAN DEPINTO: Mr. Vogt, seconded Mr.
16 Stefanelli.

17 All in favor?

18 (Aye)

19 Okay. Mr. Del Vecchio -- oh, I'm sorry. I'm
20 sorry. I'm going to have to open it up again.

21 I'm looking for the testimony on the change to
22 the architectural plans but I overlooked Mr. Segreto.

23 So, I'm going to reopen to the public, please.

24 MR. STEFANELLI: So move.

25 MR. VOGT: Second.

1 CHAIRMAN DEPINTO: Mr. Stefanelli,
2 seconded Mr. Vogt.

3 All in favor.

4 (Aye)

5 Mr. Segreto, I apologize.

6 MR. SEGRETO: When you refer to any other
7 member of the public, do you want me to stand up and
8 say, yeah, I am?

9 CHAIRMAN DEPINTO: No. But, you can
10 continue to ask questions.

11 MR. SEGRETO: Right.

12 CHAIRMAN DEPINTO: Right.

13 MR. SEGRETO: After you close.

14 CHAIRMAN DEPINTO: I said I'm sorry.

15 How many times do you want me to say it?

16 MR. SEGRETO: I'm -- no. No. I'm not

17 saying --

18 CHAIRMAN DEPINTO: I'm sorry.

19 Continue with your questions.

20 MR. SEGRETO: When you say it's closed to

21 the public, you're not including me?

22 CHAIRMAN DEPINTO: Could you please ask

23 your questions.

24 MR. SEGRETO: All right.

25 EXAMINATION BY MR. SEGRETO:

- 1 Q All right. Mr. Jaken, I want to talk
2 about your other stores in New Jersey, very briefly.
3 (10:29 p.m.)
4 The Ocean Township store, is that on a highway
5 or a local street?
6 A I believe it's off of a highway on a local
7 street.
8 Q What highway is that near?
9 A I cannot recall the route number at the
10 moment.
11 Q But you believe it's on a local street?
12 A I believe it's on a local street, yes.
13 Q With regard to all of these seven stores
14 you spoke about, they were anywhere from 120,000 to
15 140,000 square feet?
16 A I believe all, they're all within that
17 120,000 range, yes.
18 Q What about the West Windsor store, highway
19 or local street?
20 A Again, it's part of a very large
21 development on a local street as part of an internal
22 road to that development and it's adjacent to, I
23 believe, I believe that's Route 1.
24 Q And, what about the Cherry Hill store?
25 A I don't know.

- 1 Q How about Bridgewater? That's on a
2 highway.
3 Correct?
4 A Correct.
5 Q And, Woodbridge?
6 A I, I don't remember.
7 Q And, how about the Manalapan store?
8 A That is adjacent to a highway, I believe.
9 Q Are all of these stores considered
10 regional stores?
11 A I guess we don't make that distinction
12 between regional or local or debate their, their local
13 store, I guess. They're intended to, again, using the
14 demographics that are available, they're intended to
15 pull from those areas.
16 (10:32 p.m.)
17 Q All right. Let's talk about those
18 demographic studies again.
19 You don't do the demographic studies, right, you
20 personally?
21 A That is correct.
22 Q That other gentleman from Wegman's does
23 that.
24 Correct?
25 A That is correct.

1 Q That's Paul Gilbert?
2 Now, are these demographic studies, are they put
3 in a natural report?
4 Is it like a marketing report?
5 A Yes.
6 Q And, that's all through Mr. Gilbert and
7 other people in the real estate?
8 A And outside consultants, correct.
9 Q And, do you have a copy of that marketing
10 study for this location?
11 A No, I do not.
12 Q You have seen it, obviously?
13 A I have seen it, yes.
14 Q You have read that study.
15 Correct?
16 A Yes.
17 Q And, that study uses that 15 minute drive
18 radius and the five mile radius, right, in terms of
19 looking at the demographics?
20 A I believe that is correct, yes.
21 Q But, you need a greater customer base than
22 those two criteria, isn't it true, to support a
23 140,000 square foot store?
24 A I don't think I can answer that.
25 Q Why can't you answer that?

1 A Because I'm not sure how to answer that, I
2 guess. I'm sorry.
3 Q Do you know whether or not Wegman's
4 supplied that marketing study with all the
5 demographics to the Board's Engineer which prepared
6 traffic studies that had traffic projections for this
7 project?
8 Was that shared with the Board Engineer?
9 A To my knowledge, it was not.
10 Q Do you happen to know why?
11 A Because it, it contains information that's
12 privileged to Wegman's on how it goes about site
13 selection. That would be considered competitive
14 information. So, that information is typically not
15 shared.
16 I believe what was shared with the applicant's
17 consultants and the Board was traffic generation
18 information from other locations of ours.
19 Q All right. So you have -- Wegman's
20 actually does actual traffic generation counts from
21 other stores?
22 A That is correct.
23 Q And, it's supplied that to -- it's
24 supplied those documents to the Board?
25 A I, personally, supplied that information

1 to the applicant. I don't know what the applicant,
2 who the applicant supplied that information to.
3 Q Was it -- did it include the traffic
4 generation studies with regard to the seven New Jersey
5 stores that we just went over?
6 A I don't, I don't believe the specifics of
7 it included those or not.
8 Q I know that you gave it to the applicant.
9 Do you know whether or not the applicant submitted
10 that to the Board or any evidence of, or any of the
11 professionals?
12 MR. DEL VECCHIO: Mr. Chairman, I'm going
13 to interject an objection.
14 As we had indicated through your counsel, Mr.
15 Segreto is a plaintiff engaged in litigation against
16 which this Board is a defendant.
17 He is essentially now seeking to engage in
18 discovery in connection with those actions, at least
19 in my opinion.
20 This witness never testified on direct on any of
21 these areas.
22 Mr. Jaken was offered for a very limited
23 purpose, to answer certain questions relating to the
24 hours of operation, delivery and truck routes.
25 While certain members of the public may have

1 asked him questions about why here and why this big,
2 we allowed Mr. Jaken to answer those questions.
3 I think getting into who delivered what to whom
4 or when or why or did it is wholly outside of the
5 direct testimony and the relevance of these
6 proceedings.
7 This is a permitted use in this zone on this
8 property.
9 I am not sure of what relevance that the
10 information being questioned upon could read that that
11 would have any bearing on these proceedings.
12 CHAIRMAN DEPINTO: Mr. Segreto.
13 MR. SEGRETO: Yes. I would think traffic
14 generation for this project would be of great interest
15 to this Board. I think it was of great interest to
16 the municipality as well as this Board in that he
17 hired -- you had your Board Engineer do traffic
18 generation studies.
19 This witness has now indicated that there were
20 traffic studies, actual traffic counts for their
21 stores in New Jersey and that he believed that they
22 were given to the Board. Now he clarified that and
23 said I gave it to the applicant. I don't know if the
24 applicant gave it to the Board.
25 But, it's absolutely relevant how much traffic

1 generation there is going to be from this store
 2 particularly when they decided to put a 140,000 square
 3 foot Wegman's and the ordinance says that the anchor
 4 store has to be 60,000 square feet or greater which
 5 means they could have put a 60,000 square foot store
 6 which would, obviously, generate a substantially less
 7 amount of traffic.

8 So, I think it's absolutely relevant, to this
 9 site plan proceeding, how much traffic generation this
 10 140,000 square foot Wegman's with the other 84,000 is
 11 going to generate.

12 So, of course it's relevant.

13 CHAIRMAN DEPINTO: Mr. Segreto, you have
 14 heard the testimony of this particular witness.

15 You are now launching into an area that I don't
 16 believe he has expertise in and that is traffic.

17 MR. SEGRETO: I'm not asking about traffic
 18 expertise. He said -- he volunteered the information
 19 that there are actual traffic generation counts for
 20 their other stores that he believed was given to the
 21 Board and/or its professionals.

22 And, I continued to ask him questions and he
 23 clarified that.

24 CHAIRMAN DEPINTO: He clarified that?

25 MR. SEGRETO: Yes.

1 CHAIRMAN DEPINTO: And, he said that he
 2 provided that information to the applicant, not to the
 3 Board.

4 MR. SEGRETO: I understand that.

5 CHAIRMAN DEPINTO: Okay. So, why do you
 6 continually repeat that this gentleman stated that he
 7 gave it to both the applicant and the Board?

8 MR. SEGRETO: I'm not stating anything.
 9 I'm not trying to testify. I'm not doing any of that.

10 All I'm saying is that there is an objection,
 11 that I can't ask questions about this and that it was
 12 irrelevant.

13 Traffic generation is absolutely relevant. And,
 14 if the Wegman's, and this applicant has that kind of
 15 information, I believe that the Board should compel
 16 them to present that information to the Board so that
 17 we can see the actual traffic generation counts and
 18 not rely upon projections.

19 CHAIRMAN DEPINTO: Mr. --

20 MR. REGAN: The Board will take your
 21 question under advisement.

22 CHAIRMAN DEPINTO: If the Board wants, I
 23 will --

24 MR. SEGRETO: In light of the fact there
 25 are marketing studies, how many customers they would

1 expect from this store, traffic generation, I would
2 make that same request of the Board to, to require
3 them to produce the marketing studies.

4 MR. REGAN: Mr. Chairman, I really don't
5 see how that's relevant. We're dealing with a
6 permitted use here.

7 We don't have an applicant that's seeking a use
8 variance.

9 MR. SEGRETO: Yeah. But, you have such a
10 unique ordinance that allows -- they could put a
11 300,000 square foot Wegman's. All right.

12 But, the issue is, is there going to be a
13 substantial negative impact on this municipality.

14 And, that goes, obviously, to the size. The
15 bigger the Wegman's, the more customers, the more
16 traffic.

17 MR. REGAN: Mr. Segreto, you are
18 challenging the ordinance. You are challenge the
19 Master Plan amendments.

20 MR. SEGRETO: Yes.

21 MR. REGAN: A different forum; Superior
22 Court, not before this Board.

23 Why don't move on, please.

24 MR. SEGRETO: So, with regard to the
25 marketing studies, you're not going to even consider

1 whether or not to compel them?

2 MR. REGAN: Absolutely irrelevant.

3 CHAIRMAN DePINTO: Mr. Del Vecchio, I
4 believe we heard testimony this evening and in the
5 past that the applicant is a privately held company.
6 Is that correct?

7 MR. DEL VECCHIO: That is correct.

8 CHAIRMAN DePINTO: Okay. With respect to
9 providing with these studies, these marketing studies
10 which rely upon the projected sales, is it your
11 client's intention to provide that type of
12 information?

13 MR. DEL VECCHIO: First of all, we, as the
14 applicant, Montvale Development Associates, we don't
15 have it. We don't have access to it. We were never
16 given it.

17 I doubt we will be given it if we ask for it.

18 It is proprietary information, as Mr. Jaken has
19 indicated.

20 It has no relevance to these proceedings.

21 And, with all due respect to Mr. Segreto, I
22 understand he's learned counsel. I respect him for

23 that. But, the negative impact statement is a farce.

24 Negative impact does not come into play in these
25 proceedings.

1 This is a site plan application. Negative
 2 impact does not appear in the site plan approval
 3 portion of the ordinance. It may appear in Section 7.
 4 It does not appear in the site plan provisions.
 5 And, I think the cases, Ishmael (phonetic), make
 6 that clear.
 7 CHAIRMAN DEPINTO: And, finally, Mr.
 8 Segreto.
 9 MR. SEGRETO: I want you to compel the
 10 traffic studies and the marketing studies.
 11 You're going to think about the traffic studies
 12 and your counsel has indicated the marketing studies
 13 are irrelevant.
 14 MR. REGAN: I'm sure the applicant will,
 15 at some future date, provide testimony on traffic.
 16 MR. SEGRETO: I'm sure they are. But --
 17 and, I looked at the traffic report and they gave you
 18 traffic projections based upon the ITE manual and not
 19 actual projections.
 20 If Wegman's is in receipt of actual generation
 21 counts from their existing stores, isn't that a lot
 22 better than traffic projections from the ITE manual?
 23 CHAIRMAN DEPINTO: Mr. Segreto, until we
 24 hear testimony from the applicant with respect to
 25 that, how can you suggest that that be a better

1 alternative?
 2 MR. SEGRETO: Because actual traffic
 3 counts from --
 4 CHAIRMAN DEPINTO: I'm not disagreeing
 5 with you.
 6 MR. SEGRETO: -- from the actual store
 7 that exists --
 8 CHAIRMAN DEPINTO: I'm --
 9 MR. SEGRETO: -- a lot better than
 10 projections from the ITE manual.
 11 CHAIRMAN DEPINTO: I don't disagree with
 12 you. But, is this the appropriate witness to be
 13 asking the questions of?
 14 MR. SEGRETO: Absolutely. When he talks
 15 about the fact that there's traffic studies from these
 16 stores and that they were given to the Board or they
 17 were given to the applicant --
 18 CHAIRMAN DEPINTO: They were not given to
 19 the Board.
 20 MR. SEGRETO: Yeah. I understand that.
 21 We went over that. I understand.
 22 CHAIRMAN DEPINTO: I heard you say that,
 23 quite frankly.
 24 All right. Why don't you continue with your
 25 questioning.

1 CONTINUED CROSS BY MR. SEGRETO:
 2 Q You told us that Wegman's has 6.5 billion
 3 in gross sales per year.
 4 Is that correct?
 5 A Could you repeat the number, please?
 6 Q Yeah. 6.5 billion?
 7 A Approximately accurate, yes.
 8 Q Are there sales projections for this
 9 140,000 square foot Wegman's store?
 10 MR. REGAN: Mr. Segreto, how is this
 11 relevant?
 12 MR. SEGRETO: Again, it, dollar numbers,
 13 should the Board grant approval and if it doesn't meet
 14 a certain dollar number, should the Board deny the
 15 application.
 16 MR. SEGRETO: It goes to traffic
 17 generation, sir.
 18 MR. DEL VECCHIO: The traffic generation
 19 issue, again, is a farce.
 20 We have to prove that the site can operate
 21 safely until the traffic expert testifies and the
 22 Board and its professionals has an opportunity to
 23 probe the voracity of the appropriate method of that
 24 traffic study.
 25 This witness is not the person to be asking the

1 questions of.
 2 CHAIRMAN DePINTO: I agree.
 3 Please continue, Mr. Segreto.
 4 MR. SEGRETO: All right. So, the
 5 objection is sustained with regard to sales
 6 projections for the store?
 7 CHAIRMAN DePINTO: Yes. That is correct.
 8 Q Oh, what about your marketing studies, do
 9 they have the number of customers that is expected to
 10 frequent the store on a weekly basis?
 11 MR. REGAN: Is that a question for the
 12 witness?
 13 MR. SEGRETO: Yes. There was a question
 14 mark after that.
 15 CHAIRMAN DePINTO: Okay. Can you answer
 16 the question?
 17 A I -- they may have. I'm not familiar
 18 with, enough with it to know whether it projected
 19 customer counts for the store.
 20 (10:44 p.m.)
 21 Q You indicated that the cafe seating area
 22 has 200 to 250 seats.
 23 Is that correct?
 24 A That is correct.
 25 Q The prepared foods, the bakery section,

1 does that have seating to consume food?
 2 A Typically it would not, no.
 3 Q And, there is going to be an outdoor
 4 seating at this Wegman's.
 5 Isn't that true?
 6 A Yes. We're showing limited outdoor
 7 seating.
 8 Q All right. When you say limited, how many
 9 seats are there?
 10 A It's approximately 20 seats, 25 to 30
 11 seats.
 12 Q And, that's at tables?
 13 A Yes, it's at tables.
 14 Q Do you remember the projection of, if you
 15 know, the projection of how many customers within that
 16 15 minute drive will be frequenting the store?
 17 A I can't answer that question.
 18 Q What about within that five mile radius?
 19 A Again, I cannot answer that question.
 20 Q Is that the type of information that's in
 21 the analysis that Mr. Gilbert does?
 22 A Yes.
 23 Q Is it your opinion that a store less than
 24 140,000 square feet could not flourish on this site?
 25 A That is not my personal opinion, no.

1 Q Would you agree with me that a 60,000
 2 square foot Wegman's would have no problem flourishing
 3 on the site?
 4 A I can't make that assessment because I
 5 don't know what a 60,000 square foot Wegman's with
 6 these types of offerings would be in a store. We
 7 don't have one.
 8 Q But, you agree with me that all of the,
 9 all of the areas indicated on that Board that we're
 10 looking at, the cafe seating, the prepared foods, the
 11 produce, the front end, general merchandise, grocery,
 12 pet supplies, you could offer all the same but you
 13 could do so in a smaller footprint.
 14 Right?
 15 Couldn't you do that? Couldn't you?
 16 MR. REGAN: Mr. Segreto, anything is
 17 possible.
 18 MR. SEGRETO: Yeah. I understand. I
 19 understand.
 20 Q Is that your answer, that anything is
 21 possible?
 22 A Anything is possible, sir.
 23 Q Right. But, your architect said that
 24 Wegman's could put all of the same items in a smaller
 25 store just you'll have less offerings.

1 Right?

2 A And, we wouldn't be Wegman's.

3 Q You wouldn't be Wegman's?

4 MR. DEL VECCHIO: It might be A & P.

5 MALE SPEAKER: Or Defiero's. Would that
6 matter?

7 Q Now, does Wegman's have a list of
8 prohibited stores or sales of a certain type of
9 merchandise for the other components of this project?

10 A Yes. I believe we, we have indicated to
11 the landlord, the applicant, that there are certain
12 uses that we did not want to be adjacent to.

13 Q All right. What are those restricted

14 uses?

15 A I, I am not quite sure, sir. I don't
16 recall what those were. They were as part of a lease
17 negotiation that I was only peripherally involved

18 with.

19 Q But, there is a list?

20 A There is a list, yes.

21 Q All right. And, who is the person -- who
22 is the keeper of that list?

23 A I am sure the applicant has that list,
24 sir.

25 MR. SEGRETO: I'm going to make a request,

1 through the Board, that the applicant be compelled to
2 produce all of the limitations that Wegman's is going
3 to impose upon who the other users of this project can
4 be.

5 MR. REGAN: They're not proposing any
6 limitation.

7 MR. SEGRETO: What's that?

8 MR. REGAN: They're not proposing any
9 limitation.

10 MR. SEGRETO: He just said they have a
11 list of limitations.

12 MR. REGAN: What they have is irrelevant
13 to the Board.

14 What is relevant to the Board is --

15 CHAIRMAN DEPINTO: It is a valid question.
16 Mr. Preiss, you were involved in the preparation
17 of the Master Plan as well as the preparation of the
18 ordinance?

19 MR. PREISS: Yes.

20 CHAIRMAN DEPINTO: And, I believe you did
21 communicate with the applicant with respect to uses
22 that both the Borough and the applicant could agree
23 upon outside of the Wegman's.

24 Is that correct?

25 MR. PREISS: In terms of what would go

1 into the Lifestyle Center, yes.

2 MR. PREISS: Yes. Okay.

3 CHAIRMAN DEPINTO: Okay. And, are there
4 very specific uses that would be prohibited either
5 through ordinance or through the requirements of
6 Wegman's?

7 MR. PREISS: The, the only thing that I
8 think is relevant here is what is prohibited by virtue
9 of not being permitted in this ordinance.

10 There's a -- if I could just finish. There's a
11 specific list of stores and retail stores that is
12 permitted in the Lifestyle Retail Center and there's a
13 very specific indication in the ordinance that unless
14 a store is specifically permitted, it's prohibited.
15 And, that's the only thing that's relevant.

16 CHAIRMAN DEPINTO: And, Mr. Del Vecchio,
17 did Wegman's have an opportunity to review that list
18 as it is incorporated into the ordinance?

19 MR. DEL VECCHIO: Wegman's has been given
20 a copy of the ordinance as adopted by this Borough and
21 have indicated to us that they have no problems
22 complying with it.

23 CHAIRMAN DEPINTO: Okay. So, therefore, I
24 believe that's the answer to your question, Mr.
25 Segreto.

1 If it's not --

2 MR. SEGRETO: The question I have, I
3 guess, is for Mr. Preiss.

4 I don't know if it's appropriate at this time,
5 would be, is that, was the ordinance tailored to the
6 restrictions that were provided by Wegman's.

7 MR. DEL VECCHIO: I object to the question
8 as being outside of the proceedings that are before
9 this Board.

10 Again, Mr. Segreto is seeking free discovery
11 based on litigation that's pending, not asking
12 relative questions to this proceeding.

13 MR. REGAN: Yeah. This is really a
14 fishing expedition.

15 Mr. Segreto, as you are aware, is suing the
16 Board in two cases. He attempted to get a court order
17 to get discovery in the form of interrogatories and
18 depositions making various allegations pertaining to
19 how this Board and Borough professionals have
20 conducted themselves.

21 Despite those, that application to the Court,
22 the court denied Mr. Segreto the opportunity to engage
23 in discovery.

24 What he's attempting to do now, this evening, in
25 my opinion, is to get discovery through this process

1 that he was prohibited from getting by a Superior
2 Court judge.

3 So, I think the entire line of questioning is
4 out of order.

5 MR. SEGRETO: You are absolutely,
6 positively wrong in your assessment.

7 MR. REGAN: Then get a court order.

8 MR. SEGRETO: Mr. Segreto is not trying to
9 get free discovery, whatever that is.

10 I specifically asked a question about whether or
11 not they had a list of restrictions. He said yes.

12 And, I asked this Board to compel them so that
13 this Board can see what their restrictions are.

14 Now, Mr. Preiss said that he took a look at what
15 they, they didn't want and what the town didn't want
16 and that's how the ordinance was drafted.

17 So, my --

18 MR. PREISS: I didn't say that.

19 CHAIRMAN DePINTO: Mr. Preiss, please
20 repeat what you said.

21 MR. PREISS: What I said is, if, if
22 anybody wants to know what is prohibited, they can do
23 so by looking at the list that's in the ordinance.

24 All of those uses that are on the list is
25 permitted. Everything else is prohibited.

1 So, if you're not on the list, you're not
2 permitted. Simple as that.

3 (10:52 p.m.)

4 MR. SEGRETO: I just want to review my
5 notes.

6 Q Do you know of any study that was done by
7 Wegman's that indicates that there is a need for a
8 140,000 square foot Wegman's Supermarket on this site?

9 A No, I'm not aware of any study.

10 MR. SEGRETO: I have no further questions.

11 CHAIRMAN DePINTO: Thank you.

12 The Chair will entertain a motion to close the
13 meeting to the public.

14 Mr. Culhane, seconded by Mr. Vogt.

15 All in favor?

16 (Aye)

17 Mr. Del Vecchio, I'm sorry. Let's get back
18 to --

19 You wanted to make a statement with respect to
20 the changes in architecture.

21 Is that correct?

22 MR. DEL VECCHIO: Well, we were going to
23 offer some additional testimony albeit limited

24 regarding, I guess, the architecture of the Wegman's.
25 However, seeing where we are and the hour is late, I

1 would not much rather start another witness here and
2 now this evening. I'm not sure that it makes sense to
3 do that.

4 I would rather bring Mr. Pett back to do that at
5 the next meeting.

6 CHAIRMAN DEPINTO: Fine. With respect to
7 the -- I believe the Board secretary was asked to find
8 an available date for a special meeting and to consult
9 with the Borough Professionals to find that date.

10 Have you had any luck in securing a date,
11 Lorraine?

12 MS. HUTTNER: October 22nd or October 30th.

13 CHAIRMAN DEPINTO: So, nothing until then?

14 MS. HUTTNER: Correct.

15 CHAIRMAN DEPINTO: Okay. So, therefore,
16 Mr. Del Vecchio, the next available hearing date will
17 be October.

18 MS. HUTTNER: Meeting in October.

19 MR. REGAN: The second or the first?

20 MS. HUTTNER: I mean the first meeting in
21 October, the first.

22 CHAIRMAN DEPINTO: Okay. So, members of
23 the public that are here, that have an interest in
24 this application, please be advised that this public
25 hearing will be continued to October 1, no further

1 notice would be provided to you other than this
2 announcement.

3 What is the next date that will be available for
4 a special meeting in October?

5 MS. HUTTNER: October 22nd. We haven't
6 poled the Board to see.

7 CHAIRMAN DEPINTO: That's what we'll do
8 now.

9 Board Members, your availability for October 22
10 or a special meeting?

11 MR. VOGT: Fine.

12 CHAIRMAN DEPINTO: Chuck -- Chet.

13 MR. WEBBER: I believe I'm okay.

14 MR. LINTNER: I'm okay. I'm good.

15 CHAIRMAN DEPINTO: You guys are good?

16 Jeff?

17 MR. FETTER: I have to check my calendar.

18 I'm probably okay.

19 CHAIRMAN DEPINTO: I'm okay. Just Frank.

20 And, Bob, you're okay?

21 MR. REGAN: I'm okay.

22 CHAIRMAN DEPINTO: Andy, October 22.

23 MR. HIPOLIT: I'm okay.

24 CHAIRMAN DEPINTO: October 22.

25 And, Richard?

1 MR. PREISS: Yes.
2 CHAIRMAN DEPINTO: That doesn't conflict
3 with Mayor and Council?
4 MR. HIPOLIT: No.
5 MS. HUTTER: No.
6 CHAIRMAN DEPINTO: Okay. You're okay.
7 So, with that said, the special meeting will be
8 on October 22nd. No further announcement other than
9 this will be made.
10 So, members of the public that, that do have an
11 interest in this hearing, please be advised that it
12 will be carried first through October 1 and at this
13 time next to October 22.
14 And, the secretary, the meeting will be here.
15 Can the applicant make October 22?
16 That's what we're going to ask, Mr. Del Vecchio.
17 Can you make October 22?
18 I'm sorry, the 1st, October 1 and then October
19 22.
20 MR. DEL VECCHIO: My marching orders are a
21 little different than most. I don't have a choice.
22 So, I think one way or the other, yes, we'll
23 make it.
24 MR. WEBBER: That's the answer.
25 MR. SEGRETO: Mr. Chairman, does anybody

1 care if Mr. Segreto is available that night?
2 CHAIRMAN DEPINTO: I'm sure you would have
3 said if you weren't.
4 So, therefore, I'm going to ask you.
5 Are you available?
6 MR. SEGRETO: Yeah. I'll be here with
7 bells and whistles.
8 CHAIRMAN DEPINTO: We wouldn't have it any
9 other way. Okay. That's it. We're done. The Chair
10 will entertain a motion --
11 Thank you gentlemen for coming this evening.
12 Okay.
13 (The hearing concludes at 10:57 p.m..)

C E R T I F I C A T E

I CERTIFY that the foregoing is a true and accurate transcript of the testimony and proceedings as reported stenographically by me at the time, place and on the date herein before set forth.

I DO FURTHER CERTIFY that I am neither a relative nor employee nor attorney or 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 this action.

DONNALYNN J. ARNOLD, C.C.R.
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MY COMMISSION EXPIRES 08/04/14

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