

PLANNING BOARD  
MONTVALE TOWNSHIP  
COUNTY OF BERGEN

VOLUME 14

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, Planned Unit  
Development and Soil Moving Permit

Tuesday, May 6, 2014  
Council Chambers  
12 Mercedes Drive, 2nd Floor  
Montvale, New Jersey  
Commencing 10:40 p.m.

B E F O R E:

JOHN CULHANE  
THERESA CUDEQUEST, COUNCIL MEMBER  
JOHN DEPINTO, CHAIRMAN  
WILLIAM LINTNER  
KARI SOLOMON, recused  
FRANK STEFANELLI  
DANTE TEAGNO  
WOLFGANG VOGT  
CHET WEBBER

ROBERT REGAN, BOARD ATTORNEY  
JEFFREY FETTE, CONSTRUCTION CODE OFFICIAL  
ANDREW HIFOLIT, BOROUGH ENGINEER  
LORRAINE HUTTER, BOARD SECRETARY, absent  
DORREN ROWLAND, ACTING BOARD SECRETARY  
RICHARD PREISS, BOROUGH PLANNER

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

BEATTIE PADOVANO, P.C.  
BY: ANTIMO A. DEL VECCHIO, ESQ.  
50 Chestnut Ridge Road  
Montvale, New Jersey 07645  
(201) 573-1810  
Attorneys for the Applicant

DONNA LYNN J. ARNOLD, C.C.R.  
COMPUTERIZED TRANSCRIPTION SERVICES  
(201) 666-3490

A P P E A R A N C E S C O N T I N U E D:

SEGRETO, SEGRETO & SEGRETO, ESQS.  
BY: JOHN J. SEGRETO, ESQ.  
329 Belmont Avenue  
Haledon, New Jersey 07508  
(973) 389-1999  
Attorneys for A & P

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	P R E V I O U S L Y M A R K E D E X H I B I T S	
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2	EXHIBITS MARKED 8/6/2013	
3	A-1 Affidavit of Notice Document, Two Volumes	
4	A-2 Site Plan Drawings Prepared by I2A, 42 sheets, 6/21/2013	
5	A-3 Architectural Plans by JP2, Consisting of 8 sheets, 6/18/2013	
6	A-4 Wegman's Elevation Drawings, single sheet 7/24/2013	
7	A-5 Floor Plans Prepared for Wegman's Building, 5/14/2013	
8	A-6 Roof Plan (Wegman's) Single Sheet, 6/20/2013	
9	A-7 RTKL Master Plan Booklet	
10	A-8 Thumb Drive Containing Two Power Point Presentations	
11	A-9 Stone Sample Board	
12	A-10 Split Base Sample	
13	A-11 Material Board, Wegman's	
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15	EXHIBITS MARKED 09/03/2013	
16	A-12 Paper Version, Colored Floor Plate Of Wegman's	
17		
18	EXHIBITS MARKED 10/01/2013	
19	A-13 Id. Site Plan Drawings, 32 sheets, Last Revised 9/20/2013	
20	A-14 Id. Storm Water Management Report Revised 9/20/2013	
21	A-15 Id. Storm Water Maintenance Manual By I2A, revised 9/20/2013	
22	A-16 Id. Soil Movement Plan, By I2A Revision due 9/27/2013	
23	A-17 Id. EIS Report, by I2A, 6/21/2013	
24	A-18 Id. Acoustical Report, 6/26/2013	
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1 EXHIBITS MARKED 10/15/2013

2 A-19 Id. Section of Porous Pavement  
Including the Vase

3 A-20 Id. Porous Pavement

4 A-21 Id. Traffic Impact Analysis  
6/20/2013

5 A-22 Id. Traffic Impact Analysis  
By Maser Consulting, 3/7/2013

6 A-23 Id. Technical Appendices  
3/7/2013

7 EXHIBITS MARKED 11/06/2013

8 B-1 Id. Letter, 10/25/2013, E. Timsak

9 A-24 Id. L2A Concept Plan, SK-01, 10/29/2013

10 A-25 Id. Site Traffic Impact

11 A-26 Id. Sign Package Drawings

12 A-27 Id. Cut Sheet Booklet, 7/17/2013

13 EXHIBITS MARKED 11/25/2013

14 A-28 Id. Traffic Impact Analysis  
11/14/2013

15 EXHIBITS MARKED 01/07/2014

16 A-29 Id. Princeton Logs

17 A-30 Id. Bridgewater Logs

18 A-31 Id. Tabulation, Dolan & Dean

19 B-4 Id. Letter, 1/2/2014, Maser

20 B-5 Id. Truck Study, Maser

21 EXHIBITS MARKED 02/04/2014

22 A-32 Id. Revised Sign Drawings

23 A-33 Id. RPKL Drawings, Revised 2/4/2014

24 A-34 Id. L2A Site Plan Package/48 sheets  
Last Revised 1/24/2014

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 02/26/2014

3 A-35 Id. Updated Wegman's Architectural  
Plans, Last Revised 8/4/2014

4 A-36 Id. Updated Architectural Plans  
9 Sheets, 2/13/2014

5 A-37 Id. Hand-out, Reduced Version of Slides

6 A-38 Id. Updated Storm Water Management  
Report, Last Revised 1/24/2014

7 A-39 Id. Updated Environmental Impact  
Statement, Last Revised 12/12/2013  
By L2A

8 A-40 Id. Soil Moving Plans, 2 Sheets,  
By L2A, Last Revised 11/13/2013

9 EXHIBITS MARKED 3/18/2014

10 A-41 Id. JP2 Elevations, Front and Side,  
Buildings A and B, 3/18/2014

11 A-42 Id. Rear Elevations, Buildings A and B  
3/18/2014

12 B-6 Id. Maser Technical Review

13 EXHIBITS MARKED 3/26/2014

14 B-7 Id. Original Report

15 B-8 Id. Letter, 3/26/2014

16 A-43 Id. Sheet CO-6, Revised 1/2/2014

17 EXHIBITS MARKED 4/22/2014

18 A-44 Id. Photographs

19 B-9 Id. Communication from the  
Montvale Environmental Commission

20 EXHIBITS MARKED 5/6/2014

21 A-45 Id. L2A Plans, Revised 4/29/14, 51 Pages

22 A-46 Id. L2A Letter, 4/12/14, Summarizing Changes

23 A-47 Id. JP2 Revised Architectural, 4/11/14  
A101A, A101B

24 A-48 Id. EIS By L2A, Last Revised 1/24/14

25 A-49 Id. L2A Soil Moving Plans  
2 Sheets, Last Revised 4/29/14

Mr. Preiss's Report

Mr. Hipolit's Report

1 (Open Public Meetings Act/Agenda)  
 2 CHAIRMAN DEPINTO: First my apologies to  
 3 Mrs. Depiero. You have quite the stamina sitting here  
 4 through all these months and all these meetings.  
 5 MRS. DEPIERO: I try.  
 6 CHAIRMAN DEPINTO: I do applaud you for  
 7 that.  
 8 There are not many people that would have  
 9 endured what you have endured.  
 10 Okay. With that said, Mr. Del Vecchio.  
 11 MR. DEL VECCHIO: Good evening, Mr.  
 12 Chairman. Andy Del Vecchio, member of the firm of  
 13 Beattie, Padovano on behalf of the applicant, Montvale  
 14 Development Associates, LLC.  
 15 When we were here last, the hearings had  
 16 essentially concluded the testimony portion of the  
 17 process.  
 18 The Board had decided, after summations, and  
 19 requested that the applicant submit up-to-date plans  
 20 reflecting all the agreed upon changes through the  
 21 course of the hearings prior to this evening's  
 22 meeting. We have, in fact submitted those drawings to  
 23 the Board.  
 24 We believe we have captured virtually all of the  
 25 comments that were agreed to or requested of us during

1 the course.  
 2 The drawings were submitted and I understand, as  
 3 a result of this evening, review letters from your  
 4 engineer and planner, that they have been reviewed by  
 5 the Borough's professionals.  
 6 I would like to mark those drawings at this  
 7 point with your permission.  
 8 MR. REGAN: A-45 is the next.  
 9 MR. DEL VECCHIO: Correct. We pick up  
 10 with A-45.  
 11 CHAIRMAN DEPINTO: Excuse me. Before you  
 12 mark them into evidence, Mr. Segreto, I'm sorry, I  
 13 neglected to ask you to enter your appearance.  
 14 MR. SEGRETO: Yes. John J. Segreto from  
 15 the law firm of Segreto, Segreto & Segreto for the  
 16 objector, A & P.  
 17 CHAIRMAN DEPINTO: Thank you.  
 18 Mr. Del Vecchio, I had asked that you provide  
 19 Mr. Segreto copies of any plans that you would be  
 20 submitting to the Borough.  
 21 Have you complied with that request?  
 22 MR. DEL VECCHIO: I did submit copies or a  
 23 reduced set of copies to Mr. Segreto in advance of  
 24 this evening's meeting.  
 25 CHAIRMAN DEPINTO: Okay. Mr. Segreto, you

1 office.

2 MR. REGAN: We'll mark Mr. Preiss's report

3 of today, May 6, as B-10 and Mr. Hipolit's report also

4 dated today as B-11.

5 MR. DEL VECCHIO: With the submission of

6 the applicant's updated drawings, the applicant

7 remains available to answer any questions. But, we

8 have completed our direct case.

9 CHAIRMAN DEPINTO: Okay. Thank you.

10 I guess we're going to start with Mr. Preiss.

11 Mr. Preiss, could you please summarize your

12 technical review.

13 MR. PREISS: Yes.

14 I have reviewed the latest set of the

15 submissions, the site plans, the two sheets of the

16 architectural plan, the EIS, the letters. And, my

17 review is summarized in Exhibit B-10 which is the two

18 page letter dated May the 6th, 2014; and, then,

19 attached to it is an update of Table 1.

20 I think my previous two reviews, I prepared

21 Table 1 indicating the extent of compliance of the

22 application with the pertinent section of the land

23 development ordinance.

24 So, my review letter of July of 2013 is in the

25 first column, compliance as of 7/25/13.

1 acknowledge receipt of same?

2 MR. SEGRETO: Yes. Absolutely.

3 CHAIRMAN DEPINTO: Okay. Thank you.

4 Please continue.

5 MR. REGAN: Mr. Del Vecchio, A-45 is the

6 revised, L2A plans revised 4/29?

7 MR. DEL VECCHIO: Correct, 4/29/14,

8 consisting of 51 sheets. A-46.

9 MR. REGAN: How many sheets?

10 MR. DEL VECCHIO: 51.

11 A-46 is the L2A letter of 4/29/14 summarizing

12 the changes on those plans and addressing the comments

13 that were previously issued.

14 A-47 is the JP2 architectural revised sheets,

15 A101A and A101B dated 4/11/14.

16 A-48 is the revised EIS report dated January

17 24/14 or last revised January 24/14 prepared by L2A.

18 And, A-49 are the L2A soil moving flat soil

19 permit plans consisting of two sheets, bearing a last

20 revision date of 4/29/14.

21 And, I believe that brings current with the

22 applicant's exhibits.

23 I think we're on B-10 for Board exhibits.

24 And, I assume that you would want to mark the

25 updated reports from Mr. Preiss and Mr. Hipolit's

1 Then, after a series of changes to the plans and  
 2 extensive testimony, I updated the table that is in  
 3 the second column, compliance as of 3/24/14. That  
 4 captured most of the changes that were reflected in  
 5 the plans.

6 And then, based on the latest set of plans, I  
 7 have added a third column which is dated, which is  
 8 indicated as compliance as of 5/6/14.

9 My review, just in summary form, is that the  
 10 applicant is either in compliance with respect to the  
 11 relevant section of the ordinance or a particular  
 12 section is not applicable. In some cases, they are  
 13 compliant to date. In other words, additional  
 14 information at a subsequent part of the approval  
 15 process such as at the time of use permit or Phase 2  
 16 of the site plan application, final approval would be  
 17 sought at that particular time. That's denoted as  
 18 compliant to date.

19 And, then, in a couple of situations, because  
 20 these are technical, either technical engineering or  
 21 technical landscaping environmental issues, I have  
 22 deferred the compliance either to the Environmental  
 23 Commission or to Maser's office.

24 Just in terms of the highlights is essentially,  
 25 the conclusion is that the only waiver that is

1 requested is the waiver identified by the applicant  
 2 for which we had testimony by Mr. Steck at the prior  
 3 hearing. And, it's really for the Board to determine,  
 4 at this juncture, or upon the vote on the application,  
 5 whether that waiver should be granted.

6 MR. REGAN: Mr. Preiss, I think we  
 7 considered that alternatively as a variance --

8 MR. PREISS: Correct.

9 MR. REGAN: -- sort of approach?

10 MR. PREISS: It is. It was initially

11 identified as a waiver but it is a variance because it  
 12 is contained within the zoning ordinance.

13 MR. REGAN: And, I think Mr. Steck, in his  
 14 testimony, if I recall, addressed the criteria for  
 15 variance under the C2 standard.

16 MR. PREISS: Right. He addressed it both  
 17 as a waiver and also as a variance, yes, under the C2  
 18 standard, the Flexible C. So, you are correct, Bob.

19 In the letter -- the only issues or things that  
 20 I wanted to bring to the Board's attention is set  
 21 forth in the letter portion, the two page letter.

22 I did notice that there were two changes that  
 23 the applicant had agreed to and which are reflected in  
 24 the, in the site plan set -- the site plan set is  
 25 actually a combination of the engineering plans

1 prepared by L2A and also what has been referred to as  
 2 the hard scape plans prepared by AECOM which is the  
 3 one that is Claire Bedat, the landscape architect  
 4 testified to.

5 And, there are two changes that are shown, I  
 6 think, accurately in the L2A set which are not shown  
 7 in the AECOM set. And, I have identified the sheet.  
 8 And, those two things are the, what was formerly the  
 9 detention basin which is now been agreed to become a  
 10 wet pond. It's not shown on the hard scape plans as  
 11 the wet pond. So, that needs to be changed on the  
 12 drawing.

13 And, then there was an agreement to extend the  
 14 sidewalk adjacent to Building No. 2 of the garden  
 15 center in Phase 2 to the sidewalk on Grand Avenue.  
 16 That's shown on the L2A site plan set but that has not  
 17 been changed on the AECOM set so that needs to be  
 18 changed.

19 And then, finally, the EIS was updated but there  
 20 is some inaccurate information on Page 1, relating to  
 21 the size of the individual buildings on the Lifestyle  
 22 Center as I've indicated in the letter and that, too,  
 23 should be corrected.

24 And, finally, the total number of parking spaces  
 25 is identified as 1,165 whereas it should be 1,162.

1 So, that, that should also be changed in the  
 2 EIS.

3 CHAIRMAN DEFINTO: Okay. Thank you.

4 Mr. Del Vecchio, with respect to the changes  
 5 that Mr. Preiss is suggesting, is your client willing  
 6 to make those necessary changes?

7 MR. DEL VECCHIO: Yes. They were just  
 8 oversights. Given the magnitude of the documents and  
 9 plans, it's inevitable that sometimes they don't all  
 10 get made at the right time.

11 We will make those changes and corrections. We  
 12 thank Mr. Preiss for bringing them to our attention.  
 13 But, we will complete them so the drawings will be  
 14 perfectly compliant at that point.

15 CHAIRMAN DEFINTO: Okay. Thank you.

16 Next I'd like to hear from Mr. Hipolit with  
 17 respect to his hopefully final technical review.

18 MR. HIPOLIT: That's it. I'm done with  
 19 it. This is it.

20 CHAIRMAN DEFINTO: Mr. Hipolit, could you  
 21 please summarize your report.

22 MR. HIPOLIT: I can do that.

23 It's marked B-11. It's dated May 6th.

24 What we did was, we looked at it from a

25 condition of approval perspective. The plans that

1 were provided were revised in accordance with our  
 2 reports. So, what we did was, we summarized it.  
 3 Items No. 1 through 7 are just the generic  
 4 criteria of what they're proposing. You have heard  
 5 that throughout the testimony.  
 6 Condition of approval, I have Items 8 through 52  
 7 which are conditions that we found by reviewing -- in  
 8 our letter we summarized what we reviewed.  
 9 Our Exhibit 1 goes over the plans we reviewed,  
 10 all the new submissions. We also took all the minutes  
 11 from all the meetings that were provided to us and  
 12 went through those and picked off as many of the  
 13 conditions as we could find in there. And, we  
 14 incorporated it into one letter.  
 15 It's your choice, I can go through them all if  
 16 you want.  
 17 CHAIRMAN DEPINTO: Well, first let me ask  
 18 Mr. Del Vecchio.  
 19 Mr. Del Vecchio, have you received a copy of Mr.  
 20 Hippolitt's report?  
 21 MR. DEL VECCHIO: I have.  
 22 CHAIRMAN DEPINTO: And, with respect to  
 23 those items which he's referring to, is it your  
 24 client's position that they are going to comply with  
 25 all of the requests made by Mr. Hippolitt in that

1 report?  
 2 MR. DEL VECCHIO: We just have the need to  
 3 discuss two of the proposed conditions listed in Mr.  
 4 Hippolitt's report. Those are conditions numbered 19  
 5 and 42, I believe.  
 6 CHAIRMAN DEPINTO: Okay. Mr. Hippolitt,  
 7 what is set forth in Item 19.  
 8 MR. HIPOLITT: Yeah. Item 19 refers to the  
 9 improvements off of their site. So, we have had a lot  
 10 of discussions about traffic with respect to this  
 11 application.  
 12 Major improvements are Spring Valley Road and  
 13 Grand Avenue and Spring Valley Road and Summit Avenue.  
 14 Minor improvements to intersections are Chestnut  
 15 Ridge and Summit, Chestnut Ridge and Grand,  
 16 Paragon/Phelps and Grand and the Garden State Parkway  
 17 off ramp.  
 18 CHAIRMAN DEPINTO: Mr. Del Vecchio, what  
 19 is your position with regard to that item.  
 20 MR. DEL VECCHIO: We agree with everything  
 21 in Comment 19.  
 22 The only item that we think is, doesn't match  
 23 the ordinance requirement is a statement in there that  
 24 says the improvements shall be completed prior to the  
 25 issuance of a Certificate of Occupancy.

1 The ordinance provides several options. If the  
2 Borough is going to construct the improvements, then  
3 the developer is obligated to post the required monies  
4 to fund those improvements prior to the issuance of  
5 the building permit.

6 Obviously, it's both in the Borough's best  
7 interest and applicant's best interest to have those  
8 improvements done as soon as possible. And, we look  
9 forward to working cooperatively with you to get that  
10 done.

11 As a condition of approval, we think the  
12 condition should match the ordinance. But, we are  
13 representing that we will work cooperatively with you  
14 to get those improvements done as soon as possible.

15 CHAIRMAN DEPINTO: Mr. Regan, your  
16 interpretation of the ordinance?

17 MR. REGAN: I agree with what Mr. Del  
18 Vecchio is saying, the applicant funding the  
19 improvements. It's not a prerequisite, under the  
20 ordinance, that the improvements be constructed in  
21 order for the applicant to obtain a CO. That's how  
22 the ordinance reads.

23 CHAIRMAN DEPINTO: And, you're proposing  
24 to comply with the ordinance?

25 MR. DEL VECCHIO: And hopefully to do

1 better than the ordinance in a spirit of cooperation  
2 in working with the community after we get our  
3 approvals to build the best project for us and the  
4 best project for you which means getting the road  
5 improvements done sooner.

6 CHAIRMAN DEPINTO: Mr. Hipolit, do you  
7 find that acceptable?

8 MR. HIPOLIT: It is -- find acceptable but  
9 I have put on the record a number of times that it  
10 does need to be done before the buildings are open.

11 MR. REGAN: I say the same thing, Mr.  
12 Chairman.

13 CHAIRMAN DEPINTO: I believe you're  
14 putting on the record that, in your professional  
15 opinion, it should be done.

16 MR. HIPOLIT: Correct.

17 CHAIRMAN DEPINTO: With respect to the  
18 plans compliance with the ordinance --

19 MR. HIPOLIT: They comply.

20 CHAIRMAN DEPINTO: We have opinion from  
21 the board attorney that it does comply.

22 MR. HIPOLIT: Correct.

23 CHAIRMAN DEPINTO: I think we have to  
24 depend upon his interpretation of the ordinance and,  
25 again, be cognizant of your recommendation.

1 I'm sorry. You had a question?

2 MR. LINTNER: Yeah. To me this, this --  
3 these traffic improvements are critical to this.

4 MR. STEFANELLI: Part and parcel.

5 MR. LINTNER: The applicant, if this is  
6 approved, they're going to get started on construction  
7 immediately. And, if the roads aren't done by the  
8 time they're ready to open their door, we are going to  
9 be under so much scrutiny here.

10 MR. REGAN: It's not going to work.

11 MR. LINTNER: It will not work.

12 This is critical to us. And, I don't see how we  
13 can allow, how we can't protect ourselves that way.

14 I mean it's, for any applicant, it's, the longer  
15 it takes to finish the roads is almost a benefit to  
16 all this. It's less money spent and it's over a  
17 period of time.

18 I think we need to have these done before these,  
19 this facility opens, at least the major intersections.

20 MR. DEL VECCHIO: And, actually, I think  
21 that's why the ordinance is probably structured the  
22 way it is. Nobody believes developers. I represent a  
23 lot of them. Sorry.

24 But, I think the ordinance, because it allows  
25 for a contribution to be paid and allows the

1 municipality to undertake the improvements, it puts  
2 the trust in the municipal infrastructure, the  
3 professionals, their teams to go out and build these.

4 And, it says you shall not get a building permit  
5 unless you pay all of the money, not just some but the  
6 full estimate has to be paid as I read the ordinance  
7 before you get a building permit. So, you'll have all  
8 the funds readily available and be able to move as  
9 fast as you want to move as a municipality.

10 I don't mean you, personally, Mr. Lintner.

11 MR. LINTNER: What the problem is, is, if  
12 the stores open, any store opens before the traffic --  
13 before the improvements are complete, I would have a  
14 very difficult time telling the community, well, don't  
15 worry, we got the money. Don't worry about the  
16 traffic jam, we're covered. You know, we're just  
17 waiting for County approval or waiting for this  
18 approval.

19 I am just concerned with this.

20 MR. DEL VECCHIO: I don't know if this  
21 helps your thought process but it's probably at least  
22 two years from the date of building permit before it's  
23 likely you see any store open. There is a huge, huge  
24 amount of site work that has to happen for this to be  
25 ready to start building a project.

1 MR. LINTNER: I understand that.

2 But, we're dealing with the Parkway. We're  
3 dealing with the County. We're dealing with the town.  
4 We're dealing with engineering.

5 MR. DEL VECCHIO: Well, the major  
6 intersections are all going to be essentially --  
7 they're County intersections but the County has  
8 essentially, as I understand our County approval  
9 process, delegated primary responsibility back to the  
10 municipal engineer to deal with those intersections  
11 subject to their oversight, of course.

12 CHAIRMAN DEPINTO: Let's, let's see what  
13 progress we have made thus far.

14 Mr. Hipolit, you have reported that you have  
15 been in discussions with the County with regards to  
16 the proposed improvements to the various  
17 intersections.

18 Where does the County stand on your preliminary  
19 presentation to them? And, what is your estimation as  
20 to the merging of doing the improvements on the County  
21 roads while the site development work commences.

22 MR. HIPOLIT: The County has agreed in  
23 concept to allowing the Borough to take the lead in  
24 the project with the fact that the Borough would  
25 design it, the County would approve it, we would file

1 the utility process and right of way process through  
2 the Borough, again submitting it back to the County so  
3 they can approve it and then the Borough would get  
4 authorization from the County to go to bid and  
5 actually construct the improvements on the County  
6 roads.

7 And, then, when it's done, the Borough would  
8 certify, through my office, back to the County that  
9 they were built in accordance with all the safety  
10 stuff that goes along with that.

11 We believe, in seeing that Mr. Timsak's office,  
12 and engineering, Joe Femia's office, a number of  
13 times, that the process, even though the Borough is  
14 taking it over, it's much faster than the County  
15 process will take about 15 to 18 months from the day  
16 we start design till the plans are ready to go to bid.

17 At the Borough's level, the Borough, through our  
18 office, can prepare plans for bids and specifications  
19 relatively fast, probably within a three to four month  
20 period saying that the County process, even though  
21 they're not designing it, still takes time. It's got  
22 to go to engineering, it's got to go to planning, it's  
23 got to go to traffic. And, it has to go to the  
24 freeholders for approval. So, that's going to take  
25 time.

1 We also have to be cognizant --  
 2 CHAIRMAN DEPIUNTO: That's within that 15  
 3 to 18 month?

4 MR. HIPOLIT: Right. And, we also have to  
 5 go through the right-of-way process because there is  
 6 some right of way. It's probably required. And, we  
 7 also have to go through the utility process. So, we  
 8 believe that the fastest it could happen would be in  
 9 that 15 to 18 month period.

10 As I said before we believe the sooner we can  
 11 start that design process, the better.

12 If it was all Borough roads, I would feel more  
 13 confident that we can meet any schedule proposed.

14 It's not. It's County roads.

15 So, no matter how fast we design it, no matter  
 16 how fast we get it ready for bid, until the County  
 17 says go, we can't go.

18 I have always used Chestnut Ridge Road widening  
 19 as an example. That's been a project on the books  
 20 since I was in my 20s, starting as your Borough  
 21 Engineer going back in the early '90s. And, we're  
 22 just getting into a point where they're almost ready  
 23 to say yes, you can -- no, the funding for it. We  
 24 don't have the funding authorized for it yet.

25 CHAIRMAN DEPIUNTO: Mr. Regan, how is the

1 Borough protected?

2 MR. REGAN: Well, the Borough is protected  
 3 under the ordinance in the sense that if the applicant  
 4 chooses to do so, it can simply post the money for the  
 5 improvements and allow the municipality to proceed.

6 There's no requirement that the improvements  
 7 have to be in prior to the issuance of a CO. This was  
 8 something that was, in the past, considered when the  
 9 ordinance was in various stages of development. And,  
 10 it was determined and agreed that, if the funding is  
 11 provided, the responsibility would be on the Borough  
 12 and/or the County in ensuring that the improvements  
 13 are constructed.

14 MR. HIPOLIT: Well, we had, we had -- the  
 15 one thing that happened with Chestnut Ridge Road,  
 16 using my example again. With Chestnut Ridge Road, it  
 17 was going nowhere because the County didn't want to  
 18 fund the initial engineering for it. So the County,  
 19 through the Mayor's office said, if the Borough is  
 20 willing to commit to fund the engineering, we could  
 21 move this process much faster. The County -- and, the  
 22 Borough agreed last year and, low and behold, the  
 23 design is way past 50 percent at this point.  
 24 That's -- it would never have advanced.

25 MR. REGAN: It's going to be really

1 critical to have coordination with the County.

2 My own personal experience on something. Some  
3 of you may be familiar with River Road in Edgewater,  
4 with all the development that's gone on in Edgewater  
5 since the mid 1990s. River Road, for those of you who  
6 have ancient history like I do, having represented  
7 that municipality, it was, at one time, just a two  
8 lane road. And, when all the development went in and  
9 the big common shopping center and a number of other  
10 things, the County and the Borough worked together in  
11 improving that road which was funded by developers.  
12 Okay.

13 What we would do, on a weekly basis, and this is  
14 when the County had their offices in the Sanzari  
15 Building before they built One Bergen County Plaza, we  
16 would meet weekly with Farouk Ahmad, Gary Ascolese and  
17 other County officials as well as representatives of  
18 the Borough, the Municipal Engineer on a weekly basis  
19 to keep track of the improvements. And, I don't think  
20 there was -- over a course of a year, we probably met  
21 50 times.

22 MR. HIPOLIT: I was --

23 MR. REGAN: I think your office was  
24 involved.

25 MR. HIPOLIT: I wasn't with Boswell then.

1 MR. REGAN: And, it worked because it  
2 was -- everyone was focused, like a laser beam, on, on  
3 tracking the project. And, every week there was a  
4 different issue. There was condemnation involved.

5 MR. HIPOLIT: Oh, yeah.

6 MR. REGAN: Which we fortunately don't  
7 have here, I don't think.

8 MR. HIPOLIT: That was developer designed,  
9 developer built. It was an oversight.

10 MR. REGAN: It was critical to stay on top  
11 of it on a weekly basis to -- and, I think the road  
12 was done in less than 18 months.

13 I think that was really a bigger project --

14 MR. HIPOLIT: Way bigger.

15 MR. REGAN: -- in terms of roadway  
16 improvements than what we're talking about here.  
17 It's doable but you have to focus on it like a  
18 laser.

19 CHAIRMAN DEPINTO: Let's talk about  
20 projected dates of commencement of design work that's  
21 necessary in connection with the project.

22 Presuming that an improvement is granted by this  
23 Board, and a resolution is adopted within let's say  
24 the next 60 days or so, when would your office be in a  
25 position to start the required design work?

1 MR. HIPOLIT: We told the County we would  
2 start it as soon as money was posted. So, we would  
3 start it immediately. But, we can't start it without  
4 money posted for engineering services.

5 CHAIRMAN DEPINTO: I understand that.  
6 And, with regard to the time line for the  
7 completion of that design for submission to the  
8 County, how long is it going to take for your firm to  
9 do the design.

10 MR. HIPOLIT: We worked those details out  
11 with the County officers, Erik Trmsak and Joe Femla.  
12 In this preliminary plan is three to 6 months for  
13 approval of the Borough's concept to the County on the  
14 County roads.

15 So it would be the County approving, saying yes,  
16 this concept can be approved and we believe that it  
17 could be constructed this way. It's a big part of the  
18 process.

19 Once that's done, the next three to 6 months  
20 would be to identify utility conflicts and notify  
21 utility companies they have to move their utilities,  
22 identify right-of-way conflicts and start discussions  
23 through the Borough attorney's office to obtain  
24 right-of-way or easements and then prepare plans, what  
25 we call 50 percent construction plans.

1 And, that's a significant process for the  
2 County. The County only has a few engineers and they  
3 have seven towns so it takes some time.

4 CHAIRMAN DEPINTO: So, at this point,  
5 you're six to 12 months away to reach that point.

6 MR. HIPOLIT: Correct. And, then, the  
7 final, let's say 6 months, which would take you to the  
8 end of December of '15 would be to get the plans from  
9 50 percent to 90 percent complete.

10 That's when the estimate for the project, the  
11 County freeholders would get involved with approving  
12 the plan. The utility companies are notified that  
13 they have no choice at this point but to move the  
14 utilities. Agreements could be drawn up for  
15 right-of-way. And, in December of 2015, we would be  
16 ready, actually, to get it authorized to go to bid and  
17 have utility company and right-of-way discussions and  
18 full boards to take place to actually start  
19 construction.

20 CHAIRMAN DEPINTO: So, if it took 18  
21 months to get to that point and all improvements were  
22 in place, how long would it take to construct the  
23 improvements.

24 MR. HIPOLIT: We're not done yet. So, if  
25 we get to the 18 month point and everything is good

1 and we have plans that are ready to go, it would take  
2 about three months to bid it through the County --

3 You know, even though it's being bid through the  
4 Borough, we would bid it. It would take about a month  
5 and a half to being processed. Then we have to go to  
6 the County for concurrence because it is their road.

7 So, it's going to take about another two to three  
8 months. And, then we would be ready for an actual  
9 award.

10 The County would concur. There would be a  
11 shared service agreement. There would be all kinds of  
12 conditions between County Counsel and Borough Counsel  
13 and Mayor and Council.

14 When all that's done, they would say, okay, now  
15 go through and shop it. And, then it's going to take,  
16 you know, 6 months to a year to construct.

17 CHAIRMAN DEPINTO: So, it's two years to  
18 the point of start construction.

19 MR. HIPOLIT: Yeah.

20 CHAIRMAN DEPINTO: And, thereafter --

21 MR. REGAN: Spring of 2016.

22 MR. HIPOLIT: Yeah. We, we estimate and  
23 told the County that we could be done with  
24 construction no earlier than December of 2016 or more  
25 realistically July of 2017.

1 CHAIRMAN DEPINTO: Mr. Del Vecchio, your  
2 client's intent, obviously, is to build. But, what is  
3 the time line that your client has projected for the  
4 construction and the first Certificate of Occupancy?

5 MR. DEL VECCHIO: Unfortunately, we have a  
6 wild card there in the on-going litigation that is  
7 already in process. And, we anticipate further  
8 litigation, if this Board were to act favorably on the  
9 application.

10 Litigation right now in the County is probably  
11 an 8 to 12 month time period in an optimistic world,  
12 just to get through the Law Division.

13 So, you add probably another year to that in  
14 order to get through the Appellate Division. So, just  
15 getting through the litigation may take 2 years from  
16 now to do that.

17 So, between the litigation and the 18 months  
18 just to get the plans, we think we can, if there is an  
19 approval, we can work out an agreement with the  
20 Borough as to perhaps an earlier trigger date for  
21 posting some monies in the Building Department and the  
22 building permit to ensure that your time frame is met.

23 But, we, we just are not in a position to accept  
24 a condition that attaches to out Certificate of  
25 Occupancy which doesn't stay consistent with the

1 ordinance potentially since we have likely litigation  
2 on the horizon.

3 MR. REGAN: Let me ask you a question, Mr.  
4 Del Vecchio.

5 While litigation is on-going, is there any  
6 intention to do construction activity?

7 MR. DEL VECCHIO: It's very unlikely, it's  
8 very unlikely that construction will proceed while  
9 litigation is pending.

10 It has an impact on the financing of the  
11 project. And, I don't know if we can get over the  
12 financing impact.

13 CHAIRMAN DEWINTO: Mr. Hipolit.

14 MR. HIPOLIT: I have said everything. I  
15 have stated my opinion on the record.

16 MR. REGAN: Your time table brings us to  
17 late 2016.

18 MR. HIPOLIT: Or mid 2017.

19 MR. REGAN: So, almost 3 years. So,  
20 litigation is probably two.

21 MR. HIPOLIT: You know --

22 MR. REGAN: And then to build it.

23 MR. HIPOLIT: The problem that the Borough  
24 has and, and I have to be protective of the Borough  
25 not the applicant is they are not our roads.

1 So, right now we have Mr. Timeak in planning and  
2 Mr. Femla in engineering. I don't know in two years  
3 from now if they're going to be in their positions.

4 They may be. I don't know if the freeholders are  
5 going to change from republican to democrat or  
6 democrat to republican. I don't know. But, if

7 somebody new gets in there, they may not like our  
8 agreement. So, if we don't have an agreement in place  
9 with the County, which states what I have just told  
10 you, there is no guaranty that a new administration  
11 coming in in 2015 or '16 will say, yeah, sorry, we're  
12 going to take it inside. We're going to bring in 30  
13 engineers and do it inside.

14 I mean, we have lived -- I mean, all of us have  
15 been here, most of us have been here. We lived County  
16 improvements in the Borough of Montvale. I'm  
17 struggling, the last one, I think, was Grand and  
18 Chestnut Ridge. And, that was another one that  
19 started in the late '80s and finished it in the late  
20 '90s.

21 MR. REGAN: I was involved, in the early  
22 1980s, in the widening of Chestnut Ridge Road and the  
23 condemnation cases.

24 MR. HIPOLIT: It's a wild card. Until we  
25 have monies posted, we can't get an agreement with the

1 County because the County knows that there's no monies  
2 posted so it's a fake agreement.

3 Once monies are posted, you can enter into a  
4 shared services agreement and now every administration  
5 is pretty much stuck with it going forward.

6 When Mr. --

7 CHAIRMAN DEPINTO: Let me go to Mr.

8 Preiss.

9 Mr. Preiss, obviously, you are very involved in  
10 the crafting of the ordinance for the PUD which  
11 contemplated improvements to the road network. And,  
12 you were involved in this language more specifically  
13 dealing with that.

14 What are your comments relative to this?

15 MR. PREISS: Yes. My recollection is that  
16 that was a part of the ordinance that I wasn't heavily  
17 involved in. But, I, I do agree with Bob that it was  
18 a lot of discussion about the timing and this issue  
19 came up. And, I think the language that's in the  
20 ordinance just related to the payment of the funds,  
21 not the actual improvements being complete.

22 So, I'm in agreement with Bob about that, that  
23 technically they do comply.

24 The one thing that I am struggling with as I sit  
25 here and I certainly understand the applicant's

1 position is, all of the traffic testimony is dependent  
2 on those improvements being made.

3 So, I'm not saying that the Board can't rely  
4 upon that because there's every anticipation that, I  
5 think, based on what we have heard this evening, that  
6 those improvements will be in place.

7 But, I can't sit here as the planner and

8 indicate that traffic testimony will hold up and, you  
9 know, all of the intersections are going to operate  
10 smoothly and truck deliveries are going to be made as  
11 testified to in, you know, by the traffic engineer if  
12 those improvements aren't completed at the time that  
13 the Certificate of Occupancy is granted.

14 I don't know, however, that that is a sufficient  
15 basis, you know, to insist upon this being, you know,  
16 one of the conditions. I think we have to go back to  
17 the ordinance.

18 MR. REGAN: I think the ordinance  
19 controls.

20 MR. PREISS: I think the ordinance does  
21 control. It does control.

22 And, I think that their traffic engineer is, I  
23 think is entitled to rely upon that also.

24 So...

25 CHAIRMAN DEPINTO: Andy.

1 MR. HIPOLIT: The only question -- I would  
2 say, I agree, the ordinance controls. There's no  
3 doubt. I'm not questioning the ordinance.

4 But, couldn't the applicant offer to, if they  
5 got an approval, advance some of the monies to start  
6 with what the County wants, as a design. If they were  
7 to do that, then the Mayor and Council that currently  
8 sits in Montvale and the freeholders that currently  
9 sit in Bergen County, which are going to be there at  
10 least to the end of the year can enter into a shared  
11 services agreement to complete that work with a  
12 schedule and time frame. We're locked in.

13 So, you're not asking for all the money just the  
14 advancement of the design portion.

15 CHAIRMAN DEPTWTO: Well, that certainly  
16 would seem reasonable in light of the fact that the  
17 time line is extremely tight on both sides.

18 MR. HIPOLIT: Right.

19 CHAIRMAN DEPTWTO: I think you have, you  
20 know, set forth what it is on the government's side.  
21 And, I believe, on behalf of the applicant, Mr. Del  
22 Vecchio has set forth what is his client's goal in  
23 terms of starting construction or getting through the  
24 litigation and then starting the construction.

25 Now, they, they match fairly closely, as I could

1 follow both of you. But, I think we have to do  
2 whatever we possibly can do in recognition of the fact  
3 that government moves slowly.

4 And, we have to be honest, I think advancing the  
5 fees necessary to start the design work is absolutely  
6 critical. I don't think it's a question of, we have  
7 no choice.

8 If, if this Board is going to act affirmatively,  
9 it has to rely upon that representation that money  
10 will be presented so that your firm could start work  
11 immediately in order to match up these two time lines.

12 And, as Mr. Preiss indicated, if we don't make  
13 those public improvements, and this Board relied upon  
14 those public improvements to accommodate the truck  
15 traffic and the vehicle generation and all the other  
16 things that we need, we're going to have a problem.  
17 So, we have no choice.

18 And, Mr. Del Vecchio, your client's position  
19 relative to that recommendation of Mr. Hipolitt?

20 MR. DEL VECCHIO: Mr. Chairman, we are  
21 willing to work cooperatively with the Borough to try  
22 to get those improvements done as soon as possible.

23 We need to understand what the Borough's  
24 approval is, what any challenge that may be  
25 forthcoming from A & P that will potentially impact

1 the, impact the timing of when this project should be  
2 free for construction.

3 We understand Mr. Hipolit's time frame. And,  
4 you know, we will try to work with the Borough  
5 cooperatively to get there.

6 I think it can be handled in the Developer's  
7 Agreement to ensure the timing and consistency with  
8 the ordinance and also as a goal to work cooperatively  
9 with you to make, to make sure those improvements are  
10 done as soon as possible.

11 I don't necessarily share Mr. Hipolit's concern  
12 on binding the County. We, obviously, are going to  
13 need a County approval that we are awaiting.

14 And, just like the municipality has a  
15 Developer's Agreement, I think the County can be bound  
16 through the County Developer's Agreement with the  
17 applicant as to how the road improvements may, should  
18 or could be handled and what their approval requires.

19 So that the binding nature of the agreement that Mr.  
20 Hipolit seeks can be achieved through the Developer's  
21 Agreement with the applicant which can be done now and  
22 not need to worry about future changes in personnel  
23 or, or politics, if you will, at the County level.

24 So, I understand your concern. I think, if we  
25 work cooperatively, we can achieve what we all want.

1 We don't want a project that doesn't function when we  
2 open the doors. You don't want a road system that  
3 doesn't function when we open the doors.

4 We understand what the requirements are. We  
5 think, if we agree to work cooperatively, we can get  
6 each other to the point that is appropriate but we  
7 need to, at least for purposes of the resolution, stay  
8 true to the ordinance so that we don't have any issues  
9 on appeal.

10 CHAIRMAN DEPINTO: Okay. But, you're not  
11 taking exception to Mr. Hipolit's projection on the  
12 time required to get the necessary approvals, are you?

13 MR. DEL VECCHIO: Honestly, this is the  
14 first time I'm hearing it. I don't have any reason to  
15 question Mr. Hipolit's representation. I'm hearing it  
16 for the first time this evening.

17 It sounds about right.

18 Is it possible to do it faster? Is it possible  
19 it could happen slower? I'm sure.

20 If it requires us to be the mechanism as Mr.  
21 Regan had recounted in Edgewater to require weekly  
22 meetings with the County to make sure the project  
23 happens timely, we're willing to lend our support and  
24 cooperate and do that so we're kind of the  
25 facilitator.

1 We will do what we need to to try to help the  
2 road improvements happen.

3 CHAIRMAN DEPINTO: Which I understand.

4 But, I think it really gets down to the fundamental  
5 question of posting fees necessary to have the Borough  
6 Engineer start the design work that's necessary in  
7 connection with the anticipated improvements because I  
8 think the longer we wait to authorize Maser to start  
9 that work, that's only going to lengthen this whole  
10 process to the point if we're relying upon the  
11 ordinance and we're ready to give a CO to Mr. Wegman  
12 and we're lagging behind because we didn't have the  
13 money to pay for the design that's necessary for the  
14 County to make their decision, we have a real problem  
15 on our hands.

16 And, the only way I can think of addressing that  
17 is to, upon the passage of the ordinance, to  
18 immediately authorize Maser to start the design and,  
19 in order to do so, funds have to be available to pay  
20 them to do that.

21 MR. DEL VECCHIO: Again, we understand

22 that request, Mr. Chairman. We have unspecified and  
23 unknown litigation that's likely to be coming. It's  
24 going to add a lot of buffer to the time frame that  
25 Mr. Hippolit puts forth, a lot of buffer.

1 I wish it weren't so. I wish I could represent  
2 to you and my client that I have some special powers  
3 that can move cases through Bergen County faster, I  
4 don't. It's going to take awhile to get through that  
5 process.

6 We understand that you may need or prefer to  
7 have some of the traffic contribution monies posted  
8 prior to the issuance or in advance of the issuance of  
9 a building permit, not at the building permit so that  
10 Mr. Hippolit's time frame or whatever the time frame is  
11 necessary to achieve the traffic improvements can be  
12 achieved, we're willing to work with you to try to get  
13 there. And, if it means posting monies at some point  
14 earlier than we might be legally obligated, it's  
15 something we can work cooperatively towards.

16 But, to have it appear in a resolution of  
17 approval or as a specific condition, again, we are  
18 very concerned about not staying true to the ordinance  
19 not for our own protection but for the protection of  
20 the approval. And, I think we do a disservice by not  
21 doing that.

22 CHAIRMAN DEPINTO: Okay. Mr. Hippolit, did

23 you have something else to say?

24 MR. HIPPOLIT: No, I have nothing else.

25 CHAIRMAN DEPINTO: Mr. Preiss.

MR. PREISS: No.

CHAIRMAN DEPINTO: Mr. Regan.

MR. REGAN: No. There was a discussion, I think Mr. Hipolit will agree, raised a second condition.

Mr. Del Vecchio had raised a second condition.

CHAIRMAN DEPINTO: There was another point?

MR. DEL VECCHIO: Yes. Item 42 just has to do with the hours of operation. It is in fact correct that Wegman's indicated their operating hours were 6:00 a.m. to midnight.

The only correction we believe is necessary is that Wegman's representative did indicate they had personnel in the store overnight to clean, stock shelves and do other normal items that they would do in the overnight hours when customers weren't present.

MR. HIPOLIT: I agree with that.

MR. DEL VECCHIO: For just clarification purposes, we don't think 42 was worded exactly as the testimony appeared. And, we just wanted to make sure that we all agreed with what the testimony was and what the condition should be.

MR. HIPOLIT: Well, we just modified the

condition to have, after Sentence 1, Sentence 2 would say, the applicant agreed to establish store hours for employees for cleaning, loading, unloading, from midnight to 6:00 a.m.. We would add a sentence.

I agree, they did testify they would be working overnight, you know, there would be trucks all parked up, they would be unloading trucks, loading stuff up that they would send out, recyclables.

MR. DEL VECCHIO: Right.

MR. HIPOLIT: So, yes, we would actually add a sentence. I have no problem with that.

CHAIRMAN DEPINTO: Okay. And, I believe that's what the testimony was also.

Mr. Preiss.

MR. PREISS: Yeah. I just have one other thing. On Item 40, I agree with that condition.

I just want to point out, that's regarding the number of bike racks, is the most recent plans indicate that 26 bike racks will be provided for the entire site.

MR. HIPOLIT: It's 26 now?

MR. PREISS: Yes.

MR. DEL VECCHIO: We went overboard. Sorry.

CHAIRMAN DEPINTO: Okay. Before we open

1 the meeting to the public and allow Mr. Segreto to  
2 comment on the testimony that he has heard this  
3 evening, I do want to poll the Board.

4 And, I'm going to start with Mr. Stefanelli.

5 Mr. Stefanelli, I know, from comments that you  
6 have made during public hearings, that you are  
7 concerned about the traffic. And, so that it could be  
8 properly incorporated in a resolution.

9 And, this is partial deliberation, your comments  
10 with respect to the traffic and the time lines that  
11 were projected both by Mr. Hipolit and by Mr. Del  
12 Vecchio representing the applicant.

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

14 I, I am concerned like most of the other Board  
15 Members, including Andy, is that in order for this to  
16 be successful, I believe that the road improvements  
17 got to be completed six months before we open.

18 So, the question is, how do we set that schedule  
19 and how do we keep the cash.

20 I don't want any construction going on while  
21 opening Wegman's. That's, that's almost -- the  
22 intersections have to be completed, you know.

23 And, that's my belief. I think that's what we  
24 have said all along.

25 Having construction during or completing those

1 intersections is crucial because we made commitments  
2 to the community. And, I think, I think we all sat  
3 here and put things on the record. And, I want to  
4 make sure that we complete that.

5 The question I have is that Andy said, you know,  
6 and in cooperation and, you know, and I think Mr.  
7 Chairman said advance funding is required.

8 Mine is that we should be able to put a schedule  
9 together, including the County, the developer.

10 Because, I don't have a problem turning it over to the  
11 developer and say, here, in order for you to open  
12 those stores, you're going to have to have all the  
13 improvements. And, I would have had him take the  
14 money, take the engineering and let him do it all.

15 MR. HIPOLIT: The County won't allow that.  
16 We already had that discussion.

17 MR. STEFANELLI: But, that's my position.

18 CHAIRMAN DEPINTO: Okay.

19 MR. STEFANELLI: I think that clearly,  
20 that this can happen. You know, Montvale roads are  
21 terrible now.

22 CHAIRMAN DEPINTO: Okay. Mr. Vogt.

23 MR. VOGT: Thank you, Mr. Chairman.

24 I think it's in the interest of the applicant as  
25 well that the road improvements are done by the time

1 they open the doors. Whether or not they should be  
2 done six months before, that's questionable. But, I  
3 think it's advantageous for both that they are done at  
4 the time that they open the doors.

5 CHAIRMAN DEPINTO: Okay. Thank you.  
6 Mr. Webber.

7 MR. WEBBER: To me, the road improvements  
8 are a deal breaker. It's imperative that they are  
9 done prior to the opening.

10 The traffic that is projected, personally, I  
11 don't believe in. I think it's going to be way more  
12 when they open up a flagship, 140,000 square foot  
13 Wegman's. The amount of people that are going to come  
14 to there will just inundate us if we don't have those  
15 intersections a hundred percent complete.

16 You know, especially if it's opening during the  
17 summer rush, on a Sunday, the Garden State Parkway  
18 which backs up to the park and ride, people are going  
19 to be coming off to go to the Wegman's because it has  
20 a tremendous, super food court. It's going to be a  
21 destination place. And, we will not be able to handle  
22 the traffic with the schools, with the local  
23 businesses, with the added volume of houses that are  
24 coming on to the market.

25 It needs to be done prior to. How we do that,

1 I'm not exactly sure.

2 If we can put in a stop construction delay for  
3 six months while we get this done, for the County  
4 approvals, I don't know how it's worded. I'm sure  
5 that somebody else could figure that out. But, it  
6 needs to be done prior to.

7 CHAIRMAN DEPINTO: Okay. Very good.  
8 Thank you.

9 Mr. Lintner.

10 MR. LINTNER: Obviously, I'm in agreement.  
11 One of the things that we need to do, as the Board  
12 here is, one of the duties we have is to protect the  
13 interests of the residents. And, I think this, in  
14 itself, does not protect the residents' interests.

15 As a matter of fact, this is the No. 1 item  
16 that's been discussed at length by the residents over  
17 the past almost two years now.

18 I don't know what the solution is. I think your  
19 suggestion of some payment, of some payment to get the  
20 preliminary engineering started makes perfect sense.  
21 I don't know what the value of that is but it  
22 certainly helps the time line to get this traffic work  
23 complete.

24 If the applicant is going to wait until all this  
25 litigation is done and we're not going to get started

1 before 12, 18, 24 months, we'll never catch up. So, I  
2 think we need to do something. And, some funding of  
3 preliminary engineering makes sense to me.

4 CHAIRMAN DEPIWTO: Thank you.

5 Mrs. Cudequest.

6 COUNCILWOMAN CUDEQUEST: I agree with  
7 everything that's been said so far. I don't know what  
8 the first couple of Planning Board meetings were  
9 because I had stepped off the Planning Board at that  
10 time.

11 But, as a Council, the governing body took a lot  
12 of heat in December and again in March. And, most of  
13 it, all of it had to do with traffic and the size of  
14 this flagship store.

15 So, I think that if these improvements are not  
16 done, I think that the heat, while it's not in the  
17 room right now, it's going to come back to our Mayor  
18 and Council meetings. Not that we can't withstand  
19 heat but I would rather not have to deal with it.

20 I agree with what Mr. Hipolit is saying in  
21 regards to our present Mayor and Council, our present  
22 freeholders. I know that the Mayor would make it his  
23 business to visit weekly, if that's the need, to the  
24 County to get these improvements done and to oversee  
25 that.

1 So, I think the sooner we can get plans provided  
2 to the County and okay from the County, I think we  
3 would be in much better shape.

4 Thank you.

5 Mr. Teagno.

6 MR. TEAGNO: I agree with what was said by  
7 everyone else. The road improvements, they have to be  
8 completed first.

9 CHAIRMAN DEPIWTO: Thank you.

10 Mr. Culhane.

11 MR. CULHANE: I agree also with the  
12 comments.

13 If I remember correctly, I raised this issue  
14 myself, at the last meeting, because where are we with  
15 the road design. And, the sense I got from Andy is,  
16 yes, it's almost nowhere.

17 No. 2, what I think Andy should be giving us,  
18 the schedule, let's part out a schedule so we have  
19 something to look at as opposed to talk to.

20 So, I would like to see the schedule.

21 Another thing that Andy mentioned in the past  
22 and potentially a wild card is how much utility work  
23 is going to be done and what kind of a time frame can  
24 Andy project that the utility company is going to do  
25 the work. Because, I remember, it's a big variable.

1 So, now I got a big variable inside of a  
2 relatively tight schedule.

3 I don't like a big variable. I have to have  
4 some sort of what is it, what am I dealing with.

5 But, the bottom line is, as everybody says, we  
6 need the road improvements in place before we have an  
7 operation.

8 So, what everybody is saying is basically the  
9 same thing, as soon as the design gets started, the  
10 better off we are.

11 CHAIRMAN DEPINTO: Okay. Thank you.  
12 Mr. Fette.

13 MR. FETTE: I agree with Mr. Culhane and  
14 the other comments on getting the road improvements  
15 but really for a different reason.

16 Given the scope of this project, you're just  
17 going to have an unbelievable amount of construction  
18 vehicles. I'm not even talking about Day 1 when they  
19 open and you get customers coming in. You're just  
20 going to have, you're going to have a lot of trucks  
21 coming in, out, soil movement. Everything is going to  
22 be going on.

23 I think the road improvements need to be done as  
24 far in advance as possible to accommodate the volume  
25 of construction equipment before we even open. So,

1 the earlier the better.

2 CHAIRMAN DEPINTO: Okay. Very good.

3 I think, at this time, I'm going to open the  
4 meeting to the public.

5 The Chair will entertain a motion to do so.

6 COUNCILWOMAN CUDEQUEST: So move.

7 MR. VOGT: So move.

8 CHAIRMAN DEPINTO: Mrs. Cudequest,  
9 seconded Mr. Vogt.

10 Anyone from the public?

11 Mr. Segreto.

12 MR. SEGRETO: No, I don't have any  
13 questions.

14 CHAIRMAN DEPINTO: So, you're done?

15 MR. SEGRETO: Yes.

16 CHAIRMAN DEPINTO: Okay. Anyone else from  
17 the public? No.

18 The Chair will entertain a motion to close the  
19 meeting to the public.

20 COUNCILWOMAN CUDEQUEST: So move.

21 CHAIRMAN DEPINTO: Mrs. Cudequest,  
22 seconded Mr. Stefanelli.

23 All in favor.

24 (Aye)

25 Okay. Mr. Del Vecchio, what is your pleasure?

1 MR. DEL VECCHIO: Well, we had concluded  
2 our direct as I had indicated.

3 I think the Board had requested that we submit  
4 the revised drawings as a precursor to an  
5 authorization to the Board Attorney to hopefully draft  
6 a resolution in favor of the application.

7 But, I think that's where we are in the process  
8 at this point.

9 And, we would ask, obviously, that the Board so  
10 authorize the Board Attorney to do so and to do so in  
11 a favorable, to approve the application as presented.

12 CHAIRMAN DEPTNFO: Okay. Thank you.

13 And, finally, before we ask the Board Attorney  
14 to prepare any such resolution, I would like to hear  
15 final comments from each Board Member with respect to  
16 the overall plan, their support or their lack thereof,  
17 their likes, their dislikes.

18 And, I'm going to start with Mr. Vogt.

19 MR. VOGT: Thank you, Mr. Chairman.

20 This is certainly and it's been talked about  
21 before, the most visible and largest property left in  
22 Montvale to be built on. And, it's got to be done  
23 right. I have a feeling that it will be done right.

24 And, I have some comments to make on it.

25 When it came before this Board with the

1 application to build a 140,000 square foot supermarket  
2 for Wegman's, along with some other stores, I had  
3 concerns.

4 But, the zoning change was involved which the  
5 Mayor and Council approved. They realized that  
6 Wegman's would be of benefit to the community.

7 This was actually the first time that I heard  
8 the name Wegman's. I had no clue what Wegman's stood  
9 for. But, friends of mine filled me in very quickly  
10 that this is one of the finest food stores in the  
11 country.

12 And, when my friends told me that they visited a  
13 Wegman's where they live, that is about 25 miles away  
14 from their home, almost on a weekly basis, well, I, at  
15 this point, I had to Google the outfit. And, sure  
16 enough, Wegman's is listed as one of the top food  
17 stores in the country.

18 Another website states that it is a grocery  
19 maker known to 'cause grown adults to squeal in  
20 excitement. They are tops in quality, in prices,  
21 cleanliness and many more categories.

22 But, if Wegman's can attract visitors from 25  
23 miles away, that could only mean an increase in  
24 traffic for us who live here.

25 At one of the hearings, the applicant's traffic

1 expert stated that placing this store near major  
2 roadways such as the Garden State Parkway, Grand  
3 Avenue, Chestnut Ridge Road, Summit Avenue, Spring  
4 Valley Road would have no, not much of a negative  
5 impact.

6 I was not convinced of this until Maser  
7 Consulting presented their own traffic study. The  
8 traffic expert from Maser demonstrated that if certain  
9 intersection near the development would be improved in  
10 various ways, traffic would flow better than now, even  
11 with the potential traffic to the DePiero site.

12 Maser also suggested the applicant to arrange  
13 for specific times for trucks and deliveries to the  
14 site.

15 All of the above should keep traffic to a  
16 minimal inconvenience to Borough residents.

17 By the way, the applicant also offered to  
18 contribute a lot of money to these off-site  
19 improvements.

20 The objector to, the attorney for A & P  
21 expressed his feelings that a proposed size of  
22 Wegman's of 140,000 square feet was not appropriate.  
23 Some people from the general public felt the same way.

24 It is understandable that A & P does not want  
25 any competition for their stores in Park Ridge or

1 Woodcliff Lake. But, personally, I believe in  
2 competition. It keeps quality up and prices down.

3 So, in most food items under one roof would  
4 certainly be a benefit.

5 When my wife goes food shopping, she has to go  
6 to four to five stores, sometimes has to drive as far  
7 as Paramus and to get everything she needs. That's a  
8 lot of time and miles on the road.

9 Having all this in one nearby place is certainly  
10 advantageous, especially for folks who work full-time.

11 Not only does Wegman offer quality food but also  
12 high quality shopping experience. There are wide  
13 aisles to minimize traffic jams frequently encountered  
14 in other stores.

15 Man, when I go to Trader Joe's where the aisles  
16 are small, you can't get through with a shopping cart.

17 There's knowledgeable help, it seems, and, in  
18 addition, there would be hundreds of employment  
19 opportunity and growth potential for Montvale as well.

20 It would be unconscionable for this Board to  
21 disallow this building in the near future to benefit  
22 the more distant future.

23 And, I cannot end my statement without  
24 commenting on the proposed landscaping. This is not  
25 just a shopping center with various stores. It will

1 be a park with tree and shrubs and flowers and  
2 walkways and benches. It will be a place to find  
3 entertainment, a place where families can spend  
4 quality time together. Good food is a family event,  
5 and a place to relax.

6 This landscaping was not only designed with a  
7 farm field, it is very unique in its own right. Where  
8 most landscaping designs may have an excellent appeal  
9 for the first year, they often deteriorate afterwards.

10 This landscaping is designed not to lose its  
11 appeal after the first year. In fact, it will improve  
12 its appeal year-after-year as plants grow into their  
13 own surroundings.

14 After many hearings and presentations by the  
15 professionals on both sides, many questions asked by  
16 Board Members and therefore many comments and concerns  
17 presented by the public, I come to the conclusion that  
18 the benefits of this project far outweigh the  
19 negatives.

20 I, therefore, am in favor of this development.

21 CHAIRMAN DEPINTO: Thank you.

22 Mr. Webber.

23 MR. WEBBER: It's hard to kind of wrap  
24 this all up in one fell swoop but, I'll give it a try.  
25 I have a question for the Chairman or for Bob

1 Regan on, in regards to asking for you to prepare a  
2 positive resolution.

3 Are we then somewhat required to vote yes?

4 MR. REGAN: No.

5 MR. WEBBER: Okay. And, if we were to  
6 vote no how does that impact the scope of the project  
7 in whole?

8 MR. REGAN: Well, if you deny the

9 application, the application --

10 CHAIRMAN DEPINTO: It falls, it falls --

11 MR. WEBBER: Entirely. And, then we would

12 go back to square zero?

13 MR. REGAN: It would be up to the

14 applicant. He can contest that decision or come back  
15 with a revised plan.

16 MR. WEBBER: Okay. This is a project  
17 that's going to impact our town for years to come.

18 And, you know, I applaud the applicant that it's not a  
19 capricious plan, oh, we just want to put up a store.

20 Wegman's is a mega market. It is -- this one is  
21 140,000 square feet. The Lowe's buildings, which we

22 are all pretty familiar with, that we think are huge,  
23 they're on general average of 117,000 square feet.

24 So, this is going to be a grocery store that's  
25 23,000 square feet bigger than a Lowe's.

Mr. Webber -

1 I just don't see Montvale, Woodcliff Lake, Park  
2 Ridge and Upper Saddle River supporting this one major  
3 mega market, not when there are grocery stores within  
4 a short drive away.

5 I think that the traffic estimates are under  
6 done. I have heard comments from people -- I do a lot  
7 of the grocery shopping and I've been in Shop-Rite in  
8 Pearl River. That gets crowded. And, people are  
9 like, I can't wait until the Wegman's opens.

10 I don't know if Pearl River was taken into  
11 consideration on the traffic counts, Chestnut Ridge,  
12 Nanuet, all of these areas that are going to become a  
13 feeder into this project.

14 You know, as for the buildings, when we needed  
15 to get them smaller or we needed something to be done,  
16 they got bigger. The police asked for pathways to be  
17 widened and, instead of widening them, they were just  
18 enclosed.

19 You know, I'm not sure if this up-scale shopping  
20 plaza fits our needs or if we fit their needs. We  
21 have a tremendous amount of open space. It's going to  
22 be a flagship store.

23 You know, in some respects, I'm not sure who's  
24 benefitting the best on this, if it's Montvale or if  
25 it's Wegman's development.

Mr. Lintner -

1 You know, this is going to be one of those that  
2 I'm going to need to really think on more and reread  
3 Bob's resolution one way or another.

4 Thank you.

5 CHAIRMAN DEPINTO: Thank you.

6 Mr. Lintner.

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

8 When this application first came before us, I  
9 had an, actually one of the biggest questions I had is  
10 why a 140,000 square foot Wegman's. It's certainly  
11 within the allowance of the PUD. But, for the life of  
12 me, I couldn't figure out why they wanted a 140,000  
13 square feet.

14 I have visited other Wegman's. As a matter of  
15 fact, a couple weeks ago I went to the new Shop-Rite  
16 in Hanover which I believe is 65,000 or 75,000 square  
17 feet. And, that store is immense and this store is  
18 going to be even bigger than that.

19 But, as I started considering an alternative,  
20 suppose we, suppose we limited Wegman's to 80,000,  
21 70,000, whatever number, we would then allow four  
22 additional 20,000 square feet stores. And, to me,  
23 four 20,000 square foot stores, with a 60,000 square  
24 foot Wegman's would be significantly more traffic than  
25 what the Wegman's would be.

1 A grocery store, trying to determine traffic at  
2 a grocery store is an interesting problem. It's not  
3 like you're putting up a baseball stadium or arena  
4 where you have 15,000, 30,000 seats.  
5 You've got a 140,000 square foot shopping store.  
6 So, does that mean by definition that that store is  
7 going to be full all the time?  
8 I think there will be more people coming to the  
9 store but, as Mr. Webber just mentioned, Lowe's, you  
10 go to a 115,000 square foot Lowe's, it's not full  
11 because it's 115,000 square feet. A lot depends upon  
12 the store and the timing.  
13 I would imagine, when this Wegman's opens, there  
14 will be a significant interest factor, traffic jams,  
15 like any store opening.  
16 But, I don't think there's, I don't think  
17 there's any reason for this Board to limit the size of  
18 the Wegman's. I think if that's their plan and they  
19 think they can sell 140,000 square foot of groceries,  
20 so be it.  
21 I think the applicant provided us with all the  
22 information to prove that this does conform with the  
23 requirements of a planned unit development. Their  
24 plans indicated pedestrian traffic, recreation, park  
25 like spaces, sidewalks around it.

1 Any time this Board had an issue or wanted a  
2 tweak or improvement, they came back to us and  
3 provided that improvement.  
4 They wanted a single variance. In this entire  
5 thing, the only variance that they're requesting is a  
6 5 foot planting buffer between the front of the  
7 buildings and the sidewalks which, in this type of  
8 shopping facility, I don't think there's any reason  
9 not to grant that variance.  
10 Up until about 20 minutes ago, I think we did  
11 everything we possibly could to protect the interests  
12 of the citizens. But, we do need to come up with  
13 something with the traffic.  
14 As I said, I don't know what the answer is, but  
15 I'm very, very concerned because that would be the one  
16 thing that could come back to us and really cause  
17 problems.  
18 But, I am in favor of granting this site plan  
19 with some consideration to handling the traffic, the  
20 timing of the traffic improvements.  
21 Thank you.  
22 CHAIRMAN DEPINTO: Very good. Thank you.  
23 Mrs. Cudequest.  
24 COUNCILWOMAN CUDEQUEST: Well, I have to  
25 say that I agree with Mr. Vogt. You know, we were, as

1 a governing body, we were, we were approached about  
2 the ordinance and, when most of us on Council weighed  
3 the option of housing versus retail, most of us were  
4 concerned about the housing and what that would do to  
5 our schools and the possibility of what it would also  
6 do to our community with them being rentals. So, we  
7 did feel that retail was the better option for this  
8 site.

9 And, I think what the developer has provided is  
10 a, something that's going to be very attractive to our  
11 community. It's going to be something that our  
12 corporate neighbors have been asking for. They've  
13 been asking for an increase in restaurants to  
14 entertain their clients.

15 And, that this will also provide not only the  
16 food aspect but the walking paths. And, many of the  
17 corporate employees walk during their lunchtime. This  
18 will provide them a nice, scenic opportunity to get  
19 out and walk during their lunch.

20 It will provide families an opportunity to come  
21 together over a good meal and maybe take advantage of  
22 the walking paths as well.

23 So, I think that this is a great improvement.  
24 But, again, I do have the concerns with traffic.

25 And, I, I am in favor of the development but I

1 think that the traffic really does need to be  
2 addressed. So...

3 CHAIRMAN DePINTO: Very good. Thank you.  
4 Mr. Teagno.

5 MR. TEAGNO: Yes. Over the weeks that,  
6 and months that we've been debating this, I think we  
7 have sliced it and diced it in every way possible.

8 And, in my estimation, I think it's a great idea  
9 and it's about time.

10 I'm sure there's going to be some traffic  
11 issues. But, just like other existing traffic issues,  
12 we'll find ways around them and find ways to solution  
13 them.

14 Every other supermarket I've been in is just a  
15 variation on the theme and they all seem the same and  
16 I don't really enjoy going to them.

17 Since we approved the Fresh Market up on  
18 Chestnut Ridge Road, I think that's a unique place to  
19 shop. And, I kind of enjoy going there. It's a  
20 little bit different.

21 The same thing with Tice's Mall, that's  
22 different than the Garden State Plaza, Nanuet Mall and  
23 all these other places. And, then it's another place  
24 because I like the stores, I like going there, I like  
25 the atmosphere.

1 And, I think this development is going to be  
2 very similar to that. And, I think it's about time  
3 that we voted to approve it and get going with the  
4 project.

5 Thank you.

6 CHAIRMAN DEPINTO: Very good. Thank you.

7 Mr. Culhane.

8 MR. CULHANE: One thing we got to go back  
9 in time a little is why is this site, why was it zoned  
10 for 160 units of housing?

11 As I recall, John, it really wasn't us. That  
12 was by the masses.

13 So, I think the Mayor and Council basically as  
14 Mrs. Cudequest said, that what's a better way to  
15 develop this property. And, I would agree, what is  
16 proposed with the PUD is the way to go plus the fact  
17 that the Mayor and Council were responsive to some of  
18 the concerns at the public hearing because now the  
19 site on Summit, basically it's now doubled in size.  
20 So, the density is cut in half from what was initially  
21 proposed.

22 So, I think that's also a plus.

23 Then I remember, what happens if we were to  
24 reject this proposal? And, then I think what happened  
25 with Hovanian on Upper Saddle River Road? And, you

1 only had what, Bob, 36 variances and we were arbitrary  
2 and capricious.

3 MR. REGAN: Potentially.

4 MR. CULHANE: Here we have one major  
5 variance of they, of not putting the planting beds in  
6 front of the stores. And, if we were to reject the  
7 application, I'm just curious, from what a lawyer may  
8 think as to the chances we would have in a court of  
9 law.

10 MR. REGAN: It could be very well deemed  
11 arbitrary and capricious.

12 MR. CULHANE: As I said, I have my own  
13 suspicions. But, I think that it really comes down to  
14 us, we have to have the traffic improvements in place  
15 otherwise, I don't know what to tell you.

16 The other thing I would say is, I agree with  
17 Jeff when he says about the construction, the amount  
18 of soil that has to be moved off this site is going to  
19 be a lot of construction work going on. So, you're  
20 going to get some traffic impacts even before the  
21 stores show up.

22 And, that's about it, John.

23 I basically think this project is a plus to the  
24 town.

25 CHAIRMAN DEPINTO: Okay. Thank you.

Mr. Fette -

MR. CULHANE: No other comments.

CHAIRMAN DePINTO: Thank you.

Mr. Fette.

MR. FETTE: Well, I share Mr. Cuihane's comments.

Again, I reiterate the importance of getting the traffic improvements in place. I think it's, I share Mr. Vogt's comments about the store itself. I shop at the one in Bridgewater and I look for excuses to go there, preferably when I'm not hungry because it always costs more when I leave.

But, it's, it's a great place to go and I think it's going to be a real benefit to the municipality.

The drawback is anything that's good, it's going to have a little growing pains to it. I mean, we had some growing pains with Lifetime Fitness just in the construction aspect of it.

If you recall, we had 90 foot tractor trailers driving through the center of town with precast concrete beams on them and everyone is wondering what the heck is going on, you know. And, we got through that.

And, you know, they were a very, very well-tuned machine. They put that building up in under a year's time. They were open and ready to go.

Here we're talking about a project that's probably four or five times the size of that. So, it's, hopefully things go along as smoothly.

Certainly from my office's point of view, we're going to have a boat load of work to do. But, I think that's part of the growing pain to have something like this.

I think we should consider ourselves a very fortunate community to have a store like this want to be here. And, they are very highly rated, probably one of the tops in the country. I don't know if they're No. 1 but I believe they're in the top five.

MR. VOGT: Top four.

MR. FETTE: Is that what it is, top four? Okay.

And, that's a benefit to this community, without a doubt.

So, aside from some of the problems we're going to have to go through and some of the inconveniences and the mud on the streets and some of the traffic and everything else, I think the end result is, is going to be positive.

CHAIRMAN DePINTO: Okay. Very good. Thank you, Jeff.

And then, finally, Mr. Stefanelli.

1 MR. STEFANELLI: Thank you, Mr. Chairman.  
2 Everybody said most of them but I'll just name a  
3 few points.  
4 I remember one time A & P probably being the  
5 King of the hill for supermarkets way back when. Boy,  
6 has times changed.  
7 I also said I couldn't see efforts to preserve  
8 the space because I really believe that, you know, we  
9 have very limited, you know, COAH helped us with that.  
10 We have even less open space.  
11 But, I think that, looking at what we have now,  
12 I think that we have a plan because what I saw in  
13 housing, 160 units, that probably, that property  
14 probably could have satisfied double that. And, I  
15 really worry about sealing the sea of housing on that  
16 property.  
17 So, I really believe that the town has made a  
18 good choice in rezoning it.  
19 I believe that Montvale was and still is, I  
20 think, a desired area for corporate headquarters. I  
21 originally came here because I worked for a  
22 corporation that worked here.  
23 I think Wegman's would be a good name, corporate  
24 citizen and also a tax ratable.  
25 I also believe, with everybody else, that this

1 project can't be successful unless we have those  
2 improvements. We need those improvements now. I  
3 can't believe that we could even delay those  
4 improvements and have any part of that development  
5 open while we, while we still don't have road  
6 improvements.  
7 And, I also, the negative impact that I see here  
8 is the traffic corridor. Grand Avenue isn't getting  
9 any easier to get up and down.  
10 I believe that we have a bottleneck at the  
11 Garden State Parkway overpass. I believe that we  
12 really need to address that. And I also think that,  
13 at some point, I'm not sure, but the Garden State  
14 Parkway really has to look at, you know, other exits  
15 besides Montvale.  
16 I only have one other question is, I'm concerned  
17 about Phase 2. We haven't really had a lot of  
18 discussion about Phase 2. And, I'm wondering how that  
19 impacts our approval.  
20 I leave that to Bob.  
21 If they left everything, if we approve the  
22 project and Phase 2, just the way it is now, could  
23 they build that without coming back?  
24 MR. REGAN: No. They have to come back  
25 with the final site plan approval. They're only

1 asking for preliminary site plan approval for Phase 2.

2 It's possible Phase 2 would never get built.

3 But, they have to come back here to do anything for  
4 final approval.

5 MR. STEFANELLI: And, I think that both  
6 the Board, I commend the Board, the professionals, the  
7 applicant, I think that, you know, it has been a tough  
8 road these last few months but I think that, I think  
9 that we have a project that, that I am very proud of.  
10 I won't have a problem putting my name to it.

11 Thank you.

12 CHAIRMAN DEPINTO: Thank you.

13 I just have a few comments.

14 I agree with all that's been said by the Board  
15 Members. And, first, I would like to thank all of  
16 them for the time and energy that they have put into  
17 hearing this application. It's, it's difficult. We  
18 are all volunteers. It requires a lot of  
19 concentration to follow an application of this  
20 magnitude from beginning to end. And, I applaud  
21 everyone for doing so.

22 A few of the Board Members hit on something  
23 that, to me, is critical with respect to this  
24 application.

25 And, that is the fact that this property, along

1 with the piece of property on Summit Avenue, was  
2 rezoned by the Mayor and Council as PUD. And, part of  
3 that PUD and a very important part of the PUD is to  
4 provide affordable housing. And, for about 30 years  
5 now, dating back to the early '80s, at least two of us  
6 on this Board, John Culhane and myself, have been  
7 dealing with affordable housing. And, that's run the  
8 gamut from court appointed masters to negotiations  
9 with developers for builder's remedy.

10 We have spent three decades in our efforts to  
11 create affordable housing in the Borough of Montvale.

12 And, in one of the visits that we had made down  
13 to Trenton, meeting with representatives of the  
14 Council on Affordable Housing, they, they said to us,  
15 and this was during our Round II certification, was  
16 that we have become the poster child for affordable  
17 housing. Other towns ran away from it and said we  
18 don't want it, we're not going provide for it. We're  
19 not going to provide the zoning. They, they just  
20 kicked up their heels and did nothing.

21 And, we, in Montvale, should be applauded  
22 because we approached it quite differently over the  
23 past three decades. And, we said it's a Borough  
24 responsibility to provide minimally the zoning so that  
25 all people can afford to live in the Borough of

1 Montvale. And, and we believe in that.  
2 And, I think, when you look at the developments  
3 in Montvale, that were inclusionary developments, I  
4 look at them with great pride and say we did something  
5 good.  
6 And, when I look, during Round I, when we  
7 accepted regional contribution agreements, and we sent  
8 sizable sums of monies to communities that had a  
9 greater need for the construction of affordable  
10 housing, we had a part there, too.  
11 And now, once again, we have that opportunity to  
12 create 32 affordable units on Summit Avenue connected  
13 with this property, through the rezoning of the PUD.  
14 And, early on, when the governing body had  
15 considered the rezoning of this property, and early  
16 on, when the Planning Board had considered the  
17 amendment to the Master Plan to allow for this, that  
18 was paramount in the decision, the impact that it was  
19 going to have on helping to meet our obligation to  
20 provide affordable housing.  
21 And, as Mrs. Gudquest so eloquently stated, the  
22 vision that the governing body had of 160 living  
23 units, along Grand Avenue, was, was not a pleasing  
24 site, at least in their person and certainly not in my  
25 opinion.

1 And, I believe what we are looking at is the  
2 best of all worlds.  
3 First, we can meet our affordable housing  
4 obligation by the creation of 32 units on that Summit  
5 Avenue parcel. Critical.  
6 Secondly, we're introducing a land use on the  
7 subject property, not only of Wegman's but the  
8 lifestyle environment and the benefit that it will  
9 have to the community both, all of the residents in  
10 this community and surrounding communities but also  
11 our corporate community which is so important to the  
12 stabilization of our taxes and maintaining that strong  
13 ratable base that we have.  
14 This is something that is being supported by the  
15 corporate community and, I think, ultimately will be  
16 supported by the public.  
17 So, for all of those reasons I have been  
18 supportive. There was a period of time when I was not  
19 involved, when I was ill. And, when I came back to  
20 the Planning Board, one of my goals was to make sure  
21 that I encourage both the Planning Board to do what  
22 they had to do relative to the Master Plan and the  
23 governing body to adopt the ordinance to allow for the  
24 rezoning to PUD. I'm very proud of that.  
25 And, I continue to support this application.

1 And, we've been through highs and we've been  
2 through lows. And, I think we're at a point where we  
3 can move forward to the affirmative.

4 However, I see yet one stumbling block that must  
5 be addressed. And, I have heard from each and every  
6 one of the Board Members, to one extent or the other,  
7 their concern as to the impact on traffic. Some from,  
8 as Mr. Fette indicated, starting at the point of when  
9 construction will begin, the impact that those  
10 vehicles will have on our roads.

11 And, from others who are concerned that, if we  
12 abide by the limits of the ordinance, which is the  
13 law, that, in a worse case scenario, the shopping  
14 center could open before the road improvements occur.  
15 And, I think we all agree that that would have not  
16 only a negative impact on residents of the Borough,  
17 businesses of the Borough but ultimately the  
18 businesses that look to locate in this new shopping  
19 center. It will be a no win for all of us if in fact  
20 that were to happen.

21 And, if I'm interpreting what I heard this  
22 evening from each Board Member through this  
23 deliberation, and anyone can speak out and correct me  
24 if I am wrong, that no one is in favor of issuing COs  
25 until those road improvements have been installed.

1 Does anyone differ with that opinion?

2 Well, hearing none, it would seem to me, if the  
3 Board is unanimous in that opinion, that those road  
4 improvements must be installed despite what the  
5 ordinance says, this Board, and it's a question of  
6 you, Mr. Regan, if this Board finds that it is  
7 prepared to act to the affirmative with asking you to  
8 craft a resolution of approval to be voted on at some  
9 point in the future, if the Board were to condition  
10 that resolution upon the road improvements being  
11 completed beforehand, despite the fact that it may be  
12 at variance with the ordinance, can the Board offer  
13 such a resolution?

14 MR. REGAN: You always have the right to  
15 do that. The question is whether or not the appellate  
16 court appeal would contest that.

17 I'm not prepared to say that that condition  
18 would be invalidated. I think the resolution could be  
19 prepared in such a way that, based upon all the  
20 testimony, particularly the traffic testimony which  
21 was heard from not only Mr. Hipolit's firm but from  
22 the applicant's firm, that it's critical and I think  
23 all of us have said that from the beginning, it's  
24 critical that these intersection improvements begin,  
25 that the project will not work without it.

1 So, if the Board wants to go in that direction,  
2 I will certainly not try to convince you otherwise and  
3 will try to craft a resolution that substantiates the  
4 reasons for that.

5 CHAIRMAN DEPINTO: Okay. Mr. Hipolitt, in  
6 your professional opinion, would that be your  
7 recommendation to this Board that such road  
8 improvements be designed, approved and installed prior  
9 to the opening of any of the retail facilities  
10 proposed so that traffic flow would be consistent with  
11 the testimony that we heard and that the impact on the  
12 community would be brought to the minimal point that  
13 we have projected.

14 Is that your recommendation?  
15

16 MR. HIPOLITT: Yes. From the first day we  
17 provide traffic testimony on the ordinance to, to the  
18 review of this Board application, if this development  
19 opens up even a single store without the traffic  
20 improvements being installed, you have a big problem.

21 CHAIRMAN DEPINTO: Okay. Mr. Praelas,  
22 again, as one of the crafters of the ordinance, I know  
23 it was not contemplated in the ordinance and I believe  
24 that you have explained to this Board what its, its  
25 parameters are with regards to that, you've heard the  
opinions of the Board Members, you have heard Mr.

1 Regan's opinion as to what could or could not be  
2 included in a resolution and that there may be a  
3 challenge if in fact we do pass a resolution to that  
4 extent.

5 Correct, Mr. Regan?  
6 MR. REGAN: Yes. It's possible.  
7 CHAIRMAN DEPINTO: I am seeking your  
8 professional opinion in the best interests of the  
9 Borough of Montvale, obviously.

10 MR. PRAELAS: I don't think I could state  
11 it any better than Bob did. I think the, the safest  
12 course of action, I think, from a legal point of view  
13 would be just to comply with what the ordinance  
14 requires.

15 But, as I said before, it's clear from the  
16 traffic testimony that was provided, that the site  
17 plan only works if those traffic improvements are  
18 made.

19 And, everything that the Board can do to ensure  
20 that those are completed prior to -- we know that  
21 Wegman's is going to be the first store to open. It's  
22 critical that, that those improvements be in place  
23 before Wegman's opens.

24 MR. REGAN: All the traffic testimony was  
25 given presuming that the improvements are in. I don't

1 recall any traffic testimony addressing what if the  
2 improvements are not in. It was all under the  
3 assumption that they would be in.

4 MR. HIPOLIT: Right.

5 CHAIRMAN DEFINTO: Well, and I think as  
6 stated by Mr. Lintner, with regards to comments that  
7 he has heard from members of the public, about the  
8 impact it's going have on the community if in fact the  
9 roads are not installed, at least concurrently with  
10 the construction.

11 I mean, Jeff, as much as I may agree with you,  
12 it would be wonderful to have the road work done  
13 before the construction starts, I don't think that's  
14 reasonable or practical. I think those construction  
15 vehicles are going to have an impact on our community  
16 before the stores are open.

17 To suggest the resolution that all of the road  
18 improvements have to be done prior to commencement of  
19 construction, I think that's a tough bullet.

20 However, it's not as tough a bullet, I think, to  
21 put on the record, through our resolution, that the  
22 road improvements could be done either prior to or  
23 concurrently with the development activities of the  
24 property with the hopes of bringing it together at the  
25 same time as when a CO is ready.

1 If we don't make that effort in this resolution,  
2 will the Board be looked upon as being remiss and not  
3 living up to the commitment that was made to the  
4 public by the Mayor and Council during the public  
5 hearings where I believe it was stated by them that  
6 the Planning Board was going to address all of their  
7 concerns.

8 And, as Mrs. Cudequest said, she believes the  
9 greatest concerns were the traffic.

10 So, if we sit here tonight and move forward with  
11 an authorization to the Board Attorney to prepare a  
12 resolution to the affirmative, without addressing the  
13 traffic, I almost think we're walking out of here and  
14 we have to bow our heads in a little bit of shame  
15 because that's not what we were asked to do when the  
16 governing body opted to rezone the property.

17 So, for all of the benefits I see with the  
18 rezoning into a PUD to provide the affordable housing  
19 and the benefits that this proposed shopping  
20 development will have to our community has to be  
21 tempered with the question of the traffic.

22 And, I think, I think we've got to deal with it.  
23 We have to deal with it now.

24 And, if there's anyone who disagrees with me,  
25 please speak up.

1 Okay. With that said, the Chair is going to  
2 call for a motion to request the Board Attorney to  
3 prepare a resolution in anticipation of a vote.

4 I would expect that the resolution be drafted  
5 setting forth all of the terms and conditions as set  
6 forth on the record through the 14, I believe, nights.

7 MR. REGAN: This is No. 13, Mr. Chairman.

8 CHAIRMAN DEPTNTO: This is No. 13?

9 MR. VOGT: Good number.

10 CHAIRMAN DEPTNTO: Through the many nights  
11 of hearings and include all of the requirements as set  
12 forth in the technical reviews of the board attorney,  
13 the board engineer, the board planner, set forth in  
14 the resolution, the deliberations placed upon the  
15 record, the opinions of the Board Members relative to  
16 the traffic and set it forth in the resolution in a  
17 manner that may not be completely consistent with the  
18 requirements of the ordinance but certainly consistent  
19 with what we believe were the directions that we  
20 received from the governing body and what we believe,  
21 in our unique position, as residents of the Borough to  
22 be in the best interests of all of the residents of  
23 the Borough.

24 And, if in fact you were to craft such a  
25 resolution, Mr. Regan, what would be your anticipated

1 time frame to do such a thing?

2 MR. REGAN: Hopefully I would have it  
3 available toward the second part of June for  
4 consideration at the July 1st meeting.

5 CHAIRMAN DEPTNTO: Okay. And, if you  
6 could repeat the answer you gave to Mr. Webber with  
7 regard to Board Members' obligation, if the Board  
8 supports the request to have you draft such a  
9 resolution, what is each Board Members' obligation to  
10 either vote for or vote against that night?

11 MR. REGAN: Tonight you are merely  
12 directing me to prepare an ordinance for your review  
13 and consideration.

14 MR. HIPOLIT: Ordinance?

15 MR. REGAN: I'm sorry. A resolution.  
16 It is not a binding -- it's not an approval.

17 Your vote tonight is not an approval. It's a mere  
18 direction to me to prepare a resolution for your  
19 review and possible consideration at a future meeting.

20 It is not an action vote. It is only a  
21 direction to me to prepare a draft.

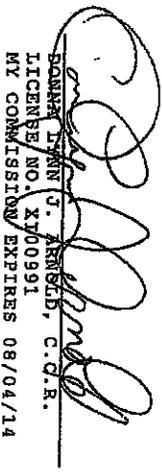
22 You have no obligation, at a future date, when  
23 the resolution is considered for vote, either in the  
24 affirmative or the negative.

25 CHAIRMAN DEPTNTO: And, Bob, how long have

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.

  
ROBERT LYNN J. ARNOLD, C.C.R.  
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MY COMMISSION EXPIRES 08/04/14

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