

**HOWELL TOWNSHIP PLANNING BOARD
REGULAR MEETING**

**1
JUNE 1, 2023**

The meeting was called to order by Chairman Paul Boisvert and the opening statement was read by the Board Secretary.

Prior to the Roll Call, Board Attorney Cucchiaro gave the oath of Office to Christopher Mercer, Alternate 1 member of the Planning Board and Jacqueline Pike, Alternate II member.

ROLL CALL: Showed the following members were present: Brian Greenfield, John Leggio, Robert Seaman, Megan Talente, Brian Tannenhaus, Councilman Fred Gasior, Christopher Mercer, Jacqueline Pike and Chairman Paul Boisvert. Joseph Cristiano and Nicholas Huszar were excused.

Also in attendance were Ron Cucchiaro, Board Attorney, Laura Neumann, Board Engineer, Sam Avakian, Board Planner, Shari Spero, Board Licensed Tree Expert, Kevin Chen, Board Traffic Engineer and Eileen Rubano, Board Secretary.

PLEDGE OF ALLEGIANCE:

APPROVAL OF MINUTES: There were no minutes to approve.

VOUCHERS: None

CORRESPONDENCE: The Board Secretary said she had an email from the IT Department regarding phishing scams and they suggested that the Board members only open emails from other township employees to avoid a problem.

She also sent Ordinance O-23-18 to the members for review, discussion and comments at tonight's meeting. After Sam Avakian explained the ordinance Ms. Talente made a motion that the ordinance was substantially consistent with the master plan. Motion was seconded by Mr. Leggio and carried with Mr. Greenfield, Mr. Leggio, Mr. Seaman, Ms. Talente, Mr. Tannenhaus, Councilman Gasior, Mr. Mercer, Ms. Pike and Chairman Boisvert voting for the motion.

RESOLUTIONS: There were no resolutions to memorialize.

SUBMISSION WAIVERS BEFORE THE BOARD:

a. Case No. SP-1114 / Lowes Companies, Inc.

Jared Pape, Attorney for the Applicant, appeared and said he discussed the waivers with the Board Engineer. Ms. Neumann, Board Engineer, was duly sworn and testified that the submission waivers are listed in her review letter dated May 18, 2023 and this application is essentially a conversion of parking to outdoor storage. She said the applicant will be submitting items. 32, 33, 39, 41, 42, 45 and 82 on a revised submission. There are a lot of waivers remaining but given the nature of the application she took no exception to the granting of the balance of the waivers requested for the purposes of deeming the application complete.

Mr. Tannenhaus made a motion to grant the submission waivers. Motion was seconded by Ms. Talente and carried with Mr. Greenfield, Mr. Leggio, Mr. Seaman, Ms. Talente, Mr. Tannenhaus, Councilman Gasior, Mr. Mercer, Ms. Pike and Chairman Boisvert voting to grant the waivers.

**HOWELL TOWNSHIP PLANNING BOARD
REGULAR MEETING
APPLICATIONS BEFORE THE BOARD:**

2
JUNE 1, 2023

a. Case No. SD-3008 / Lesette Cholula

Before any testimony was placed on the record for this application Board Member Brian Tannenhaus recused himself and left the dais.

Todd Cohen, Attorney for the Applicant, appeared and said this was a minor subdivision application for 2 lots on West Third Street in Freewood Acres which requires a bulk variance for the location of the existing home.

Peter Strong, PE, was duly sworn, gave his credentials to the Board and was accepted as an expert witness. Mr. Strong said the property contains an existing 1-story dwelling, shed and a driveway in the R50 zone with a lot size of 100 by 200 where 50 by 100 is required. The subdivision will create a setback variance from the side yard lot line where 6 feet is required and 1.4 feet will exist at the front of the dwelling and 3.8 feet from the rear of the dwelling. The shed is also too close to the property line but is an existing condition that will remain.

Mr. Strong responded to a question from the Board Attorney, stating he did not prepare the subdivision plans, but Geller Sive and Company did and they have merged with his firm, Crest Engineering.

Mr. Cohen asked Mr. Strong if he could answer the questions in section 6 of CME's review letter and he stated that there was no prior subdivision history, the subdivision would be perfected by plan and they will remove the driveway portion on new lot 65.02 prior to filing the plat and the subdivision complies with RSIS standards on parking. He also stated that the application for lot 65.02 will install dry wells for runoff. He also said the applicant agreed to replace street trees and he will comply with the technical comments in the review letter.

There was a short discussion on curbs and sidewalks. Ms. Neumann informed the board that if the Board grants the waiver for curbs and sidewalks they would be exempt from any contribution by ordinance.

Allison Coffin, PP, was duly sworn, gave her credentials to the Board and was accepted as an expert. Ms. Coffin put the planning proofs on the record for the variances required citing C1 and C2 standards. It was her opinion that there were no significant detriments to the granting of the variances and they advance the purposes of the MLUL sections A and E.

In response to a question from Mr. Seaman regarding moving the lot line to make the existing dwelling conform, it was the opinion of both Ms. Coffin and Mr. Avakian, that that would create other issues long term and no lots in the area were 45 feet wide.

Chairman Boisvert opened the hearing up for members of the public but since no one appeared, the public portion was closed.

Board Attorney Cucchiaro informed the Board that the application can't pass the C1 testimony since there is no evidence of when the house was built but they could evaluate the C2 testimony that Ms. Coffin provided.

**HOWELL TOWNSHIP PLANNING BOARD
REGULAR MEETING**

3

JUNE 1, 2023

Ms. Talente made a motion to grant minor subdivision approval along with the ancillary variance relief. Motion was seconded by Mr. Leggio and carried with Mr. Greenfield, Mr. Leggio, Mr. Seaman, Ms. Talente, Councilman Gasior, Mr. Mercer, Ms. Pike and Chairman Boisvert voting for the motion.

b. Case No. SP-1104 / 96 Industrial Court LLC

SEE TRANSCRIPT ATTACHED.

MASTER PLAN STATUS REPORT: There was no update at this meeting but the Board Secretary informed the members that the public hearing on the Farmland Preservation Element of the Master Plan would be held at their next meeting on June 15, 2023 at the Howell Middle School South on Ramtown Greenville Road.

Mr. Greenfield made a motion to adjourn. Motion was seconded by Councilman Gasior and carried with all members voting to adjourn.

The regular meeting adjourned at 9:00 p.m.

Respectfully submitted,



**Eileen Rubano
Recording Secretary**

NOTE: A CD or DVD of this meeting is available on request.

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TOWNSHIP OF HOWELL PLANNING BOARD
COUNTY OF MONMOUTH - STATE OF NEW JERSEY

REGULAR MEETING FOR:

96 INDUSTRIAL COURT
BLOCK 168, LOTS 36.06 AND 36.07 (f/k/a Lots 6 & 7)
7-9 INDUSTRIAL COURT (f/k/a 96 Industrial Court)

PRELIMINARY MAJOR SITE PLAN

APPLICATION NO. SP-1104

HOWELL TOWNSHIP MUNICIPAL BUILDING
MAIN MEETING ROOM - 2ND FLOOR
4567 ROUTE 9 NORTH
HOWELL, NJ 07731-3382

THURSDAY, JUNE 1, 2023

7:00 P.M.

TRANSCRIPT OF PROCEEDINGS

CONTINUED
PUBLIC HEARING

AB COURT REPORTING, LLC
CERTIFIED COURT REPORTERS
26 ALGONQUIN TERRACE
MILLSTONE TOWNSHIP, NEW JERSEY 08535
TEL: (732) 882-3590
angelabuonocsr@gmail.com

1 BOARD MEMBERS PRESENT:

2 PAUL BOISVERT, BOARD CHAIRMAN

3 FRED GASIOR, COUNCILMAN

4 BRIAN GREENFIELD

5 JOHN LEGGIO

6 CHRISTOPHER MERCER

7 JACQUELINE PIKE

8 ROBERT SEAMAN

9 MEGAN TALENTE

10 BRIAN TANNENHAUS

11

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13

13 BOARD CONSULTANTS AND STAFF PRESENT:

14 RONALD CUCCHIARO, ESQUIRE, Board Attorney
15 - Weiner Law Group, LLP

16 SAM AVAKIAN, P.P., AICP, Acting Board Planner
17 - Leon S. Avakian, Inc.

18 LAURA NEUMANN, P.E., Board Engineer
19 - CME Associates

20 KEVIN CHEN, P.E., Board Traffic Engineer
21 - CME Associates

22 SHARI SPERO, LTE, Board Certified Tree Expert
23 - CME Associates

24 EILEEN RUBANO, Administrative Officer, Planning/Zoning
25 - Township of Howell

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24 STENOGRAPHICALLY REPORTED BY:

25 ANGELA BUONANTUONO, CCR, RPR, License No. 30XI00233100
 -AB Court Reporting, LLC

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

2

HEILBRUNN PAPE, LLC

3

BY: JARED M. PAPE, ESQUIRE

4

516 State Highway 33

Millstone Township, New Jersey 08535

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T: (732)-679-8844

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F: (732)-679-6554

Email: jpape@hpnjlaw.com

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--Counsel for the Plaintiff

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<u>WITNESSES</u>	<u>PAGE</u>
PETER W. STRONG, P.E. Crest Engineering Associates, Inc.	12
SCOTT KENNEL McDonough & Rea Associates, Inc. Traffic and Transportation Consulting	24

PUBLIC QUESTIONS/COMMENTS:

<u>NAME</u>	<u>ADDRESS</u>	<u>PAGE</u>
Marc Parisi	2 Castle Court	58

E X H I B I T S

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<u>NO.</u>	<u>DESCRIPTION</u>	<u>PAGE</u>
A-18	Aerial Display prepared by Crest Engineering Associates, Inc. Dated 5/15/23	*
A-19	Aerial Layout Display prepared by Crest Engineering Associates, Inc. Dated 5/15/23	*
A-20	Auto Turn Circulation Plan Display prepared by Crest Engineering Associates, Inc. Dated 5/15/23	*
A-21	Lighting Plan Display prepared by Crest Engineering, Inc. Dated 5/15/23	*
A-22	Site Rendering Display prepared by Crest Engineering, Inc. Dated 5/15/23	*

(*)Exhibits pre-marked prior to commencement.

E X H I B I T S

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<u>NO.</u>	<u>DESCRIPTION</u>	<u>PAGE</u>
B-14	Board Planner's Review letter dated 5/9/23	*
B-15	Fire Bureau site plan review dated 5/9/23	*
B-16	Board Traffic Engineer's review letter dated 5/12/23	*
B-17	Monmouth County Board of Health site plan review dated 5/11/23	*
B-18	Environmental Commission site plan review dated 5/10/23	*
B-19	Shade Tree Commission site plan review dated 5/17/23	*

(*) Exhibits pre-marked prior to commencement.

1 SECRETARY RUBANO: Planning Board
2 meeting, Thursday, June 1st, 2023. I hereby declare
3 this meeting of the Howell Township Planning Board
4 to be open, adequate notice having been given
5 pursuant to the New Jersey Open Public Meetings Act
6 in the following manner:

7 First, on March 31st, 2023, a copy of
8 said notice was mailed to the Asbury Park Press and
9 the Star Ledger.

10 Second, on March 31st, 2023, a copy of
11 said notice was hand-delivered to the clerk of the
12 Township of Howell.

13 Third, on March 31st, 2023, said notice
14 was posted in the office of the Planning Board and
15 on the bulletin board in the Howell Township
16 Municipal Building, 4567 Route 9, Howell Township,
17 New Jersey.

18 In accordance with the Fire Prevention
19 Code and your safety, please be advised that this
20 facility is designed with two emergency exits which
21 are on your right at the front and rear of the
22 meeting room. Furthermore, smoking is not permitted
23 in the municipal building.

24 Please take note that this meeting is
25 being videotaped for possible future broadcast on

1 Howell Township TV-77.

2 Thank you.

3 CHAIRMAN BOISVERT: Okay. Roll-call.

4 SECRETARY RUBANO: Before we go to
5 roll, we have to swear in Mr. Mercer as alternate
6 one and Ms. Pike as alternate two.

7 ATTORNEY CUCCHIARO: If you could both
8 stand.

9 (Whereupon, the board attorney swears
10 in the alternate board members.)

11 SECRETARY RUBANO: Now we can have
12 roll-call.

13 Mr. Cristiano has been excused.
14 Mr. Greenfield?

15 MEMBER GREENFIELD: Here.

16 SECRETARY RUBANO: Mr. Huszar has been
17 excused.

18 Mr. Leggio?

19 MEMBER LEGGIO: Here.

20 SECRETARY RUBANO: Mr. Seaman?

21 MEMBER SEAMAN: Here.

22 SECRETARY RUBANO: Ms. Talente?

23 MEMBER TALENTE: Here.

24 SECRETARY RUBANO: Mr. Tannenhaus?

25 MEMBER TANNENHAUS: Here.

1 SECRETARY RUBANO: Councilman Gasior?

2 COUNCILMAN GASIOR: Here.

3 SECRETARY RUBANO: Mr. Mercer?

4 MEMBER MERCER: Here.

5 SECRETARY RUBANO: Ms. Pike?

6 MEMBER PIKE: Here.

7 SECRETARY RUBANO: And Chairman Boisvert?

8 CHAIRMAN BOISVERT: Here.

9 SECRETARY RUBANO: You have a quorum.

10 CHAIRMAN BOISVERT: Thank you.

11 Would you please rise for the pledge of
12 allegiance and then a moment of silence for our
13 troops serving here and abroad.

14

15 (Pledge of Allegiance.)

16

17 (Whereupon, the board continues with
18 the posted agenda.)

19

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20 (Time noted 7:46 p.m.)

21

22 CHAIRMAN BOISVERT: All right, next up
23 is Case Number SP-1104, 96 Industrial Court.

24

25 SECRETARY RUBANO: Mr. Chair, I
neglected to put the eligible voters on there, but

1 Mr. Leggio, Mr. Seaman, Ms. Talente, Mr. Tannenhaus,
2 Councilman Gasior and Mr. Mercer were all eligible
3 voters. And Mr. Greenfield, Ms. Pike and
4 Chairman Boisvert have all certified. So everyone
5 tonight is eligible to vote.

6 ATTORNEY PAPE: Good evening, board
7 members, board professionals. My name is Jared
8 Pape. I'm an attorney with the law firm of
9 Heilbrunn Pape appearing on behalf of the applicant.

10 This is a continuation of a meeting
11 that began about two weeks ago on May 18th, 2023.
12 This is an application for Preliminary and Major
13 Site Plan approval. We previously made a
14 presentation through the testimony of Peter Strong
15 who reviewed the elements of the site plan, as well
16 as Stephen Radosti who covered the architectural
17 components of the plan.

18 And at that meeting we received feedback
19 from the board members and board professionals. And we
20 made a commitment that we would meet with your
21 professionals and revise the plan and submit those
22 revised plans.

23 We did meet with your professionals
24 and we did revise plans and submit revised plans and
25 I will just take a moment to give an outline of what

1 those revisions were, and they'll be covered more
2 thoroughly by Peter Strong and Scott Kennel, who are
3 here this evening.

4 With regard to our traffic report,
5 Mr. Kennel met with the professionals, including
6 Mr. Chen. And based on their feedback he did some
7 additional work and updated his traffic report,
8 which was submitted. And, again, he will cover that
9 more thoroughly.

10 There were some elements of the site
11 plan that were also updated. The landscaping has
12 been updated pretty substantially. There were some
13 landscaping areas along the area of the building
14 near the loading docks which have been removed which
15 allows for the loading docks to be 60 feet, which is
16 compliant.

17 There has been an enhancement of
18 landscaping primarily in the front of the building
19 with additional trees that are now depicted.

20 The applicant acknowledges that there
21 is a requirement to install more trees and is
22 requesting a waiver for same and has agreed to
23 contribute to the township tree fund for the balance
24 of the requirement.

25 At the last meeting it was identified

1 that there was a parking movement conflict in the
2 parking lot which has been resolved, and Mr. Strong
3 will cover that in his testimony.

4 Also at the last meeting there were
5 discussions about variances created by parking
6 stalls and the septic system being located in a
7 setback area. Both of those variances have been
8 removed. The 12 parking stalls that were in the
9 setback area have been removed, but parking is still
10 compliant.

11 And the septic was relocated to the
12 rear of the building outside of that setback area.
13 So again, those variances have been removed.

14 Last, there were some changes to the
15 entrance to the truck traffic which will be covered,
16 again, by Mr. Kennel.

17 So that's a summary of our presentation.
18 If it's acceptable, I would like to move to our
19 first witness who would be Mr. Strong.

20 ATTORNEY CUCCHIARO: Mr. Strong, you
21 were previously sworn, correct?

22 PETER STRONG: Yes, I was.

23 ATTORNEY CUCCHIARO: I'll just remind
24 you, you remain under oath.

25 PETER STRONG: Yes.

1 ATTORNEY CUCCHIARO: And if you can
2 just state and spell your name for the record again.

3 PETER STRONG: Peter W. Strong,
4 S-T-R-O-N-G.

5 ATTORNEY CUCCHIARO: Go ahead,
6 Mr. Strong.

7

8 P E T E R S T R O N G, P.E.,

9 Previously sworn, continues as follows:

10

11 THE WITNESS: As Jared has stated,
12 after our last hearing we took the board's comments,
13 the board and board professional's comments to heart
14 and went back and we did a revised --

15 ATTORNEY CUCCHIARO: Okay, Mr. Strong,
16 is this a new exhibit for tonight?

17 SECRETARY RUBANO: No, that's
18 already...

19 ATTORNEY CUCCHIARO: We have it?

20 SECRETARY RUBANO: Yes. It's A-26.

21 ATTORNEY CUCCHIARO: Okay. So this is
22 A-26.

23 THE WITNESS: Yes. The same as the
24 one that's up on the screen in the back.

25 So we did a modified site layout and a

1 colored rendering of that. And I just wanted to go
2 over with you the changes that were made so that
3 you're clear with regard to that. And we had seven,
4 seven basic changes to the plan:

5 First, we removed the landscaping strip
6 that was previously underneath the loading docks.
7 That didn't seem to be something that anybody was
8 interested in doing, and so we removed those. And
9 we're planning to put those same shrubbery back
10 along the frontage of the building, along Industrial
11 Court.

12 ATTORNEY CUCCHIARO: And, Mr. Strong,
13 when you say there a was a lack of interest, that's
14 because, I presume, the likelihood that they could
15 be kept alive and thriving is very low.

16 THE WITNESS: That's part of the
17 equation, yes.

18 ATTORNEY CUCCHIARO: Right.

19 THE WITNESS: Technically we're
20 required to do it by ordinance.

21 ATTORNEY CUCCHIARO: Right. Well I'm
22 just saying when you said there was a lack of
23 interest, I wanted the board to understand what
24 generated that.

25 THE WITNESS: You're correct.

1 So we removed the shrubbery from
2 underneath the loading docks and put it back along
3 frontage of the warehouse building. We revised the
4 site to remove seven parking spaces from the
5 northerly parking area along the entrance driveway
6 to the office space, and we removed five more spaces
7 in the back where we had created a small parking
8 area for truck drivers and that sort of thing to be
9 able to park and access the rear part of the
10 building where they were working.

11 So we have now 33 parking spaces where
12 45 was originally proposed. And 32 is what is
13 required. So we're one space more than we have to
14 have for the minimum required, and we've removed all
15 those spaces from the front yard area of the site.

16 And when we did that we also added
17 more landscaping to the areas, especially along the
18 northerly property line; we added a line of
19 shrubbery that goes along the whole area of the car
20 parking spaces, as well as perpendicular to the
21 spaces that screen the view from Industrial Court
22 somewhat from the car parking area and headlights
23 and that sort of thing. So we have made those
24 changes to the plan.

25 As Jared mentioned, we had moved the

1 septic. The septic originally was in the front yard
2 area here, and we moved it to the rear yard area.
3 And when we did that we took some of that
4 landscaping out of there, from the septic system,
5 and moved that to the front as well.

6 The net effect on the landscaping was
7 that we had removed 17 plantings from the original
8 plan that we had and we added 41 back to the new
9 plans. So we increased the amount of landscaping on
10 the proposed site with this layout change.

11 Oh, and we adjusted the parking spaces
12 in this area where your traffic engineer pointed out
13 there was a conflict with the parking spaces backing
14 out against each other and we slid the parking
15 spaces over to the south and eliminated that
16 conflict so that that's no longer an issue.

17 And last but not least we flared out
18 the curb return at the southerly entrance to the
19 truck loading dock areas so that we were able to
20 maneuver two trucks in and out at the same time
21 without overlapping or conflicting with each other,
22 which was another potential issue that your traffic
23 engineer had raised.

24 So I think those were the seven items
25 that we revised.

1 ATTORNEY CUCCHIARO: Mr. Strong --

2 THE WITNESS: Yes.

3 ATTORNEY CUCCHIARO: -- if I could
4 just go back, this was a comment Mr. Pape raised at
5 the beginning regarding our tree ordinance.

6 How many trees were required to be
7 replanted?

8 THE WITNESS: As I recall the
9 replanting was in the 400 trees neighborhood. And
10 we had...

11 ATTORNEY CUCCHIARO: And how much are
12 you proposing to replace?

13 THE WITNESS: Oh, I'm going to go from
14 memory, but I think we had something in the 170
15 range at the time of the original plan and we've
16 added another 24, I guess, to the plan as of this
17 point in time.

18 The rest would be handled by a
19 contribution to the tree fund.

20 ATTORNEY CUCCHIARO: So then I guess
21 the deficiency is somewhere between, like, 200 and
22 210?

23 THE WITNESS: Yeah. It's still
24 significant, but we have reduced it as much as we
25 can with the site that we have to work with and

1 constraints.

2 ATTORNEY CUCCHIARO: Okay, thank you.

3 THE WITNESS: You're welcome.

4 Jared, did you have any other questions?

5 ATTORNEY PAPE: No. I think you
6 covered all the changes, unless there's anything
7 else that he wanted to share with the board?

8 THE WITNESS: No, I don't think so. I
9 outlined what we did at this point in time to
10 address the comments from the last hearing.

11 ATTORNEY PAPE: Mr. Strong is
12 available if there are any questions from board
13 members or board professionals.

14 BOARD ENGINEER: I have one question.
15 One of the commitments previously was you were going
16 to meet with Chief Lewis.

17 Is that going to be handled by
18 Mr. Kennel?

19 THE WITNESS: Chief Lewis is the fire
20 guy, right?

21 BOARD ENGINEER: Fire, yes.

22 THE WITNESS: I know Ken had met with
23 -- Ken Pape has met with him previously. I don't
24 think he has met with him again. Since we finished
25 this plan last Friday, I don't think he met with him

1 yet again.

2 Is Chief Lewis still there? Wasn't
3 he...

4 SECRETARY RUBANO: Chief Lewis retired
5 yesterday.

6 THE WITNESS: Okay.

7 SECRETARY RUBANO: Today is his first
8 official day off.

9 BOARD ENGINEER: I guess you won't be
10 meeting with Chief Lewis.

11 THE WITNESS: Whoever the new Chief
12 Lewis is, I guess. He had no problem, Chief Lewis,
13 with the plan previously and we haven't done
14 anything to narrow the driveways or create
15 anything...

16 ATTORNEY CUCCHIARO: So you don't have
17 any knowledge of anything that happened post the
18 first meeting with Chief Lewis is what Laura was
19 getting at.

20 There was supposed to be a meeting that
21 happened. So I would say, Mr. Chairman, if there's
22 an approval, we just condition it upon receiving
23 something from whoever is now performing those
24 duties, stating that the application is sufficient.

25 THE WITNESS: Okay, certainly.

1 BOARD ENGINEER: Mr. Chairman, as I
2 had indicated at the last hearing, this is an
3 application for preliminary, so I think that that
4 would be a reasonable condition since that
5 application will be returning to the board for final
6 approval.

7 THE WITNESS: That's fair. Yes.

8 CHAIRMAN BOISVERT: Right.

9 MEMBER LEGGIO: Mr. Strong --

10 THE WITNESS: Yes.

11 MEMBER LEGGIO: -- the Industrial Court
12 is how many lots total, you have 6 and 7 that are
13 part of this, and then how many other...

14 THE WITNESS: The whole industrial
15 park?

16 MEMBER LEGGIO: Yeah. But how many
17 other empty lots are surrounding this?

18 You're not going to be able to see it
19 on that.

20 THE WITNESS: Well there were --

21 MEMBER LEGGIO: It was eight, eight
22 lots total?

23 THE WITNESS: It was eight lots total.
24 One of them -- one of them was a re-alignment of lot
25 lines with the adjoining neighbor.

1 MEMBER LEGGIO: Okay.

2 THE WITNESS: And another one was the
3 open space that was --

4 MEMBER LEGGIO: And that's the
5 commitment for the open space?

6 THE WITNESS: Right. So that was --

7 MEMBER LEGGIO: So how much more
8 square footage is proposed for the future that is
9 going to be built?

10 THE WITNESS: Well, there would
11 be -- it would have been six lots that you would
12 have built on, but we're providing two lots here,
13 this is two lots, and it's 90,000 square feet.

14 You already approved one across the
15 street for Lot 4 that was, I don't know, around
16 90,000 square feet as well --

17 MEMBER LEGGIO: That's not even been
18 built yet.

19 THE WITNESS: It's not, no, but it's
20 been approved.

21 And there are three other -- excuse
22 me, three other vacant lots which based on
23 conceptual plans that we have been working on a
24 little bit for those lots, I don't think that -- I
25 don't think they'll exceed, I don't think, 90,000

1 square feet, and they probably won't --

2 MEMBER LEGGIO: Each.

3 THE WITNESS: Each -- and they
4 probably won't be able to achieve that much. So
5 another 250,000 square feet maybe.

6 MEMBER LEGGIO: Yeah, so that's where
7 I'm going with this; so you got your 90 across the
8 street, we got the 90 on this because 40,000 is
9 office, so we're looking at a potential, you know in
10 the future, if everything was approved, a massive
11 warehouse area.

12 So I'm just concerned with -- with the
13 flow. I know we haven't gotten to traffic yet, but
14 that's, you know...

15 Is it being sold, or nothing, you
16 know...

17 ATTORNEY PAPE: Nothing's being sold.

18 THE WITNESS: No, nothing is being
19 sold and --

20 MEMBER LEGGIO: I mean resold. They
21 just want to get the approvals and sell them?

22 THE WITNESS: My understanding is that
23 they're planning to build the two, these two lots;
24 the one that's already approved and this one, if
25 they gain approval, in the not-too-distant future.

1 The other three I'm not sure about.

2 MEMBER LEGGIO: And the one across the
3 street, the other one that is 90,000, does that have
4 a tenant yet?

5 THE WITNESS: No.

6 MEMBER LEGGIO: So it's the same
7 thing?

8 THE WITNESS: I think that the
9 gentleman who runs the Janico service, which
10 is -- has an existing building on Industrial Court
11 and is attached to the one that was approved, he's
12 going to take a good portion of that building for
13 his business, to expand his business.

14 MEMBER LEGGIO: All right. Like I
15 said, I'm just, you know, looking at the overall
16 size of the entire thing. It's like, you know, for
17 the future, it's massive.

18 That's all. All right.

19 CHAIRMAN BOISVERT: Anybody else?

20 MEMBER SEAMAN: I was just looking at
21 it and I may have missed it; if I did, I apologize.

22 But I am assuming with the Circulation
23 Plan, the tractor-trailer will be WB-50?

24 THE WITNESS: The tractor-trailers
25 would be WB-62.

1 MEMBER SEAMAN: WB-62, okay.

2 CHAIRMAN BOISVERT: Anybody? Okay.

3 THE WITNESS: Get Mr. Kennel up?

4 ATTORNEY PAPE: Yes. If we could have
5 Mr. Kennel sworn, we'll move to our next witness.

6 ATTORNEY CUCCHIARO: Do you swear or
7 affirm the testimony you are about to give this
8 board is the truth, the whole truth, and nothing but
9 the truth?

10 SCOTT KENNEL: I do.

11 ATTORNEY CUCCHIARO: Would you please
12 state and spell your name, for the record.

13 SCOTT KENNEL: Scott Kennel,
14 K-E-N-N-E-L, with McDonough & Rea Associates,
15 located at 1431 Lakewood Road, Manasquan. I'm a
16 principal with McDonough & Rea Associates with over
17 35 years of traffic and transportation planning
18 experience.

19 I have testified in over 1,000 site
20 plan applications in over 100 municipalities. And I
21 have testified before this board as well as the
22 Howell Zoning Board on a number of occasions, and I
23 have been qualified by the New Jersey Superior Court
24 for land use matters as a traffic expert.

25 CHAIRMAN BOISVERT: Okay, we'll accept

1 your credentials.

2 SCOTT KENNEL: Thank you.

3

4 E X A M I N A T I O N

5

6 ATTORNEY PAPE: Mr. Kennel, can you
7 confirm that you have assisted in the preparation
8 and review of the Circulation Plan that is being
9 presented this evening?

10 THE WITNESS: Yes, I was involved.

11 ATTORNEY PAPE: And can you explain
12 the circulation on-site?

13 THE WITNESS: Well, the site has been
14 developed. And as Mr. Strong indicated, we have two
15 separate areas, the northern area of the site
16 adjacent to the office portion of the building has
17 the main parking field with an island that allows
18 again two-way traffic flow to and from Industrial
19 Court. And it has been designed and will
20 accommodate smaller trucks, such as FedEx or UPS
21 trucks, for daily deliveries to the office component
22 of the building.

23 As far as the southerly portion of the
24 site that is where we have the 11 loading docks and
25 that would be the loading dock area for WB -- the

1 maximum size trucks of WB-62. And we have modified
2 the design to address the comments raised by
3 Mr. Chen to allow truck traffic to enter and exit
4 simultaneously should that occur.

5 And we're also providing approximately
6 five parking spaces adjacent to Industrial Court
7 that are generally used for employees of the
8 warehouse portion of the site.

9 An important element of this design on
10 the south side is that it has pavement area that
11 extends in an easterly direction so it better
12 accommodates the truck movements into the loading
13 docks as they enter in from Industrial Court.

14 So as a result of the modified design,
15 it's my opinion that this site has been designed to
16 safely and efficiently accommodate the
17 tractor-trailer vehicles, as well as passenger
18 vehicles that will be generated by this site.

19 If you want, I can go into my Traffic
20 Impact Analysis.

21 ATTORNEY PAPE: Yes, please.

22 THE WITNESS: We originally prepared a
23 Traffic Impact Study, dated February 9, 2022.

24 Based on the comments from Mr. Chen we
25 updated that traffic study. And the main focus of

1 that was to update the traffic counts. When we were
2 engaged by the applicant we conducted our counts in
3 June of 2021. And Mr. Chen felt that it would be
4 best to update those traffic counts, given how we
5 were, you know, going through the pandemic at that
6 time. Schools were still in session, but to
7 accurately reflect current traffic conditions
8 updated traffic counts were conducted on Howell
9 Road, Vanderveer Road and County Route 524 on
10 May 23rd and May 25th last month.

11 So we established and used that data as
12 our base traffic volumes. And from there we then --
13 and let me also go back.

14 As part of our traffic investigation we
15 do an investigation, an inventory of traffic
16 conditions on the roadways that we're analyzing.
17 And both Vanderveer and Howell Road have a 4-ton
18 weight limit.

19 And by reviewing the ordinances that
20 were passed by the town council many years ago,
21 those weight limits were put in place to prohibit
22 thru-traffic; in other words, trucks going from
23 Route 33 down to 524, or through movements on
24 Vanderveer Road from Howell Road to 524.

25 The state statute, though, permits

1 local truck deliveries. So, in other words, truck
2 traffic destined to Industrial Court by state
3 statute is permitted to utilize those roadways
4 because it's to facilitate access to those permitted
5 uses on Vanderveer Road. And again, this was
6 presented as part of the 90 Industrial Court
7 application based on questions that were raised by
8 the board members and the professionals.

9 Once we have the base traffic volumes
10 we then develop traffic projections for the -- for
11 the 94,526 square foot building. And as I stated
12 there was an approximately 5 percent of the building
13 has an office component of 4,176 square feet, and
14 the remaining portion of the building will be
15 warehouse, which is 90,350 square feet. And by
16 utilizing trip generation rates established by the
17 Institute of Transportation Engineers we came up
18 with projections for the morning peak hour and the
19 afternoon peak hour with approximately 42 trips in
20 the morning and 44 trips in the afternoon.

21 As far as traffic assignments based on
22 existing roadway network, traffic patterns, we
23 determined that approximately two-thirds of the
24 traffic could be oriented towards Howell Road to
25 Route 33, and then the balance or a third would be

1 oriented to the south towards County Route 524.

2 The next step was to assess the traffic
3 conditions with this building constructed and fully
4 occupied. We considered a design year of 2028. And
5 the first step was to consult background traffic
6 growth rates established by NJDOT. And the roadways
7 adjacent to this site are qualified as collector
8 roadways, and based on NJDOT data that is a
9 2.5 percent per year growth rate. And using the
10 protocol that they have established we considered a
11 10 percent growth rate to the 2023 traffic volumes.

12 In addition, we considered the vacant
13 space that was -- that is in the building that is on
14 Lot 2 and developed traffic generation -- traffic
15 projections for that building.

16 Also there is on Lot 1, there is a
17 40,000 square foot building that was recently
18 constructed, so we developed traffic projections for
19 that building.

20 And then, as Mr. Strong just stated,
21 for 90 Industrial Court or Lot 4, the board approved
22 a warehouse building that was -- that is
23 70,320 square feet. So we considered the traffic
24 projections from that building and surcharged that
25 onto the study locations.

1 In looking at the intersection of
2 Industrial Court and Vanderveer Road with the site
3 traffic and the other traffic that I mentioned, as
4 well as traffic growth, that intersection is
5 proposed to operate at a Level of Service B with
6 approximately 11 seconds of average delay; and the
7 same thing in the afternoon, a Level of Service B.
8 Well within the acceptable range.

9 As far as the intersection of Adelphia
10 Road and Vanderveer Road, that intersection is
11 projected to operate at a Level of Service C or
12 approximately 16 seconds of average delay during the
13 morning peak hour and in the evening it will be a
14 Level of Service C again with average delay of
15 approximately 20 seconds.

16 As far as the intersection of Howell
17 Road and Vanderveer Road, that is projected to
18 operate at a Level of Service B for both the morning
19 and afternoon peak hours with average delay of
20 13 seconds in the morning and 12 seconds in the
21 afternoon, all operating well within acceptable
22 ranges when consideration of the Monmouth County
23 standards and industry standards.

24 As far as the site plan, I spoke about
25 that earlier, and as Mr. Strong indicated, the

1 township ordinance requires 32 parking spaces and
2 we're providing 33.

3 I think one other item that we'll have
4 to address when we go to final, we don't identify
5 any EV parking spaces. Based on that state statute
6 we're required to provide one, we're in all
7 likelihood going to provide two because the way the
8 installations are is that you can have one power
9 source that will feed two spaces.

10 And that, in essence, concludes my
11 testimony.

12 ATTORNEY PAPE: Thank you, Mr. Kennel.
13 He's available, if there are any
14 questions for him.

15 ATTORNEY CUCCHIARO: Mr. Kennel, the
16 exemption for deliveries, and we had discussed this
17 when we had a TRC, is there a particular cite to the
18 Administrative Code that you have for that?

19 THE WITNESS: Yes, there is. The
20 citation is N.J.S.A. 40:67-16.1.

21 ATTORNEY CUCCHIARO: And does it
22 define what a delivery is in there?

23 THE WITNESS: It defines deliveries as
24 trucks that have a destination within those -- on
25 those roadways that have their weight restrictions.

1 ATTORNEY CUCCHIARO: Okay. That's all
2 I have, Mr. Chairman.

3 MEMBER LEGGIO: Mr. Cucchiaro?

4 ATTORNEY CUCCHIARO: Yes.

5 MEMBER LEGGIO: Wasn't there with our
6 traffic guy from the last meeting, wasn't there some
7 kind of --

8 CHAIRMAN BOISVERT: He just raised his
9 hand.

10 MEMBER LEGGIO: I'm sorry.

11 CHAIRMAN BOISVERT: That's why I was
12 pointing to him. He might answer your question.

13 MEMBER LEGGIO: There you go. With
14 the questions you guys raised from last time.

15 BOARD TRAFFIC EXPERT: Mr. Kennel,
16 with regard to the traffic counts you conducted last
17 month, were those traffic counts on May 23rd and
18 May 25th, were those traffic counts on weekdays?

19 THE WITNESS: Yes. Specifically,
20 May 23rd was a Tuesday. The counts were conducted
21 from 7:30 to 9:00 a.m. and 4 to 6:00 p.m. And that
22 was at the intersection of 524 and Vanderveer Road.

23 And on May 25th, from 7:30 to 9:00 a.m.
24 and 4 to 6:00 p.m. the counts were conducted at
25 Howell Road and Vanderveer Road.

1 BOARD TRAFFIC EXPERT: Okay.

2 Mr. Chairman, I just wanted to point
3 out that I reviewed the updated traffic counts and
4 the trip generation that Mr. Kennel provided earlier
5 this week I believe it was, Tuesday -- two days ago.

6 I have no issues with regard to the
7 traffic and the trip generation within that revised
8 report.

9 CHAIRMAN BOISVERT: Okay. Thank you.

10 ATTORNEY CUCCHIARO: So just while
11 we're on all of that, and I would ask Mr. Kennel as
12 well as Mr. Chen, if you could just exclusively talk
13 about ingress and egress to the site and the safety
14 of the ingress and egress.

15 THE WITNESS: As far as the site is
16 concerned, Industrial Court eventually will be
17 extended to the south to intersect Vanderveer Road
18 at a second point.

19 Our analysis was based on just the
20 existing intersection of Vanderveer Road and
21 Industrial Court. And we surcharge all that traffic
22 to that one location resulting in Level of Service
23 B. Based on the current configuration, in my
24 opinion, there is adequate sight distance and that
25 it can operate safely and efficiently with the

1 development of this proposed building.

2 ATTORNEY CUCCHIARO: Mr. Chen, I would
3 just ask you to comment on that.

4 BOARD TRAFFIC EXPERT: I have reviewed
5 the revised colored plan that shows the updated
6 turning movements into -- into and out of the site.
7 I do not have any issues with the -- how the
8 depiction of the trucks entering and exiting at the
9 same time.

10 ATTORNEY CUCCHIARO: Okay.

11 MEMBER LEGGIO: Mr. Chen, you
12 obviously physically visited the site, and then how
13 about -- just bear with me for a second because we
14 keep -- we keep doing this every time with the flow.

15 The big warehouse at the end of the
16 road, at the end of Howell Road that the board
17 denied and then we were overturned by the court, the
18 biggest issue with that was making sure that no
19 tractor-trailers were coming into Howell Road so
20 they forced everything to go out of the back of the
21 property into Okerson to go to Route 33, okay.
22 That's one thing.

23 That intersection right there, that
24 Route 33 and Howell Road, okay, I was there three
25 times this week -- actually, I go there every

1 morning because I drop my son off at Colts Neck High
2 School and I come -- and that's the way I come.

3 Okay, the intersection there, there is
4 no improvements being made there for a successful
5 turn of a tractor-trailer to go right onto the
6 eastbound side of 33. I have seen trucks sitting
7 there and they have to get into the left lane to
8 swing right, and that's if there's no cars coming
9 west, you know, without going onto, you know,
10 oncoming traffic.

11 So that intersection is an issue for
12 me. You know, I understand from, you know, the
13 professional testimony, the road is a right-of-way,
14 it's a permitted use as far as what we're doing
15 here. But we're adding now these trucks and future
16 trucks. Because we don't know what is going to get
17 built there yet, or when it's going to get built,
18 who the tenants are going to be, how many trucks;
19 all this traffic testimony is, you know, like I've
20 made comments in the past about the traffic
21 testimony, really the numbers doesn't really matter
22 because we don't know who the tenants are going to
23 be; are we operating 24/7? You know, the trip
24 generation doesn't really make any sense if there's
25 no tenant yet, but that's, you know, there are other

1 issues.

2 Okay, let's go back down the road.
3 Vanderveer when it meets Howell Road has a bend to
4 the right, okay. So making a left with these
5 tractor-trailers heading to Adelphia Road, which we
6 don't want the trucks going to because of the
7 schools and the buses and everything else, that
8 intersection is not being improved. So there is a
9 left-hand turn issue there.

10 The right-hand turn is an easier flow
11 even though Howell Road has no shoulders, it's farm,
12 sod farms, some residential, et cetera. Then when
13 we get to the Route 33 extension the trucks can't
14 make the left to go west because of the way it's
15 curved and guard-railed, okay. It would actually be
16 better if they could do that. So that's, you know,
17 number two.

18 Number three, Adelphia Road. When the
19 trucks meet Adelphia Road to make a right to go to
20 Route 9, there is -- tractor-trailers are not making
21 that turn in the existing state, okay. They're not
22 fitting a tractor-trailer there plus a passenger car
23 and then vehicles making a left-hand turn onto, you
24 know, Howell Road to proceed to 33 or wherever else
25 we're going. So --

1 BOARD ENGINEER: Mr. Leggio, if I
2 could, because you're throwing a lot of things out
3 there. Number one, the only thing I would want to
4 point out is because this is a permitted use we're
5 not really -- we don't really have the ability to
6 continue to look off-site.

7 But having said that, I think you
8 brought up a couple of points that I would like to
9 get the traffic engineer to address directly.

10 MEMBER LEGGIO: Yeah.

11 BOARD ENGINEER: So you're talking
12 about, you know, impacts and how the trucks are
13 going to go, all of which I think are valid and we
14 should hear directly from Mr. Kennel on. But I do
15 just want to point out that because this is a
16 permitted use, our limited jurisdiction here is
17 really safety at site ingress and egress which would
18 be limited to Industrial Court.

19 Now we've looked at other circumstances
20 in other projects where we have had concerns, we
21 brought them up, and we've been able to potentially
22 mitigate those. But I do just want to indicate that
23 because it's a permitted use we're really limited to
24 looking at site safety at ingress and egress to the
25 site.

1 Having said that and just, you know,
2 hearing Mr. Leggio's concern can you address the
3 circulation patterns, the adequacy of that, the
4 maneuvers that would be anticipated for the
5 tractor-trailers.

6 MEMBER LEGGIO: There's one more thing
7 before you go and I want to hear what you have to
8 say, okay. We always bring up safety, safety,
9 safety, right? You know, we usually have a packed
10 place here, people are always screaming about their
11 kids and the buses and standing outside. And none
12 of that matters anymore because all we have to focus
13 on is ingress and egress from Industrial Court.

14 My concern, sir, as a resident, okay,
15 as a father, okay, and I know we're not really
16 supposed to go there but I'm going there, is the
17 safety at these other three points, okay. They need
18 to be addressed.

19 And, you know, whatever we're allowed
20 to do here or not allowed to do here, it's a major
21 concern. We don't even have the building built yet;
22 you have 90,000 square feet across the street that
23 is not built yet. There is existing stuff there
24 that I saw the three times I visited the site this
25 week; I sat there, I saw what came in and out, okay,

1 at the current state that is there, very limited on
2 tractor-trailers. Lot of FedEx. Lot of UPS.
3 Smaller straight axle trucks, okay. It is what it
4 is; it's an Industrial Court.

5 But I am looking at a resident, as a
6 taxpayer, okay, beyond that to the safety of these
7 roadways, okay. The permitted thing is one thing,
8 but the flow on all these roadways is another.

9 You know at the end of the day when
10 this is all built, if it gets built and everything
11 else gets built, you know, how much of a hazard is
12 all of that going to add to Vanderveer, 524,
13 Route 33.

14 You know I actually today when I was
15 there -- I went there today. And I actually made a
16 left out of Industrial Court and went up to Bennett
17 and then made a left onto Bennett and I went out to
18 Fairfield.

19 Fairfield has one massive warehouse
20 that's already built, with no tenants, and two more
21 that are coming, okay, with other industrial parks.
22 Okay?

23 If this was to be approved instead of
24 the flow going out to Howell Road and to 524, you
25 know, maybe we should consider the flow going to

1 Bennett back to Fairfield, because the access to
2 Route 33 there is a helluva lot better than what
3 we're proposing here if we got 41 -- 42 coming, 44.

4 And, now, listen those aren't even the
5 real numbers, okay. All this, the traffic study and
6 the DOT and all our graphs and all that stuff that
7 you guys put up, okay. And you know what, Mr. Chen,
8 thank you for updating, you know, doing the study
9 from the COVID when the roads were dead. Okay?

10 And then as far as the times are
11 concerned, I think your times are off; we need to
12 add two hours more in the morning, two hours in the
13 afternoon because that's really the heavy part of
14 the flow over there.

15 And were the counts done by hand or
16 were they done by ATOM, the counters?

17 THE WITNESS: They were manual counts,
18 there were people --

19 MEMBER LEGGIO: Manual, so people
20 standing there?

21 THE WITNESS: -- stationed out there,
22 staff that has been doing this for many, many years.

23 MEMBER LEGGIO: Okay. Well, listen,
24 I'm not questioning your ability to count, okay. We
25 can get a bunch of second graders from Adelphia

1 School to count there too with crayons and books,
2 all right.

3 My question is, is the real number of
4 the flow and the real number of the impact of 524,
5 Vanderveer and Howell Road and Route 33. But,
6 Ms. Neumann, like I said, you brought up the point
7 that we are really not supposed to go there; but
8 then who is supposed to go there?

9 ATTORNEY CUCCHIARO: I can tell you --

10 MEMBER LEGGIO: Go ahead.

11 ATTORNEY CUCCHIARO: -- that it's
12 governed by the Municipal Land Use Law. And it's
13 not a local ordinance. It's not a county
14 regulation.

15 This is how the courts for the past
16 40 years maybe, have interpreted the Municipal Land
17 Use Law. It's a famous case called Dunkin' Donuts
18 v. North Brunswick Zoning Board of Adjustment.
19 There's also a case called Lionel's Appliance. And
20 what they said in those cases is that when you have
21 a permitted use it is presumed, again their
22 language, not mine, it is presumed that a governing
23 body consider the impact over all traffic.

24 What a governing body did not
25 necessarily consider under the case law is whether

1 the ingress and egress from a particular site within
2 a zone was safe or unsafe.

3 So once there is a use that is
4 permitted the Municipal Land Use Law -- and, you
5 know, we've actually, in my office, we did a bunch
6 of research on this very recently because this comes
7 up in a lot of applications now of a similar nature
8 in various towns -- the law has not changed in that
9 40-year period.

10 So if there was a decision that you
11 could look at off-site that would have to be an
12 amendment to the Municipal Land Use Law that our
13 legislature and governor would have to implement.

14 MEMBER LEGGIO: Well, good luck with
15 that. But, you know, we've got residents that are
16 standing out there, you know, with their kids
17 waiting for the buses and, you know, everything else
18 that goes along with these projects, you know what I
19 mean?

20 Ultimately our failure as a township as
21 well as with our Master Plan from years ago with
22 certain areas that we're permitting this and not
23 permitting this, and so here we are now again stuck
24 with a permitted use, you know, in the middle of
25 nowhere that takes miles to get to where they want

1 to go to access a freeway, you know, or a
2 modern -- not a modern freeway; Route 33 is just
3 completely out of control east and west.

4 But go back with your testimony, sir.

5 THE WITNESS: I'll try to remember all
6 your comments and respond to them as best I can.

7 But as far as the traffic projections
8 it's my opinion, based on extensive research we have
9 done at existing facilities to substantiate what is
10 the industry standard trip rates that are approved
11 by Monmouth County and NJDOT, that the traffic
12 projections we have here in my opinion are going to
13 be on the high side just based on experience.

14 And that was done so we can do a
15 conservative, a worst-case conservative analysis.
16 So I'm very confident with the traffic projections
17 not knowing who the tenants are based on my almost
18 40 years of experience and doing research counts at
19 similar type of developments.

20 As far as the off-site location and I
21 guess I'll address Route 33 and Howell Road. That
22 is a state intersection. And as the board attorney
23 indicated that's an off-site location. If there is
24 a situation there that needs to be rectified, that
25 is where the mayor and council would initiate a

1 problem statement or contact NJDOT to review that.
2 But it's, again, it's beyond our responsibility
3 given the case law.

4 MEMBER LEGGIO: That is really
5 convenient for you guys to have that, you know what
6 I mean, at all three sites or whatever, you know,
7 it's just -- you know, like I said, at the end of
8 the day taxpayers and the people that use the
9 roadways are the ones suffering with the flow and,
10 you know, the added traffic and, you know, like I
11 said, it's just like beating a dead horse with these
12 issues.

13 I sat on this board for two years
14 before COVID and this is what we did and what we had
15 to hear. And it's -- it is what it is. It's just
16 the off-site I feel these applicants, your applicant
17 who's paying you a lot of money to represent them
18 should bear some responsibility to improve our
19 roadways. You've got, you know, these trucks are
20 going to destroy these roads, you know, in the
21 future. And then it's the Howell taxpayers that are
22 on the hook for everything.

23 You know, even the intersections. You
24 know, there's millions of dollars going into this;
25 we can't improve those intersections a little bit as

1 a sign of good faith to the township when you have
2 other stuff coming down the pike, is my question to
3 your applicant. You know what I mean?

4 That's all -- you know, am I asking
5 questions that are just, you know, not fit for this?
6 Do you understand my frustration?

7 THE WITNESS: I hear your frustration.

8 MEMBER LEGGIO: Yeah, but no one has
9 any answer when it comes to, well, who's going to
10 fix the intersections? Who's going to be
11 responsible when a bus hits one of these
12 tractor-trailers head on?

13 You know, who's -- I'm...

14 CHAIRMAN BOISVERT: But he did. It's
15 on him.

16 MEMBER LEGGIO: Well he's on council
17 to change it.

18 CHAIRMAN BOISVERT: But it's up to him
19 to go to the Mayor and the rest of the council and,
20 you know, so that's your answer right now.

21 MEMBER LEGGIO: Okay.

22 COUNCILMAN GASIOR: I have a question
23 for Ron.

24 ATTORNEY CUCCHIARO: Sure.

25 COUNCILMAN GASIOR: Ron, in the case

1 law the terms ingress and egress; are they
2 specifically defined?

3 ATTORNEY CUCCHIARO: Yes. So we
4 actually looked very closely at that just this week
5 to see whether I could get out 2, 300 feet from
6 where an access drive was or maybe even more. No,
7 no, they don't define it as anything more than the
8 actual place where you are ingressing and egressing
9 from a property.

10 We looked, my associate Austin and I
11 looked at a massive amount of case law this week to
12 try and find something that permitted under any
13 circumstance. And we were unable to find that.

14 COUNCILMAN GASIOR: I'm sympathetic to
15 what he says. And I understand Mr. Kennel's
16 position too, as far as the law goes.

17 40 years is a long time. I think the
18 time has come that it needs to be addressed. And
19 from the mayor and council point of view we are
20 speaking to the legislature about that. Right now
21 we have spoken to Kean and he's going to probably be
22 doing something to try and change that. Will it
23 happen? I don't know. You know, I don't know.

24 I look at that as a commonsense kind of
25 thing. I understand his frustration and everybody

1 else's because it seems like we're getting a lot of
2 applications that I want to use the word hide, but
3 it's the proper word, hide behind that, that law.

4 I just have one thing for you but I
5 think you kind of addressed it already. So you have
6 done all these traffic studies really based upon a
7 building that hasn't been built yet. And we don't
8 know what is going to go in there and what the
9 traffic volume is going to be.

10 THE WITNESS: That's correct. The
11 tenants are unknown so it's on a speculative nature
12 based on the approved traffic generation rates.

13 COUNCILMAN GASIOR: Mr. Chen, I have a
14 question for you; is there any recommendations that
15 you think should be made with regard to any
16 permitted traffic that is going in and out of this
17 project?

18 BOARD TRAFFIC EXPERT: I believe -- I
19 would like to make the recommendation that the
20 trucks entering and exiting the site should follow
21 the shortest path available to the Route 33 at the
22 large freeways that the -- like the larger order
23 roads and freeways that they really belong on.

24 COUNCILMAN GASIOR: All right. Well
25 the shortest route --

1 ATTORNEY CUCCHIARO: Can I just ask,
2 when you say the shortest route available is that a
3 floating concept that could change from day to day
4 or is that something, you know, looking at just the
5 amount of space that you have to travel and that is
6 what you're talking about?

7 BOARD TRAFFIC EXPERT: Unfortunately,
8 I'm thinking right now as I'm trying to make this
9 recommendation as best I can, I think I'm talking
10 about just in terms of the shortest driving
11 distance, not necessarily --

12 ATTORNEY CUCCHIARO: Well but if I
13 make that a condition of approval I'm not sure how
14 we would enforce it.

15 So if there's a particular route that
16 represents the shortest distance I think we need to
17 identify that. And, Mr. Kennel, I don't know if you
18 can identify that for us?

19 THE WITNESS: Well, it's my opinion
20 that the majority of trucks are going to be oriented
21 towards Route 33 and Howell Road.

22 So, again, that's up to the board to
23 decide. I'll mention you referenced the new
24 warehouse that is being constructed on Fairfield
25 Road. That site plan approval was based on all

1 trucks being oriented to and from the north. Trucks
2 are prohibited from going south down along the local
3 roads. But again here we're kind of removed from
4 33. But again, it's my opinion that you're going to
5 have the majority, if not all of the trucks, really
6 oriented towards 33, the tractor-trailers.

7 Doesn't mean the smaller box trucks or
8 whatever, maybe more local deliveries would be
9 oriented towards County Route 524, but again that is
10 just based on my experience in the area and the
11 traffic patterns.

12 MEMBER LEGGIO: Yeah, well --

13 BOARD ENGINEER: If I could too, and I
14 don't mean to cut you off, Mr. Leggio, but the other
15 thing is because this is a preliminary approval I
16 think maybe it would be fair to impose a condition
17 that we still want to hear traffic and the
18 possibility of tenants before they come back for
19 final, so that we get a grasp for maybe what the
20 tenant is.

21 I mean this is broken out a certain
22 percentage office/warehouse; what does that mean?
23 Is it one tenant? Is it two? Is it four?

24 I mean those are things that, you know,
25 I think we can ask this applicant to have a clear

1 picture before they come back to this board for a
2 final approval.

3 MEMBER LEGGIO: Well, let me address
4 Mr. Chen first.

5 Mr. Chen, listen, if you are a truck
6 driver, right -- okay, I ran a landscape business
7 for 26 years. I put in my map the easiest way to
8 get where I want to go, right. And if the roadways
9 are permitted for these trucks to go down any
10 roadway they want to go down, and I don't want to
11 hear anything about weight limits, a 10-ton bridge
12 or anything like that, because it's all over this
13 town and every other town every dump truck, every
14 tractor-trailer is going whatever way they want.
15 And unless the local police departments are
16 enforcing something, that ain't going to change,
17 okay.

18 So I don't want anything in writing,
19 Mr. Cucchiaro, like that saying, hey, let's amend
20 this and the shortest distance because that could be
21 a nightmare for people on Bennett Road, you know,
22 people on, you know, 524 that are going to cut
23 through it and go up to Route 9 going south and back
24 east.

25 Forget that. You know, I'm just saying

1 that's my opinion to you, don't -- you know, they're
2 going to put the shortest, oh, let me get out of
3 here, what is my quickest way back to 33; or my
4 quickest way back to Route 9, and that's the way
5 they're going to go. Okay?

6 Now, back to Laura. As far as the
7 tenants, we don't have tenants. We don't know who
8 the tenants are. So the trip generation is -- you
9 know, I don't want to be a smart ass -- the trip
10 generation is word salad because if it's a 24-hour
11 operation with one or 10 tenants and it's 11 bays,
12 okay, and they're running non-stop, then his trip
13 generation just went from 42 to 150 or 120 or maybe,
14 I don't even know. So, you know...

15 BOARD ENGINEER: Well, if I could,
16 though, to your point, one, the trip generation is
17 set. I mean that is something that comes out of
18 ITE. And so that is -- and that's based upon the
19 square footage of these components. But I think
20 that's why I'm sort of saying to the board, look,
21 you don't have that information. They're here for a
22 preliminary, I think it is information that you
23 can -- I would defer to Ron, but as a condition,
24 traffic remains a concern. And so you not knowing
25 the number of tenants, the hours of the operation,

1 maybe the number of shifts, that may be information
2 that we want to see before they come back in for
3 final so that you have a better grasp on what is
4 this office warehouse operation.

5 MEMBER LEGGIO: But we have no -- they
6 have no tenants, right.

7 BOARD ENGINEER: But they have to come
8 back to you for final. They're here for preliminary
9 tonight.

10 CHAIRMAN BOISVERT: It's just
11 preliminary.

12 MEMBER LEGGIO: But I understand. But
13 look at the big warehouse on Fairfield Road, it got
14 built and now it's for sale.

15 So whatever testimony those guys gave
16 on that massive warehouse that's not even done
17 yet -- you know, the road isn't -- the poles haven't
18 been moved, the road is still chopped up -- so
19 whatever testimony was given on that as an example
20 is completely out the window now because --

21 ATTORNEY CUCCHIARO: No, no, it's not.
22 Because a resolution does not issue to a person; it
23 issues to a property. So anyone who may buy that
24 piece of property is bound by the same
25 representations and the same conditions in the

1 resolution as the prior owner.

2 Here it's the same; so I don't know
3 that this applicant will be the same if there's an
4 approval for preliminary when final comes back. And
5 if it's a different applicant they are still
6 required to abide by all of the conditions contained
7 in the resolution for a preliminary approval. And
8 that is part of the due diligence that a purchaser
9 goes through, and that's part of the due diligence,
10 also, frankly, that banks go through when they are
11 considering financing a property.

12 So you don't get out of it by selling.
13 And a seller certainly claiming some sort of
14 ignorance to the process, it's not an excuse, you
15 know, they're still required to follow it.

16 MEMBER LEGGIO: Well, my end is -- my
17 issue is, is our due diligence to protect the
18 roadways which we really can't because that's not in
19 the law, but that's my biggest issue, Mr. Cucchiaro.
20 You know, we live here. Not everybody here lives
21 here. You know, we live here. But not all the
22 professionals live in town or travel these roads and
23 it's not their problem. It's not anybody else's
24 problem but the people that have to --

25 ATTORNEY CUCCHIARO: I would say as

1 your professional the board's problems are my
2 problems to help you solve or bring to council.

3 MEMBER LEGGIO: Living here.

4 ATTORNEY CUCCHIARO: And I can't live
5 in all the towns I represent. You know, sometimes
6 my family would like it if I lived in a different
7 town, you know, but it can't happen.

8 MEMBER LEGGIO: Well I'm looking out
9 for Howell Township, sir.

10 And you do a great job representing us,
11 all right. You do. You're one of the people I
12 like; I don't like everybody. Okay? I'll be blunt.
13 You guys know me. So and that's fine.

14 But you know that's my concern and your
15 bosses that you have to answer to, you know, maybe
16 is there any kind of conversation that you know we
17 could talk at least at the end of Vanderveer, make
18 some kind of adjustments?

19 Go there and look at the way it's --
20 you know, a tractor-trailer is not making a
21 left-hand turn there without completely crossing
22 over two lanes, and then there's no shoulders.

23 THE WITNESS: You mean an eastbound
24 left or a southbound right turn?

25 MEMBER LEGGIO: Yeah.

1 THE WITNESS: Yeah, I know.

2 MEMBER LEGGIO: It's a complete -- that
3 whole corner. It's tight.

4 THE WITNESS: It's going to be
5 self-regulated itself.

6 But that is, again, Route 33, that's
7 NJDOT; at Route 524, that's a discussion with
8 Monmouth County.

9 MEMBER LEGGIO: Monmouth County.

10 COUNCILMAN GASIOR: Mr. Kennel, I know
11 we're beating a dead horse here and as a body we
12 need to rule on what the law is and that is really
13 what we're going to do. But, you know, I look at
14 well, how does a reasonable person look at all this;
15 we want trucks to go on Howell Road to Route 33 when
16 we all know they can't make a turn there. So where
17 is the common sense in that? Okay.

18 Listen, the law is the law. And I'll
19 tell you what, we're trying our darnedest to have it
20 looked at right now, but where is the common sense
21 wanting to do that, even from an applicant's point
22 of view?

23 BOARD ENGINEER: Councilman, if I
24 could.

25 So, Mr. Kennel, one of the things you

1 mentioned earlier -- and I think we kind of glossed
2 over, I wanted to circle back to it -- was a DOT
3 problem statement. And you know, would your
4 applicant be willing to enter a DOT problem
5 statement -- assuming you had the consent of the
6 governing body -- to evaluate the intersection of
7 33, as was brought up here tonight?

8 THE WITNESS: I can't make that
9 representation without speaking with the client, who
10 is not here tonight. I mean that's -- it's not that
11 -- I'm sure that the applicant would be willing to
12 work with the board's professionals, but I don't
13 think to put all the onus on the applicant is
14 appropriate.

15 But then, again, the client is not
16 here; I can't discuss that.

17 ATTORNEY CUCCHIARO: What was the term
18 that you used?

19 BOARD ENGINEER: So the DOT, you can
20 put in what is called, and Mr. Kennel spoke about it
21 before, a DOT problem statement. And the DOT ranks
22 them and they get put in and they will respond to
23 them.

24 And I do think given the comments and
25 given the nature of the applications that we have,

1 it is appropriate for the township to make that. My
2 question was would the applicant be willing to do
3 that?

4 I understand that they can't commit to
5 it tonight on behalf of the Township of Howell. But
6 again, something also the board may be able to
7 impose a condition upon that the applicant's team
8 work with -- and it's probably not even so much of
9 the board, although I think the board engineer and
10 my office should be involved -- but the municipal
11 officials, your municipal engineer, on entering into
12 those.

13 ATTORNEY CUCCHIARO: Can I just ask,
14 in terms of who has standing to submit that document
15 and, you know, putting our ability to impose a
16 condition aside, is that something the township
17 could just do of its own accord?

18 BOARD ENGINEER: Yes.

19 ATTORNEY CUCCHIARO: All right. So I
20 would say to our Class 1 and Class 3 members that,
21 you know, whether we impose it as a condition, if
22 there is an approval or not, that may be something
23 you may wish to discuss with your township engineer
24 to see if that process can get moving, in addition
25 to what has been started through Assemblyman Kean

1 with regard to possible amendments to the Municipal
2 Land Use Law.

3 COUNCILMAN GASIOR: Okay, that works.

4 ATTORNEY CUCCHIARO: And also I took a
5 look at the statute while we were discussing some of
6 the associated issues; delivery in the statute is
7 defined as merchandise or other property. So it's
8 really not, you know, a precise -- it's a broad
9 definition.

10 So if you have merchandise or property
11 whose destination is a property within that area of
12 the weight limit, that is an exemption or an
13 exception from the weight limit requirement.

14 I'll take a further look to see
15 whether anyone has ever defined that more precisely.

16 BOARD ENGINEER: Mr. Chairman, I have
17 -- I hate to bring this up now, not a
18 traffic-related comment, but if I could; are these
19 lots to be consolidated with this application?

20 PETER STRONG: Yes.

21 BOARD ENGINEER: Thank you.

22 CHAIRMAN BOISVERT: Anybody else on
23 the board have any questions of this witness?

24 All right.

25 THE WITNESS: Thank you.

1 CHAIRMAN BOISVERT: That being said,
2 I'll open it up to the public.

3 Anybody from the public has any
4 comments, questions?

5 ATTORNEY CUCCHIARO: Do you swear or
6 affirm the testimony you are about to give this
7 board is the truth, the whole truth, and nothing but
8 the truth?

9 MARC PARISI: Yes.

10 ATTORNEY CUCCHIARO: Please state and
11 spell your name for the record.

12 MARC PARISI: Marc Parisi, M-A-R-C,
13 P-A-R-I-S-I.

14 ATTORNEY CUCCHIARO: And your address,
15 sir.

16 MARC PARISI: 2 Castle Court.

17 ATTORNEY CUCCHIARO: Go ahead.

18 MARC PARISI: First thing I want to
19 say, I just wanted to recognize you guys are back
20 here in person. As many of you know, I have been
21 outspoken about these meetings returning in person.

22 CHAIRMAN BOISVERT: We see the packed
23 house.

24 MARC PARISI: What is that?

25 CHAIRMAN BOISVERT: We see the packed

1 house.

2 MARC PARISI: I'm disappointed as
3 well. But having been outspoken about it, I do want
4 to acknowledge the board members and the
5 professionals for being here tonight and just let
6 you know that I appreciate that.

7 CHAIRMAN BOISVERT: Of course.

8 MARC PARISI: But as far as this
9 application is concerned and what Mr. Cucchiaro just
10 said, because Mr. Kennel talked about the statute
11 and I was like reading the statute and naturally,
12 you know, there is broader concern about, you know,
13 how we interpret these trucks accessing roads that
14 are weight restricted, that could have broader
15 implications on other projects, not just this one.

16 And I'll just read that that statute
17 regarding exceptions that Mr. Cucchiaro just spoke
18 of, 40:67-16.2 Exception, it says: "Nothing in this
19 Act shall be construed to prevent such trucks from
20 making deliveries of merchandise or property along
21 streets from which such trucks are excluded or to
22 authorize the exclusion from any street in any
23 municipality of trucks used by public utility
24 companies in connection with the construction,
25 installation, operation or maintenance of public

1 utility facilities."

2 So the way I read it, and I certainly
3 understand, you know, the developer's position is
4 that they're stuck on Industrial Court with access
5 to Vanderveer, and ultimately access to Howell Road
6 to either go north or south. You know obviously
7 there's a project; a couple of, you know, buildings
8 there that have been operating. But my concern is
9 about, you know, what are deliveries of merchandise
10 and other property on the streets from which such
11 trucks are excluded?

12 Like when you say WB-62, does that mean
13 that, like, the trucks that are coming to the site
14 to drop off a delivery, and then are they, like,
15 unloading and then hanging out for an hour or two
16 and then loading up another product and then
17 leaving?

18 Like what exactly is -- and again I'm
19 asking the question like is the delivery when the
20 product comes to the building or is the delivery
21 when the product leaves the building?

22 ATTORNEY CUCCHIARO: This is what I
23 was saying before, the statute is vague in terms of
24 that. So I need to research to see whether the
25 courts have interpreted that particular phraseology

1 or whether there are other sections, you know
2 perhaps in the Administrative Code rather than in
3 the statute, that may have interpreted it.

4 So the answer tonight is I find it
5 vague and I don't -- I couldn't tell you directly.
6 So I would need to perform those tests.

7 MARC PARISI: Okay, thank you. I mean,
8 that's fair enough because it's vague to me and I'm
9 sure to others that are here tonight. And I just
10 think that, you know, if we're going to be granting
11 either preliminary or final approvals with, you
12 know, vague language about what a delivery is, that
13 we should be mindful of the implications that could
14 have on other applications that come before this
15 board. All right?

16 Thank you.

17 CHAIRMAN BOISVERT: Anybody else from
18 the public want to come up and comment?

19 With that I'm going to close public
20 comment.

21 ATTORNEY CUCCHIARO: So, Mr. Chair, I
22 just want to be clear in terms of what the applicant
23 is seeking tonight.

24 The applicant has not applied for final
25 approval, so this would be a vote on preliminary

1 only with the variance and waiver relief that has
2 been placed on the record, as well as any conditions
3 that we have discussed.

4 CHAIRMAN BOISVERT: Okay. So that
5 being said, I would entertain a motion.

6 COUNCILMAN GASIOR: Motion to approve
7 preliminary.

8 MEMBER TANNENHAUS: I'll second.

9 SECRETARY RUBANO: That's Councilman
10 Gasior and Mr. Tannenhaus.

11 Roll-call?

12 CHAIRMAN BOISVERT: Please.

13 SECRETARY RUBANO: Mr. Greenfield?

14 MEMBER GREENFIELD: Yes.

15 SECRETARY RUBANO: Mr. Leggio?

16 MEMBER LEGGIO: No.

17 SECRETARY RUBANO: Mr. Seaman?

18 MEMBER SEAMAN: Yes, with the
19 understanding that we're going to address the
20 concerns, especially, as Ron mentioned, clarifying
21 the relatively vague language around the statute.

22 SECRETARY RUBANO: Ms. Talente?

23 MEMBER TALENTE: Yes.

24 SECRETARY RUBANO: Mr. Tannenhaus?

25 MEMBER TANNENHAUS: Yes.

1 SECRETARY RUBANO: Councilman Gasior?

2 COUNCILMAN GASIOR: Yes.

3 SECRETARY RUBANO: Mr. Mercer?

4 MEMBER MERCER: Yes, with conditions.

5 SECRETARY RUBANO: Ms. Pike?

6 MEMBER PIKE: Yes.

7 SECRETARY RUBANO: And Chairman Boisvert?

8 CHAIRMAN BOISVERT: Yes.

9 SECRETARY RUBANO: Motion carries.

10 ATTORNEY PAPE: Thank you all for your
11 input, and we'll see you back at final.

12 SECRETARY RUBANO: Thank you.

13

14 (Application concluded at 8:50 p.m.)

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C E R T I F I C A T E

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I, ANGELA C. BUONANTUONO, a Notary Public and Certified Court Reporter of the State of New Jersey and Registered Professional Reporter, do hereby certify that prior to the commencement, the witnesses were duly sworn to testify the truth, the whole truth and nothing but the truth.

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

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



Angela C. Buonantuono, CCR, RPR, CLR
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