## BRIDGEWATER TOWNSHIP ZONING BOARD OF ADJUSTMENT

Regular Meeting Tuesday, December 15, 2015 -MINUTES-

#### CALL MEETING TO ORDER:

Chairman Sweeney called the meeting to order at 7:30 pm in the Auditorium of the Bridgewater Raritan Regional High School, 600 Garretson Road, New Jersey 08807

### **OPEN PUBLIC MEETING ANNOUNCEMENT:**

Adequate notice of this meeting has been given in accordance with the Open Public Meetings Act N.J.S.A.10:4-6. On January 12, 2015 proper notice was sent to the Courier News and the Star-Ledger and filed with the Clerk at the Township of Bridgewater and posted on the bulletin board in the Municipal Building.

Please be aware of the Zoning Board of Adjustment policy for public hearings: No new applications will be heard after 10:15 pm and no new testimony will be taken after 10:30 pm. Hearing assistance is available upon request.

Accommodation will be made for individuals with a disability, pursuant to the Americans With Disabilities Act (ADA), provided the individual with the disability provides 48 hours advance notice to the Planning Board Secretary before the public meeting.

However, if the individual should require special equipment or services, such as a CART transcriber, seven days advance notice, excluding weekends and holidays, may be necessary.

#### ROLL CALL:

Don Sweeney – present

Alan Fross -- present

Pushpavati Amin - present

Roger Pearly, Alt. #1 - present

Paul Riga – absent

James Weideli, Alternate #2- present

Michael Kirsh - absent

Dawn Guttschall Alternate #3 - present

Evans Humenick - present

John Fallone Alternate #4 - present

Beth Powers – present

Others present: Board Attorney Larry Vastola, Board Engineer Thomas Forsythe, Board Planner Scarlett Doyle, Ann Marie Lehberger, Planning Secretary

# MINUTES FOR APPROVAL:

November 17, 2015, Regular Meeting (pending) November 24, 2015, Special Meeting (pending)

December 1, 2015, Regular Meeting (pending)

The foregoing minutes will be presented for Board consideration when completed. No action was taken.

#### **MEMORIALIZING RESOLUTIONS:**

HAROLD BROWN. -206 Hancock Ave (pending)

Block 118 Lots 1.01

#15-030-ZB- Simple Variance - roof over porch

TIME: 120=2/17/16

DECISION: Approved with conditions 11/24/15

Eligible to Vote: Mr. Sweeney, Mr. Humenick, Mr. Kirsh, Mr. Pearly, Mr. Weideli, Ms. Guttschall, Mr. Fallone

NY SMSA LIMITED PARTNERSHIP DBA VERIZON WIRELESS – 49 Old York, Rd. (pending)

Block 134 Lots 6

#15-019-ZB- Minor Site Plan with Variances

BRIDGEWATER TOWNSHIP
ZONING BOARD OF ADJUSTMENT
Regular Meeting
Tuesday, December 15, 2015
---MINUTES---

TIME: 120=2/12/16

DECISION: Approved with conditions 11/24/15

Eligible to Vote: Mr. Sweeney, Mr. Humenick, Mr. Kirsh, Mr. Pearly, Mr. Weideli, Ms. Guttschall, Mr. Fallone

The foregoing resolutions will be presented for Board consideration when completed. No action was taken.

# **HEARING AND DELIBERATIONS:**

# QUICK CHEK CORP

Block 400 Lots 1 & 2

#14-033-ZB- Preliminary & Final Major Site Plan w/ Variances

TIME: 120=12/31/15

See attached Transcription dated December 15, 2015 prepared by: Latitisa Russell, C.C.R. of Schulman, Wiegmann & Associates, 216 Stelton Road, Suite C-1, Piscataway, NJ 08854.

The QuickChek application was carried to February 2, 2016 at 7:30 pm. at The Somerset County Vocational and Technical School

in the Auditorium with no additional notice required.

# **ADJOURNMENT:**

It was the consensus of the Board to adjourn the meeting at approximately 10:30 pm.

Respectfully submitted,

Ann Marie Lehberger, Planning Secretary

# BRIDGEWATER TOWNSHIP ZONING BOARD OF ADJUSTMENT PUBLIC HEARING

IN RE:	QUICK	CHEK	CORP.	
Block 4	00 Lot:	s 1 &	2	
#14-033	-ZB-Pre	elimi:	nary	
& Final	Major	Site	Plan	
w/Varia	nces			,

SCHULMAN, WIEGMANN & ASSOCIATES

CERTIFIED COURT REPORTERS

216 STELTON ROAD

SUITE C-1

PISCATAWAY, NEW JERSEY 08854
732-752-7800

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3	notes of the proceedings in the above-entitled	3		ŀ
4	matter as taken by and before LATTTISA RUSSELL, CCR	4	WITNESS DIRECT	
5	#30XI00234100, RPR and Notary Public of the State	5	ROGER GREENWAY	
6	of New Jersey, held at the Somerset County	6		
7	Vocational and Technical School, 14 Vogt Drive,	7	<b>7</b>	
		1	Ms. Suarez 19	
8	Bridgewater, New Jersey, December 15, 2015	8	D ODDDE THEFTED I A ST	•
9	commencing at 7:30 p.m.	9	ROBERT HEFFERNAN	
10	·	10	By: Mr. Robertson 40	
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12		12	Mr. Fross 95	
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24 25	Lawrence Vastola, Board Attorney Thomas Forsythe, P.E. Board Engineer Scarlett Doyle, PP, Township Planner	24 25		

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1		1	
2	EXHIBITS	2	MS. POWERS: Here,
3	·	3	BOARD SECRETARY: Mr. Fross?
4	NO. DESCRIPTION PAGE	4	MR. FROSS: Here.
5	A-23 Air Quality Analysis Report 43	5	BOARD SECRETARY: Chairman Sweeney?
6	A-24 Mr. Heffernan's Report 43	6	CHAIRMAN: Here.
7	A-25 Aerial Photograph 106	7	BOARD SECRETARY: Mr. Pearly?
8	A-26 Rendering of the Proposed 111	8	MR. PEARLY: Here.
9	Building by GK&A Architects	9	BOARD SECRETARY: Mr. Weideli?
10		10	MR. WEIDELI: Here,
11		11	BOARD SECRETARY: Ms. Guttschaft?
12		12	MS. GUTTSCHALL: Here.
13		13	BOARD SECRETARY: Mr. Fallone?
1.4		14	MR. FALLONE: Here.
15		15	CHAIRMAN: Thank you. There's
16		16	apparently still been a bit of confusion about one
17		17	aspect of the process of this hearing and that's
18		18	with respect to the use variances that are being
19		19	applied for as opposed to the other bulk variances
20		20	that are being applied for. So let me just in
21	•	21	spend 30 seconds to try to clarify that issue.
22		22	Okay.
23		23	The key here are the use variances that
24		24	are being requested. If the use variances should
25		25	not be granted, all of the other variances that are
í	Page 7		Page 9
1		1	required for this project are moot. They will
2	HEARING OFFICER: Call to order the	2	never ever be heard. That's why we spent some time
3	Tuesday, December 15th regular meeting of the	3	at the start of our last meeting talking about the
4	Bridgewater Township Zoning Board of Adjustment.	4	need to focus on testimony that was relevant to the
5	Adequate notice of this meeting has been given in	5	use variance. What's not terribly relevant to the
6	accordance with the Open Public Meetings Act.	6	use variances, for example, is the engineer's
7	Please be aware the Zoning Board of Adjustment	7	report that deals with waste water treatment
8	policy for public hearings no new applications will	8	amongst the slew of other issues and that's why we
9	be heard after 10:15 p.m. and no new testimony will	9	try to get away from questions directed towards
10	be taken after 10:30,	10	their engineer that had to do with site plan type
11	Hearing assistance is available upon	11	issues. We will discuss site plan if, if and I
12	request. Accommodation will be made for	12	underline if, we get to the point where the
13	individuals pursuant to the Americans with	13	applicant is granted the use variance, variances
14	Disabilities Act provided the person with the	14	that he needs in order to proceed with this
15 16	disability provides 48 hours advanced notice of the	15	application.
17	planning department secretary before the public	16	So what we're really focused on
18	meeting. However, if the individual should require	17	initially now is the use variance. There will be a
19	special equipment or services, seven days advanced notice excluding weekends and holidays may be	18	vote. I don't think we'll get there tonight. I'd
20	necessary. Ann Marie, would you call the roll,	19 20	love to. I don't think we'll get there tonight.
21	please?	21	There will be a vote at some point on the use
22	BOARD SECRETARY: Ms. Amin?	22	variance. If the board decides to grant the applicant the use variance he's requested, we will
23	MS. AMIN: Here,	23	proceed with the additional hearings related to the
24	BOARD SECRETARY: Mr. Humenick?	24	site plan issues. But for right now, what we're
25	MR. HUMENICK: Here.	25	focused on is the use variance. So with that in
1.000		1	ACCRECA OIL IO THE GOO VALUEDO, DO WITH HIGH HI

Page 12 Page 10 been engaged by the applicant in connection with 1 1 mind, Counselor, I believe you are up in terms of 2 air quality study; is that correct? 2 who your next witness is. CHAIRMAN: Mr. Robertson, I don't know MR. ROBERTSON: Thank you, Mr. 3 3 that folks can hear you unless you speak directly Chairman. William P. Robertson from the law firm 4 4 5 into that microphone. 5 of DiFrancesco, Bateman, Kunzman, Davis, Lehrer & MR, ROBERTSON: I'll just ask my Flaum on behalf of the applicant, Quick Chek. This б 6 7 introduction and then step out of the way. 7 is a continuation of the hearing that concluded on CHAIRMAN: That's fine. 8 8 December 1st. At the December 1st hearing we heard MR. ROBERTSON: Mr. Greenway, you have 9 the testimony of the applicant's traffic engineer, 9 been engaged by the applicant in connection with an 10 Mr. Olivo. Tonight, we have testimony from the 10 applicant's air quality professional, Mr. Roger air quality study at this particular location; is 11 11 12 that correct? Greenway. Also, we have testimony from Roger P. 12 Heffernan, who is a certified licensed appraiser 13 13 MR. GREENWAY: Yes, it is. 1.4 MR. ROBERTSON: Would you describe for and we also have here tonight the applicant's 14 the board what you did in that air quality study? 1.5 planner, Christine Cofone. We will do our best to 15 MR. GREENWAY: I was asked to describe 16 get through all of those witnesses this evening. 16 17 the study that I undertook and the results. When 17 Unless there are any questions of myself, I would you're looking at something like this proposed 18 propose to start right away with Mr. Greenway. 18 19 project the air quality impacts could occur from 19 CHAIRMAN: Let's do that. 20 two principal types of activities. The first is 20 dispensing fuel to the vehicles and of course, ROGER GREENWAY: Having 21 21 22 filling the underground fuel storage tanks and also 22 been duly sworn, testifies as follows: from the emissions of the vehicles that are used in 23 23 24 CHAIRMAN: Would you give us your name 24 the property. So to estimate what the air quality 25 25 please and professional address? Page 13 Page 11 MR. GREENWAY: My name is Roger 1 impacts from the development could be, we first 1 looked at the underground storage tanks and you've 2 Greenway. I'm a principal with the firm of RTP 2 heard ample testimony before as to how many tanks Environmental Associates located at 239 U.S. 3 3 and what sizes they are. We estimated about 2.2 Highway 22 East in Green Brook. 4 4 5 CHAIRMAN: Mr. Greenway, would you give 5 million gallons of gasoline would transit the tanks 6 in a given year. Meaning, the tanks would be 6 us a very brief summation of your qualifications, 7 filled and emptied into vehicle at about that rate, 7 please? 8 MR. GREENWAY: Environmental scientist 8 which is based on one tank truck a day. We also 9 estimated that, approximately, 60,000 gallons of with more than 35 years of experience. I have a 9 diesel fuel will be dispensed in a similar manner. bachelors and masters from Rutgers in environmental 10 10 11 science and meteorology, an MBA from Fairley 11 So when you're filling the tanks, there are some vapors in the tanks. If you look at the air space 12 Dickinson. I published four books on environmental 12 in the tank above the fuel level that will be topics. Two on air pollution published by McGraw 13 13 saturated with vapors of diesel fuel or gasoline 14 Hill. I have testified in many boards and before 14 the staff of the U.S. Senate and House of 15 depending on what's in the tank. In many gas 15 Representatives committees drafting clean air act 16 stations when you fill the tank, those vapors will 16 17 be pushed out into the atmosphere. 17 amendments. CHAIRMAN: Anyone on the board have any 18

In this design we're using a permeator 18 which will control over 99 percent of those additional questions about this witness's 19 20 emissions. So the emissions from the tank filling 21 and emptying into the vehicles will be over 99 MR. ROBERTSON: We'll offer 22 percent lower than they would be at gas stations Mr. Greenway as an expert in the field of air 23 that don't have this technology.

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The other form of emissions is from the trucks and cars that would be utilizing the site

CHAIRMAN: Please proceed.

MR, ROBERTSON: Mr. Greenway, you have

qualifications?

quality.

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both for fueling and with convenience store. To 1 2 estimate those emissions we looked at the traffic 3 report with the peak hour in the morning and the afternoon. We looked at a national average of 5 distribution of vehicles and we use what they call 6 emission factors which are published by the Federal 7 government. The USEPA sets emissions for vehicles nationally and some states like California set 8 their own that go beyond that, but the USEPA set 9 10 standards for vehicles which all the auto makers and truck makers have to comply with. These 11 12 emission factors tell us how much emissions, how 13 much pollution per vehicle mile or for riding how much emissions per minute are coming out of the 14 15 vehicles of different age groups. So we use this in looking at the size of the site and the travel 16 17 distances, the amount of fuel dispensed. We 18 calculated what the air pollution emissions from 19 the site would be if it were developed in the 20 manner proposed and began operation. We then put 21 these in an air quality dispersion model called air 22 mod, which is a model to predict what the impact 23 from emissions might be to the surrounding area. This is a USEPA developed air quality dispersion 24 25 model that's recognized by DEP and one of the

gasoline vapors, for benzine, which is a constituent of gasoline and to some extent diesel fuel and for fine particulates, which are emitted in two ways. They are emitted by the gasoline vehicles using the site from tire wear, from brake wear and things of that nature. They are not considered hazardous or toxic, but the diesel particulates could be.

So we looked at these and we calculated the emissions now from transiting vehicles and from idling vehicles onsite and we modeled those using the same model. Then what you do is, you take the predicted concentration of each of these pollutants and multiply it by a unit risk factor. The unit risk factor is provided by NJDEP and it tells you for each microgram for diesel particulates, gasoline vapors or benzine in the air what the risk in the million is. You've all probably heard it's one in a million risk or ten in a million risk of something, some adverse health effect happening from eating some kind of food or by breathing some kind of pollution.

By doing this, just to get to the point, the concentration of all three of these resulted in concentrations when you apply the unit

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acceptable models for these type of studies.

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So what did we look at? We looked at first carbon monoxide, which is principally an emission from the vehicles. It's not emitted from the fuel storage. It's emitted by the idling vehicles onsite and the transiting vehicles onsite. We looked at particulate matter and we looked at nitrogen oxides. So these are the principle combustible-related emissions that come from motor vehicles and what we found when we did the modeling that the off site impacts of these pollutants were too low to actually plot. The program that we used will give us a plot of the concentration of the emissions around the surrounding area and the lowest level that would plot is 10 percent of the air quality standard. None of the levels exceeded the level for plotting. For those principle criteria pollutants it was absolutely no impact.

The other thing we looked at is the risk from benzine emissions from gasoline vapor emissions and from the diesel particulates because these are what we call hazardous or toxic pollutants and they are toxic only if they are above a certain level. So for these, we use similar emission factors for diesel vapors, for

risk factor, they were well under one under million. To put that in perspective, what DEP says, if the risk is acceptable if it's between one in a million and ten in a million and if it's under one in a million, it's considered negligible. So the impact of these potentially hazardous is negligible from the construction and the operation on the site.

MR. ROBERTSON: Mr. Greenway, you did prepare a report which has been submitted to the board. I don't know if the board would like to have that marked as an exhibit.

CHAIRMAN: Fine it's up to you, Counsel. Does anyone on the board have any questions for this witness? And before anyone tries to ask any questions, we've got a limited number of mikes that we are going to have to deal with here. For so just wait until one gets to you before you actually ask your question. Do we have a questions from the board for Mr. Greenway? No, we do not. Scarlett, anything from you?

MS. DOYLE: No.
CHAIRMAN: Mr. Vastola?
MR. VASTOLA: No.
CHAIRMAN: Anyone from the audience

Page 20 Page 18 asking Mr. Cahill if there would be additional 1 have a question for this witness? Now if you 1. 2 recall the procedure, we've been following here, if 2 reports and two of the reports that Mr. Cahill 3 you have a question, come up to the podium, use the 3 indicated would be updated were an environmental impact statement and a new traffic report and given microphone. Sign in. There is a piece of paper 4 4 5 that Mr. Greenway indicates that he was present 5 and a pen up there, so we have a record of your 6 name and address. Give us your name and address as 6 during that testimony on November 17th, I'm asking Mr. Greenway if he recalls that the applicant's 7 you speak and we'll take it from there. You are 7 8 engineer indicated that there would be an updated 8 on. 9 MS. SUAREZ: Good evening. 9 traffic report as part of this application. 10 10 MR. GREENWAY: I don't recall that CHAIRMAN: We're also going to work 11 with our three-minute limit, please. Thank you. 11 being stated. 12 12 MS. SUAREZ: Mr. Chairman, point of MS. SUAREZ: Okay. And Mr. Greenway, 13 order, I was not aware that a three-minute limit 13 at this point the only traffic report that you've 14 would apply to attorneys. 14 relied on relative to your testimony here this 15 evening is the report that you indicated was dated 15 CHAIRMAN: No, it does not. You're 16 October 30th of 2015, correct? 16 correct. It applies for members of audience. 17 MR. GREENWAY: 2015, that's correct. 17 You're representing a subset of that group. So 18 please proceed, Ms. Suarez. 18 MS. SUAREZ: 2015, Thank you. One 19 other comment that I would like to make for the 19 MS. SUAREZ: Thank you, Mr. Chairman. 20 20 record. The report that Mr. Greenway has been Good evening, ladies and gentleman. As the 21 Chairman indicated, I'm Heather Suarez. I'm an 21 testifying about has been identified as December 22 7th and it would appear that at this point that 22 attorney at Walder Hayden and I'm here this evening 23 23 representing my clients, Bridgewater Residents report, I'm not sure what date it actually hit the 24 United and I had indicated that representation when 24 board's file, but point of order it would appear 25 I was last here. 25 that it did not provide sufficient time for all of Page 21 Page 19 1 the interested residents here to review that 1 2 2 report. So I would like that noted for the record. CROSS-EXAMINATION 3 Thank you. 3 BY MS. SUAREZ 4 4 CHAIRMAN: Any other questions for this 5 witness? Did you sign in? 5 Mr. Greenway, you testified that you 6 had reviewed a traffic report. Can you please MR. ENG: I'm going to. 6 7 CHAIRMAN: Thank you very much. 7 identify the date of the traffic report that you 8 utilized? 8 MR. ENG: Good evening. My name is 9 Phillip Eng. I just have a couple questions here. 9 MR. GREENWAY: October 30, 2015. 10 MS. SUAREZ: And Mr. Greenway, were you 10 Does your study reflect the recent rise of these 11 11 present during the testimony of Mr. Cahill on mega stations in terms of traffic when you're 12 November 17th? 12 calculating your pollution estimates? 13 MR, GREENWAY: Yes. 13 MR. GREENWAY: I'm not sure what you 14 MS. SUAREZ: Do you have a recollection 14 mean by mega station. 15 MR. ENG: Well, these large convenience 15 that during that testimony at the questioning of 16 the board chairperson the board asked Mr. Cahill if 16 stores request, 12 to 16 pumps. According to the 17 NJDOT they had to revise all their traffic numbers 17 he would be agreeable to providing an updated 18 traffic report in accordance with certain of the 18 to take into account these type of stations where 19 comments that had been made by the various 19 in the past we didn't have these, 20 MR. GREENWAY: I based, my report on 20 municipal officials? Do you recall that? 21 21 MR. ROBERTSON: Are you referring to the traffic engineer's study, which is based on the 22 22 Mr. Cahill or Mr. Olivo, the traffic engineer? proposed design. 23 MS. SUAREZ: No. I'm referring to 23 MR. ENG: In your report you -- a lot 24 Mr. Cahill. When I was here on November 17th, 24 of things were -- the way it was worded it was a 25 there were questions from the board as I recall 25 lot of predictions and estimates. Are there any

real facts in terms of meaning that, you know, have you compared your predictions and estimates to an actual air quality, like a before-and-after study? Have you checked the air quality before these mega stations went in compared to after they've been in place?

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MR. GREENWAY: The purpose of the modeling is to predict the potential consequence of something that isn't built yet. So it's not really possible to do what you're saying until after construction. Monitoring could be done to measure the results, but the studies have all been — the models have been developed over — this particular models have been developed over 20 years and widely used for USEPA and DEP and for planning purposes. It's very well accepted. It's very little doubt that the model is accurate.

MR. ENG: Have they ever checked the air quality after these stations were put in place?

MR. GREENWAY: I've never been asked to do a monitoring after a station has been put in place.

MR. ENG: In your report and based on these models, what is the average age of the fleet to determine your modeling?

what is the percentage of the cars that or did they take this into consideration vehicles with the check engine light on?

MR, GREENWAY: No.

MR. ENG: You know what it means when the check engine light is on?

MR. GREENWAY: It could mean various things depending on the vehicle and what the fault is.

MR. ENG: It means that the vehicle is polluting 1.5 times greater than the standard of living.

MR, GREENWAY: It may be other reasons. It could be a faulty oxygen sensor.

MR. ENG: Right. The reason for the light to come on it means it exceeds 1.5 times the standard of living. That's why the light comes on. Are you aware — the point I'm trying to make is that medium-duty diesel trucks is a big problem in terms of emissions.

CHAIRMAN; Sir? MR. ENG; Yes?

CHAIRMAN: Ask the question. Don't make a point. Ask the question.

MR. ENG: Yes, sir. All right. Are

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Page 25

MR. GREENWAY: We looked at vehicles prior to 2008, which met a different emission standard than those after 2008. We assumed that 50 percent of the vehicles would be newer than 2008 and meet the newer emission standards.

MR. ENG: In that report, do they include medium duty diesel trucks?

MR. GREENWAY: Yes.

MR. ENG: What is the percentage?

MR. GREENWAY: 30 percent of the vehicles we assume would be light-duty trucks. I don't have a figure for medium duty.

MR. ENG: Are you aware that medium-duty diesel trucks are self-inspected and therefore, there are no emission standards for them?

MR. GREENWAY: I am not aware of that, no.

MR. ENG: Are you aware like examples of medium-duty diesel trucks. Like, a Ford F-450, those used by landscapers and contractors and flat beds, like, box trucks.

MR. GREENWAY: I'm aware those trucks exist, yes.

MR. ENG: Also, in that fleet study,

you aware that the EPA and the State of New Jersey has spent millions of dollars trying to update, you know, older diesel engines in their fleets?

MR. GREENWAY: That the State of New Jersey is doing that?

MR. ENG: Yes.

MR. GREENWAY: No.

MR. ENG: Because how many medium-duty diesel trucks do you think will be running through the Ouick Cheks refueling?

MR. GREENWAY: I'd have to review the traffic study. I don't know if it was a number given for medium-duty diesel trucks.

MR. ENG: All right. Thank you.

CHAIRMAN: Thank you. Listen, I'm going to repeat one of the things that was said last time around. There is no applause meter up here. You don't get points based on how much noise you make. Let's just try to ask questions, get answers and move through this as quickly as we can while uncovering as many relevant facts as we can. I appreciate your cooperation. Thank you.

MR, TANG: My name is Lihao Tang. L-I-H-A-O. Last name T-A-N-G. My address is 72 Shields Lane. So I got a question. You said that

Page 26 Page 28 you research of all your modeling is based on the tell us how many studies you did? 1 1 CHAIRMAN: Please speak into the 2 traffic report; is that right? 2 MR. GREENWAY: Yes. 3 3 microphone. MR. CHANDRA: Hello, Mr. Greenway. If 4 MR. TANG: So that means you have to 4 you can you tell us how studies you need for Quick 5 use how many cars are on this site, but lots a time 5 Chek or any other similar business before this 6 I have a question to the traffic expert about the 6 trip generation and I just asked -- I used NJDOT studies? How many studies you have done? 7 7 MR. GREENWAY: I've done, I think, 8 number and get a number, which is significant 8 three other ones for Quick Chek and four or five larger than the trip generation show on the traffic 9 9 10 report. I think -- is your traffic expert here? 10 for another similar-type project. MR. CHANDRA: And did you do any 11 CHAIRMAN: No, the traffic guy is not 11 studies for township opposing Quick Chek or 12 12 here. opposing these businesses? MR. TANG: Then my question is --13 13 MR. ROBERTSON: Mr. Chairman, that's 14 MR. GREENWAY: I have not been asked by 14 15 a township to do that, no. 15 not what I suggested. The question is, is it for MR, CHANDRA: If you can give us your 16 this witness? 16 17 studies that you did, your projections and what 17 CHAIRMAN: I understand, but your 18 happened after, can you provide the information on 18 traffic guy is not here. your projects and what were the results after those MR. ROBERTSON: He's here. I just 19 19 20 businesses were established those places based on 20 didn't want any misunderstanding. 21 your studies? 21 CHAIRMAN: Thank you very much. MR. TANG: So your report give, like, MR. GREENWAY: There was no monitoring 22 22 233 trips in the a.m. hours, rush hours. 23 done after the studies were completed. 23 CHAIRMAN: Hold on. Hold on one MR. CHANDRA: If you want to put any 24 24 weight on your studies we will appreciate if you 25 second. We are not asking traffic questions of the 25 Page 27 Page 29 1. 1 give us actual results after your studies after environmental guy. those businesses were established. 2 MR. TANG: I understand. The 2 3 3 CHAIRMAN: Sir, he said he doesn't have environmental model is based on the numbers of trip generation from the traffic report. 4 4 those results. CHAIRMAN: That's correct and this is 5 MR. CHANDRA: Thank you very much. 5 6 not the time to go over the traffic guy's б CHAIRMAN: Thank you. 7 testimony. We did that two weeks ago for 7 MR. KELKAR: Hello. My name is C.P. 8 two-and-a-half hours. We are not doing it again 8 Kelkar and I live on 32 Shaffer Road. I have a PhD 9 tonight. 9 in chemical engineering and I work on some of the MR, TANG: The NJDOT number I have 10 topics, which he's talking about, so I appreciate 10 and I understand chemistry a little bit more than gives 244 in the a.m. peak hour and 356 in the p.m. 11 11 hour, which is more than 20 percent larger than the 12 12 quite a few people here in the audience. I numbers in your traffic report. So if you use 13 13 completely agree with you. My concern is more with 14 benzine and soot emissions rather than CO-2 or nox 14 these numbers, do you think that would change your predictions? 15 emissions. Cars recently are very efficient when 15 16 it comes to that. I go back to your model and I 16 MR. GREENWAY: First of all, it's not 17 my traffic report. Secondly, the answer is no 17 understand that you are not in the business of because the numbers for the vehicle emissions were 18 corroborating your model, but I have seen some 18 19 too low to plot. They were significantly too low 19 published reports, which talk about benzine to plot. So if they went by 20 percent they still 20 emissions rising as gas stations are built close to 20 would be too low to plot. 21 the residence and there is a certain foot distance 21 22 MR. TANG: Thanks. 22 guideline for it. Let me ask you a question. 23 MR. CHANDRA: Good evening. My name is 23 What's the baseline benzine emissions? What's the 24 Mahesh Chandra, 15 Purcell Road, Bridgewater. I 24 baseline noise emission in the environment, let's got a question for Mr. Greenway. Could you please 25 25 say in Bridgewater Township, around the area you're

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proposing to build the Quick Chek?

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MR. GREENWAY: There is no -- there is a number throughout the State of New Jersey and the numbers, I'm thinking from memory, are one microgram per cubic meter.

MR. KELKAR: Yes. What is your estimate because in your report you're just stating the risk and I fully understand how you calculate the risk, but I want to take it down into more absolute terms. What would be your estimate that the benzine emissions would rise to say within 100 feet or 150 feet, that's where that Bogart Street will be, what will be the rise in benzine emissions after the Quick Chek is in place?

MR, GREENWAY: My report did address that. It's actually close to the 400 feet from the tank beds and from the center of the site to the nearest house either on Bogart Drive or to the east and the impact there would be under one microgram per cubic meter.

MR. KELKAR: Because I've seen several studies in North Carolina and Connecticut where they have stated in excess of minimum 400 feet as the minimum distance required by townships where these mega gas stations can be placed because my

can even show it and split it by what it was during daytime rush hour and what it was in the evening.

CHAIRMAN: He's already testified that they've done no such monitoring.

MR. KELKAR: But I would then ask the board that it's -- there are several reports I've seen from the EPA where they have linked and I'm sure you guys understand benzine is a very serious carcinogen and that should be an area of concern for us.

CHAIRMAN: Thank you.

MR, KELKAR; Thank you.

MS. BODINO: My name is Angela Bodino.

I live at 21 Deer Run Drive, My question is that in the context of this historic decision made about controlling climate change and we're hearing to fossil fuels are best kept in the ground, isn't it a time when we should be considering drawing away,

19 backing away from the increasing the amount of

20 fossil fuels and emissions? Do we really need 21 this? Do we really need to do all these studies 22

given the fact that we are in the historic moment of reducing our reliance on these oil emissions?

CHAIRMAN: That's an interesting question, but not quite frankly, it's not up to the

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concern is benzine and soot emissions. So as Quick Chek is a business have they and maybe, this is a question not for you to ask. Maybe, I will ask it to somebody else, but have they done this post monitoring to give comfort to the people here in the audience that, yes, the benzine emissions will not be higher than what is already currently in the environment you're reading?

MR. GREENWAY: The thing is the emissions and the impact to be 100 times higher than we are predicting. It would be still acceptable. If the predictions were some level of concern, I would agree that would be a worthwhile thing to do, but the predicted impacts are so low, I don't think it would be worthwhile to do such a study.

MR. KELKAR: I totally agree when you talk about model. You're in the business of predicting models, but we also have an example with Volkswagen where models can be used and they can go wrong. So where my question comes to you is, it would behoove you to share with us data which states that okay here was a station, here you built and here was the background benzine emission and here's what the benzine emission was after and we

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Bridgewater Township Zoning Board of Adjustment to make a determination about that. We have certain regulations that the DEP promulgates that anyone applying for this kind of variance or anyone building this kind of facility has to meet. If you really are interested in pursuing this I suggest you talk to the DEP and suggest to them that they revise those standards and but that is not something this board is going to even pretend to try to do.

MS. BODINO: I think our perhaps Bridgewater Residents United should take that on because it's serious.

CHAIRMAN: I'd love to see them do that. Thank you very much.

MS. BODINO: It's the planet. It's not only Bridgewater. It's planet.

CHAIRMAN: But this is the Bridgewater Zoning Board.

MS. BODINO: This is our context of staying healthy and we know that this is not a healthy environment to be increasing our reliance on fossil fuels.

> CHAIRMAN: Thank you very much. MS. BODINO: Thank you.

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yes.

MS. DONG: Good evening. My name is Qian Dong and I live in Bridgewater, 74 Huntley Way. Q-I-A-N, that's my first name. A follow-up question on your testimony on one of the questions raised by the fellow resident, my fellow resident. So you have answered the number of cars is too low to be applied in your model. So I'm just wondering can you tell us what is the number that would be high enough for you to be — for you to consider to be put in your model?

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MR. GREENWAY: No. No, I didn't say that the number of cars were too low to put in the model. The actual number of cars predicted by traffic engineer were put into the model. What the model does is, it takes the emissions from the vehicles and calculate the air pollution concentration offsite and the model then will plot those concentrations if they are at least ten percent of standard. For example, carbon monoxide, the one-hour standard is 35 parts per million. So if the concentration isn't over 3.5 there is no plot.

MS. DONG: I understand. So that is based on the number of cars from the traffic engineer?

national standards, even New Jersey national standards or New Jersey standards? Is there any number that you particularly consider the factors that Bridgewater especially in this particular site is highly dense with population, have you considered any of those in your model?

MR. GREENWAY: First of all, the standards are national standards.

MS. DONG: National standards -- I just want to clarify.

MR, GREENWAY: National --

CHAIRMAN: Excuse me, ma'am. You asked him a question. Let him answer it.

MS. DONG: I just want to make sure it's a national standard, right.

MR. GREENWAY: But New Jersey has also adopted them. So in the New Jersey regulations, as well.

MS. DONG: Okay. That means you did not consider the fact that New Jersey is highly populated and this particular site is highly dense with population, correct?

MR. GREENWAY: Well, in my opinion the site is not highly populated. I've done work in -- CHAIRMAN: Please.

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Page 37

MR. GREENWAY: It's based on the number of cars for carbon monoxide and trucks and lead in particulates, but for diesel the gasoline vapors it's based on tank emptying as well as a number of cars.

MS. DONG: Okay. Thank you. Another question is, you have mentioned you used model to do the prediction and to draw your conclusion of the impact of the air quality, correct?

MR. GREENWAY: Yes.

MS. DONG: I'm a statistician. So I know that every model has assumptions. Can you tell us what are the assumptions in your model that you are using?

MR. GREENWAY: I've already listed some of the most important ones, which is the number of vehicles and tank filling. The EP emissions factors are specified by the federal government. So that's not an assumption. The model uses meteorological data from Newark International Airport. It predicts the dispersion of the

emissions to the surrounding environment.

MS. DONG: Am I understanding correctly that those numbers you mentioned, the standard of the national standards, are those averaging

MS. DONG: Can you give me an example of a highly populated, dense area?

MR. GREENWAY: Any of the major cities in New Jersey. Elizabeth, Newark, Trenton, Morristown. Those are densely populated.

MS. DONG: Bridgewater in your opinion is not. Thank you. Thanks for your great answer.

CHAIRMAN: Thank you.

MR. CASALE: Good evening, board members, Mr. Greenway. My name is Anthony Casale. I'm at 382 Route 28 in Bridgewater. Mr. Greenway, did Quick Chek hire you to do a model of air quality for this gas station and Quick Chek?

MR. GREENWAY: They hired me to do an air quality analysis of what the potential impacts of this project would have on air quality.

MR. CASALE: Okay. Did they hire you to do any actual current studies of any of their locations that they currently have?

MR. GREENWAY: No.

MR. CASALE: Are you aware of Hillsborough Route 206 gas station and mega Quick Chek?

MR. GREENWAY: I use it fairly often,

MR. CASALE: Okay. Could you agree this location -- are you aware that this facility in Hillsborough is similar to the proposed Quick Chek in Bridgewater?

MR. GREENWAY: I honestly haven't compared the site plans for both of them, but it's probably fairly similar, yes.

MR. CASALE: And Quick Chek did not have you do an actual study of the air quality at that facility?

MR. GREENWAY: I was not asked to do a study for that. That may have been before we did some work together.

MR. CASALE: Okay. Thank you very much.

CHAIRMAN: Thank you.

MR. KELKAR: Hi, this is C.P. again and I'll ask you a quick follow-up question.

CHAIRMAN: Before you do that, would you sign in again, please?

MR. KELKAR: I already did that. You mentioned which one of my neighbors corrected is you said that closest residence is 400 feet away. In reality, it's more like 200 feet away and so I'm looking at some other studies done in the Denville

ROBERT HEFFERNAN, after having been first duly sworn, testified as:

CHAIRMAN: State your name and professional address, please.

MR. HEFFERNAN: Robert F. Heffernan. My address is -- I'm with the firm of Robert F. Heffernan & Associates. The address is Post Office Box 611, Oldwick, New Jersey.

CHAIRMAN: Spell your last name please. MR. HEFFERNAN: H-E-F-F-E-R-N, as in Nancy, A-N.

CHAIRMAN: Mr. Heffernan, would you give us a brief summary of your qualifications, please?

MR. HEFFERNAN: Yes, I'm a designated real estate appraiser designated by the Real Estate Appraiser Institute as an SRA, senior residential appraiser. I am a licensed appraiser in the State of New Jersey with a general license, which allows me to appraise any type of property in the state. I've been an appraiser for, approximately, 44 years. My current employment is with my own firm, Robert F. Heffernan & Associates.

Prior to that, I was with the firm of

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area and they actually plotted what is the model risk of cancer versus distance from the gas station and the difference between 200 and 400 feet is quite a bit. If it was 400 feet, I would have had a tendency to agree with your conclusions.

MR. ROBERTSON: Mr. Chairman, I think it has to be a question. I'm not familiar. We haven't been presented with any study. If there is a question for this witness, that's fine.

CHAIRMAN: Question?

MR. KELKAR: My question to you would be, do you realize you misspoke when you said it was 400 feet when in reality it's 200 feet?

MR. GREENWAY: What I'm measuring the 400 feet from is not the edge of the property, but the location permeator vents and the idling transiting areas, which is the central portion of the site. It's 420 feet from the house to the east and it's over 400 feet to Bogart. So I used the figure 400 feet with my calculations.

MR. KELKAR: Thank you.

CHAIRMAN: Thank you. Counselor, next witness, please.

MR. ROBERTSON: Robert Heffernan.

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Professional Appraisal Associates as principal in
 Summit, New Jersey. Prior to that, I was with the
 firm of Krauser & Welsh in Morristown, New Jersey
 as an appraiser and consultant.

I'm a graduate of the University of Rhode Island with a degree in business. I have taken appraisal courses through the Society of Real Estate Appraisers and the Appraisal Institute.

CHAIRMAN: That's fine. That's fine. You've testified before board as I recall in the past, right?

MR. HEFFERNAN: I've testified before this board.

CHAIRMAN: Thank you very much. Anyone else on the board have any questions about qualifications? Please proceed.

MR. ROBERTSON: Chairman, the qualifications are extensive. If the board doesn't want to hear them live, I would like to at least submit them so they are part of the board.

CHAIRMAN: Thank you.

MR. ROBERTSON: Mr. Heffernan, you were requested to conduct an analysis of this project on your analysis on nearby residential properties, is that correct?

1 MR, HEFFERNAN: Yes, that's correct. I 2 was asked by Quick Chek to provide real estate 3 testimony here in regard to this testimony, the 4 proposed application and in regard to that, I told 5 them, obviously, I can't provide testimony without 6 doing some sort of an analysis or study. It was 7 determined that the best study that could be done 8 would be to study other facilities especially since 9 Quick Chek has so many within the state, to study 10 other facilities that they do have that are 11 currently operating and to isolate whether or not 12 there have been any residential sales within those 13 neighborhoods and whether those residential sales 14 have been impacted by the operation of the 15 convenience store, gasoline filling station. So we 16 undertook that study over the last several weeks 17 and I apologize that we were not able to get it to 18 you ten days ahead of time, but I do have copies of 19 my report here and can distribute it to you. 20

MR. ROBERTSON: Would you describe the study that you conducted, Mr. Heffernan?

MR. HEFFERNAN: What we did was, we were supplied a list of Quick Chek facilities that were relatively similar to this that exist within the state, within the tri-state area. We isolated

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1 that information, but in terms of trying to keep 2

the time reasonable, what we found -- in order to

3 do a study of this nature and let me just explain

this very quickly. The Appraisal Institute talks 4

5 about the fact that there is external obsolescence

6 that can be rendered on properties by forces

7 outside the property. Those forces we sometimes

8 refer to externalities. They are external to the

9 property, itself. So sometimes we have a condition

10 where a neighboring facility to a particular type

11 of residential property could affect its property value and its price. So often times we will look 12

113 at how can we isolate these affects of these

14 externalities and typically, that is done by paired

15 data analysis study and the reason that we use that

16 is because it is -- there isn't really enough 17

significant data that we can use a statistical type

18 of approach to it and certainly when an appraiser

19 works on an appraisal and tries to determine how to 20 make an adjustment for an externality, he's going

21 to prepare properties. He'll compare one property

that had the externality to another property

23 without the externality and isolate what the 24

difference between those two sale price represents.

25 That would be the affect of the externality. So

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those that were located in Central Jersey in our area of expertise and there were nine such stations that we felt that compelled to --

MR. VASTOLA: The air quality analysis report should be marked A-23 and this report should be marked -- Mr. Heffernan's report should be marked A-24. Do you agree?

CHAIRMAN: I agree.

(At which time, the air quality analysis report and Mr. Heffernan's report were received and marked as A-23 and A-24 for identification.)

MR. ROBERTSON: Mr. Vastola, we have 24 and 25. That appears to be correct, Mr. Vastola. In the transcript I'm looking at, the December 1st and if there is another exhibit, that we thought was marked, we'll get to that. You are correct. That's what we have.

MR. HEFFERNAN: So in regard to what I had been mentioning, we ended up looking at nine different locations of Quick Cheks in Central New Jersey. If you need me to tell you exactly which ones they were, I'd be happy to do that. I do have

this is the manner in which we decided we needed to approach this particular study and what we did was we looked for Quick Cheks that had residential properties relatively close by.

So out of the nine locations that Quick Chek had that were in the Central Jersey area, the area of our expertise, we found that there were three properties that had residential subdivisions nearby and that those particular properties -- with those particular properties, there were several sales that had taken place within the last several years that we could isolate and if you look at my study and of course, there is a lot of information here, which I encourage you to read, which would describe the subject property, the proposed project, but you've heard all that so far. The particular property in question is at the intersection of Route 22 and 28 and both Route 22 and 28 are relatively heavily traveled roads. They do get a lot of exposure to traffic and obviously, at all times of day, but at rush hour it's much more concentrated, much more difficult.

So the property in question is commercially zoned. So there is the ability to build certain types of commercial types of

operations there. Unfortunately, the gas station wasn't one of those and that's why these use variance is being asked for.

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The property has some unique factors to it. From the standpoint of what I look at, there is an existing house, historic house on the site and barns on the site. It's used as a farm stand. That's pretty much been testified to that that would continue if the board would allow it. In addition to that, the applicant plans to put the Quick Chek on the property and the Quick Chek would be located more towards the central and easterly side of the property and between that proposed facility and the road and there is a relatively substantial buffer. I believe there were renderings that were presented to the board that shows views of what the property would look like. I had exposure to that and I considered it. There's a copy of that rendering in my report. So I want you to know that that is something that we were aware of and something that we are also considering on relying, as well.

If you look at page 34 of my report, the first facility that we found residential sales within the general locale of the Quick Chek was in It does them no good to hear you describe it because they can't see it. Would you please cut to the chase and summarize your findings?

MR. HEFFERNAN: All right. I was hoping that the board was following it. I would be happy to cut to the chase. To cut to the chase, if look at the graph of the chart on page 35 on the report --

CHAIRMAN: Please do not interrupt the witness. He will provide his testimony. If you want to ask him a question afterwards, you may to do that. I said, no questions for him. Let him testify.

MR. HEFFERNAN: Just to be obviously helpful here, this project is within 600 to 1,000 feet of the Quick Chek. So there were a total of seven sales that took place in 2015 and if I adjust those sales for the differences between them and using sale number two as a subject, they all fall into line between 424,000 and 425,950 in terms of price. So that there really -- what this demonstrates is that all of these properties regardless of how close or how far away from the Quick Chek they are, are relatively the same in price. So there really is no difference from a

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Whippany. This is located on 2 Parsippany Road. It's actually, on the corner of Parsippany Road and Whippany Road in Whippany, which is actually Hanover Township. If you look at page 36 of my report, you'll see a copy of a map. It shows the condominium subdivision that's known as Oak Ridge Condominiums. It shows Parsippany Road and you see that on the right-hand side at the corner of Parsippany Road and the road adjacent to that --
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CHAIRMAN: He doesn't have something we can project on the screen. Please proceed, Mr. Heffernan.

MR. HEFFERNAN: I did not have a display of this, so I can't project it. If you look at the bottom right-hand side of the drawing, you'll see where the location of the Quick Chek is that's noted on the drawing and you see also on that map there are yellow colorings of particular units that have marketed in 2015 in that subdivision and those are noted with numbers. I know those numbers are small. I apologize, but as I reduce these things sometimes they are a little smaller, but you can see they are --

CHAIRMAN: Mr. Heffernan, nobody in the audience has a copy of this map in front of them.

locational standpoint as you get further away from the Ouick Chek.

This is also demonstrates the fact of having seven or eight sales within this development selling within 30 to 60 days of being on the market that the Quick Chek is not affecting their marketability at 600 to 800 feet away.

If you look at page 38, we did a study of the Quick Chek facility in Rahway. This facility is located on the corner of East Scott Avenue and Route Number 1&9. It happens that at 685 East Scott Avenue in Rahway there was a residence, which is one property removed from the service station which sold in 2008. It's was a 1700 square foot cape cod. We compared that with three other cape cods located in the Rahway market that sold fairly close to 2008 after making adjustments to those sales to make them look as much like the East Scott property as possible. Those adjustments indicated a range of sales prices from 275 to 285, which indicates that the property next to the gas station which sold for \$280,000 was not affected by its location in terms of its sale price. That property is within, approximately, 80 feet of the Quick Chek.

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Lastly, there is a facility in South Bound Brook, New Jersey which is located adjacent to a subdivision of condominium that is known as Canal Crossing and at that particular facility, there was a total of -- at that subdivision there were a total of nine sales that took place in 2015. They are displayed for you on a map that follows page 47 and there is -- as we look at those sales in relation to other sales within the subdivision, the sales that were closest to the Quick Chek sold for the same price as those that were further away or the furthest away from the Quick Chek. So there is really no difference in terms of a locational factor in that particular situation. So we look at one of the sales that was the closest to the Quick Chek, which was number 14 -- 14 Tory Jack Terrace and we compared that way similar attached or similar-sized attached property that sold at 34 Armstrong Street in South Bound Brook around the same time, same year 2015. That property was adjusted slightly for size, for the fact that it had a basement in the property at Tory Jack did not, after completing those adjustments, it reflects a value to that property of 248,600 when compare it to the subject that sold for 250,000

questions for this witness? I see no response. Have at him, folks.

MS. SUAREZ: Good evening. Heather Suarez. In light of the fact that the report that the board members have a copy of and which counsel for the applicant handed to me at the start of this witness's testimony, I would ask the board to permit me and perhaps any of the other interested people here this evening to have an opportunity to review this report and have this witness testify at the next hearing since we have been severely prejudiced by being handed a multipage report at the commencement of this witness's testimony.

MR. VASTOLA: No.

MS. SUAREZ: For the record, is it possible for counsel to the board to provide an explanation as to the basis of that determination?

MR. VASTOLA: You can review the report it. You heard his testimony. You can ask him questions about it.

MS, SUAREZ: The gentleman has based his testimony on a multipage report.

MR. VASTOLA: So you want the next meeting, which is going to be on February 3rd, by the way, you want to be able to come back and ask

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1 nearest Quick Chek.

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When we did this particular analysis, it was indicative to us that there was really not a substantial price difference that we could recognize in terms of properties that were located within a relatively close distance to the Quick Chek facilities.

So I would have to testify to you that considering the location of this particular property considering the buffering, considering the distance to the closest residence, that I do not believe that there will be any negative affect on value in terms of this Quick Chek operation.

CHAIRMAN: Mr. Heffernan, one question for you. I think I'm not quite sure I heard a comment you made at the start of your testimony. You said something about you were using a paired data analysis study and the reason for that was that, I thought what you said it is not enough data for a statistically significant study. Is that what you said?

MR. HEFFERNAN: In terms of this, yes, there is not enough --

CHAIRMAN: Thank you very much. Thank you very much. Anyone on the board have any

him questions about that report?

MS. SUAREZ: After I have had an opportunity to read the report.

MR. VASTOLA: How much time do you need? Can you take you a half hour to go back there and read it come back and ask questions?

MS. SUAREZ: I'm sorry. The report is multipages. I'm trying to do my job. I'm sorry, I cannot practice law in half hour.

MR. VASTOLA: I'm not asking you to practice law. You haven't asked one relevant question yet. Everything you've asked has been an attempt to delay this hearing and we are not going to accept it. That's it.

MS. SUAREZ: Will all due respect, I'm not in any way trying to delay this hearing. I'm simply trying to represent my clients in a competent and thorough manner, I telephoned counsel for the applicant and asked him for the order of his witnesses. His schedule was such that he was not able to share that information with me at any time prior to this hearing and told me the witnesses that he would be presenting shortly before this hearing. This evening, approximately, half hour before this hearing started did I learn

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for the first time that the applicant intended to introduce the testimony of an appraiser. I then learned during that appraiser's beginning of his testimony that he had a written report, which was now being entered into the record.

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My clients have repeatedly every single day gone to the board secretary trying to get materials and have received only materials --

MR. VASTOLA: Is that what you want? Okay. But you better have some good questions.

MS. SUAREZ: I appreciate that.

CHAIRMAN: Please let's try to proceed in a grown-up manner. If we continue with disruptions and outbursts, I will adjourn the meeting. Let's just ask question and get answers. Do you have another question?

MS. SUAREZ: Given that counsel has, as I understand it, agreed to my request to allow me to question him to February 3rd, I have no questions this evening. Thank you.

CHAIRMAN: Thank you. Next.

MR. VASTOLA: You will have him here at this meeting?

MR. ROBERTSON: We will have him here at the next meeting. I would indicate again, we

foot store. There are six gasoline pumps, 41 parking spaces on the site. 12 fueling stations. six pumps, two stations each pump.

The Rahway facility has a store which is 4,943 square feet. There are eight pumps, 16 filling stations and there are 32 parking spaces on the site.

South Bound Brook, the Quick Chek the convenience store is 4,543 square feet. There are six gasoline pumps with 12 stations, 39 parking spaces.

MS. WRENN: Great. Thank you. Can you testify as to whether these facilities are 24/7 in hours of operation?

MR. HEFFERNAN: They are all 24/7.

16 MS. WRENN: Thank you.

17 CHAIRMAN: Thank you,

> MS. SHI: My name is Carol Shi, 63 Shaffer Road, Bridgewater. My understanding of your appraisal --

> MR. HEFFERNAN: I'm sorry. Could you speak into the microphone? I can't hear you.

MS. SHI: Is that better? My understanding of your appraisal is location base comparing to houses nearby and far. Can you define

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what is nearby and what is far? What's the distance?

MR. HEFFERNAN: Well, if you -- you know, I don't have the measurement, the exact measurements, other than what I told you in relation to how close those facilities were. On the condominiums we're looking at the ones that were at the furthest edge of the development in relation to those that were closest to the Quick

MS. SHI: My question is, I don't have to -- it don't have to be the exact number of yards or feet. It's when you're talking about the nearby and far, what's the relative concept? Is it within the same town, same community? What's the relative distance?

MR. HEFFERNAN: I'm sorry. Didn't understand that,

MS. SHI: When you say you compared two houses. One is near by the QC. The other is far away from the QC. Can you define the nearby and

MR. HEFFERNAN: When you look at the report, you'll that see there is a location map showing where the comparables --

only received it today. It certainly would have been supplied. Given the expedited schedule of

these hearings, we've been meeting every two weeks

4 since November 17th, Mr. Heffernan was asked to 5

prepare it based upon comments from members of the public. He did it as expeditiously as possible and

7 in order not to delay this hearing, we asked 8

Mr. Heffernan to come today and he completed his

9 report so that he could provide the testimony, 10

which he has provided and provided a copies of the report immediately upon receipt.

CHAIRMAN: So he'll be available at the next meeting.

MS. SUAREZ: Counsel provided me a copy. Thank you.

MS. WRENN: I'm Sharon Wrenn. 14 Jenna Drive, Bridgewater. I have a question about the three Quick Chek facilities that you cited in your testimony. Do each of these facilities have gas stations and if so, how many pumps?

MR, HEFFERNAN: First of all, yes, they all do have gas filling stations and in my report, I've indicated the number of pumps at each and I can give that to you if you just give me a second. The location in Hanover is a 5,496 foot -- square

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MS. SHI: Can you give the audience and the board a relevant number?

MR. HEFFERNAN: Okay. In terms of our study in Rahway the comparable sales were a quarter of a mile away from the Quick Chek, two miles away from the Quick Chek and 1.92 miles away from the Quick Chek and the subject was within 81 feet.

MS. SHI: Okay. My question to you is, if QC got approved in Bridgewater in this community, do you consider the factor that people are not waiting to even come to this community and to buy a house? So in that — do you consider that factor?

MR. HEFFERNAN: I didn't understand that question. I'm sorry.

MS. SHI: Okay. Sorry. In other words, you compare a house nearby is like a quarter mile from the QC. The other is two mile away from the QC.

MR. HEFFERNAN: No, no, no. I think you're mistaken. The house that was subject to an approximate location to the Quick Chek was within 81 feet. The three houses we compared with that, which were not approximate to the Quick Chek, were quarter of a mile, two miles and 1.92 miles.

QC. I don't think it's correct.

And my second question to you is, did you do the appraisal based on the time before and after? Before QC is built and after QC is built, do you have appraisal survey on that?

MR. HEFFERNAN: No, because the market has been in decline over the last eight to ten years and so --

CHAIRMAN: The answer is no.

10 MS, SHI; Thank you,

11 CHAIRMAN: Thank you.

MR. HEFFERNAN: No, that's not true, but thank you for answering for me.

MR. MORSE: Walter Morse, 43 Kiser Lane. In the condo complex, whether you're the first house or the last house, you're still driving by the Quick Chek. So I don't — do you think that's a fair comparison using condos as opposed to single-family homes?

MR. HEFFERNAN: When you go in and out of your home, do you drive Route 28? I just have a question. I'm asking something.

MR. MORSE: Yes.

MR. HEFFERNAN: Do you drive Route 28?

MR. MORSE: Yes.

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MS. SHI: Okay. That's good enough.

MR, HEFFERNAN: They could not have possibly been affected.

MS. SHI: My question is, how do you guarantee a house in a quarter mile or two mile away from the QC, they are not possibly — their price are impact by the QC? How do you guarantee that?

MR. HEFFERNAN: I'm sorry?

MR. MORSE: How do you guarantee the price does not change based on two miles away or 81 feet away?

MR. HEFFERNAN: What price?

MR. MORSE: The price of the home. The sales price of the home that you're quoting?

MR. HEFFERNAN: They were in comparable neighborhoods. So yes, I mean, those prices are reasonable prices.

MS. SHI: If I were people trying to buy a house, if QC is setup and built here, I'm not even going to consider a Bridgewater, this resident community. That's my point. So you my question to you is, you compared 81 feet and two miles and you made assumption that two miles is far away enough not going to -- the price is going to impact by the

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MR. HEFFERNAN: Do you see the property that's right next to this on the other side?

MR. MORSE: Everyday. Everyday.

MR. HEFFERNAN: Did that affect your decision to buy your house?

MR. MORSE: It's not a 24/7 unit that's going to be a lot larger and it's also going to be a lot more light. So that wasn't a consideration. If I had to buy a house right now and a Quick Chek is there, I'm not buying the house. You asked the question.

MR. HEFFERNAN: That's your opinion.
MR. MORSE: So next, Rahway. When you appraised those homes, you said you made adjustments based on the square footage of the house. Did you also look at the rooms, the size of the rooms, so you try to put them on par with each other?

MR. HEFFERNAN: Yes, a full comparison was made and if you see the report, you'll see a grid that was utilized to do that.

MR. MORSE: So in the beginning of your testimony, you stated unfortunately this commercial property is not zoned for a gas station. Why do you think it's unfortunate?

MR. HEFFERNAN: Well, it's unfortunate for the applicant, that the property is not zoned for that.

MR. MORSE: Unfortunate for the applicant. Not unfortunate for the residents. Thank you.

CHAIRMAN: Thank you.

MR. HOPPEL: Hello. Kevin Hoppel, 16 Dear Run Drive. I'm not sure if it's appropriate at this point in time, but if the board will allow, can I make a few brief safety concerns or would it be more appropriate later on in the meeting?

CHAIRMAN: It would be more appropriate when we get to the point where anybody is free to come up and tell us what they think about this application. But now is not the time.

MR. HOPPEL: I'll return at that point. CHAIRMAN: Thank you very much. AUDIENCE MEMBER: Eight Francis Drive.

AUDIENCE MEMBER: Eight Francis Drive. CHAIRMAN: Did you sign in?

AUDIENCE MEMBER: Yes, I did. I will take half a minute to give a certain background.

When the Challenger plane crashed they call not somebody who built it, but somebody a scientist

called Richard Feinman to look at the (inaudible).

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CHAIRMAN: Thank you. Do you have a question for him?

AUDIENCE MEMBER: My question is, when you come up with these -- what is the judgment used because in this case, you do not even seem to know what was the preexisting situation before. What is the comparison? Am I supposed to throw out my common sense to listen to your numbers?

MR. HEFFERNAN: No, you're not. But the fact of the matter is --

AUDIENCE MEMBER: You are not prepared.
CHAIRMAN: You asked him a question.

Let him answer. Don't interrupt him. Let him answer.

MR. HEFFERNAN: The fact is what is existing there now is a Quick Chek convenience store and gasoline station. If that is having a negative effect on property values in that neighborhood, it would be recognized in the sales that are taking place now. Regardless of what it was previously, that has no bearing on it.

AUDIENCE MEMBER: Well, if it was previously a broken down gas station and now it's become a nicer gas station, obviously, it might not have any effect. But if it was a housing complex

and an office complex and you put a Quick Chek there, then it would have a negative effect. That's all I want to say.

CHAIRMAN: You made your point. Thank you very much. Next.

AUDIENCE MEMBER: Please don't throw out common sense with the board. And last point --

CHAIRMAN: No more points. You got a question?

MR. BASU: Arindam Basu, 17 Jarman Place. First of all, thank you for providing some of the sales information that you — the sales information that you provided before. You mentioned about one specific property of 14 Tory Jack Terrace in Bound Brook. You're absolutely right that it sold in 2015 for 260,000. Did you know — my question, that property, how much the property was sold initially?

MR. HEFFERNAN: Initially? I do know that. I have it in my notes, if you want me to fish through my notes to get it.

MR. BASU: 332,000.

MR. HEFFERNAN: Correct. Right. I assume that's correct, if you got the number. When did that sell, by the way, originally?

He had never built anything, but he is a respected scientist. Why was he called? Because he had tremendous amount of common sense. Right? So what I'm saying is, in all this data and analysis we should not lose of common sense.

So let me ask you this. When you

compare three things to it is a hypothetical, what is going to happen, Right? That is your best estimate. 2000 years ago (inaudible) still good today. Everybody appreciates that. But hypotheticals, you have to put (inaudible). What was the Quick Chek in Whippany before it was built? It was already a preexisting gas station, right?

MR. HEFFERNAN: I'm sorry. I can't make out what you're saying.

CHAIRMAN: He asked, the Quick Chek in Whippany, what was it before it was a Quick Chek? Was it a gas station?

MR. HEFFERNAN: I did not research that.

CHAIRMAN: He doesn't know.
AUDIENCE MEMBER: Okay. I used to work

there. It is where Lucent Technologies corner of

Route 10 and Whippany Road. So it was apreexisting gas station.

Page 66 Page 68 1 MR. BASU: Originally, 2006. 1 Kurtz, 413 Route 28. These three Quick Cheks that 2 MR, HEFFERNAN: 2006. So it's been 2 you mentioned, what is the rest of the environment 3 nine years. Nine years, where the market has been 3 around there? Is it just a Quick Chek and then all 4 going down at the rate of four-and-a-half percent. 4 the other properties are homes or is it a Quick 5 CHAIRMAN: Mr. Heffernan, we don't need 5 Chek and several other gas stations and grocery 6 the comments. Just respond to the question, 6 stores and ---7 7 please. CHAIRMAN: Which location? 8 MR. HEFFERNAN: I thought that would be 8 MS. KURTZ: The three locations that 9 an answer to what he's getting to. 9 you mentioned. 10 10 CHAIRMAN: It was not. MR. HEFFERNAN: All three of them? 11 MR. BASU: So the price actually 11 MS. KURTZ: Yes. 12 dropped and you projected to the entire audience 12 MR. HEFFERNAN: One of them, the one in 13 over here that nothing has impacted and your point 13 Rahway is on the corner of East Scott and Route 14 was the Quick Chek over there had nothing do with 14 1&9. Route 1&9 is commercial in nature and behind 15 it. It may not have anything to do with it. 15 that is all residential. In the Parsippany -- 2 16 MR. HEFFERNAN: No, because all of the 16 Parsippany Road location in Whippany, they are the 17 other properties dropped at the same rate since 17 corner of Parsippany Road and Whippany Road 18 they were first purchased. 18 diagonally across -- not diagonally across the street. Across the street is a Catholic church and 19 MR. BASU: This specific property is 19 20 lower than what it sold at lower than the average 20 then there are other commercial properties along 21 sales price in the Township of Bound Brook. 21 Whippany Road. And then as you go further down 22 MR. HEFFERNAN; You want me to 22 Parsippany Road in a northerly direction, it's 23 understand why? 23 mostly residential. MR. BASU: I'm just stating facts. I 24 24 MS. KURTZ: What about the third one? 25 don't think you do know why. 25 MR. HEFFERNAN: Bound Brook, South Page 67 Page 69 1 MR, HEFFERNAN: I do know why, 1 Bound Brook along Main Street it's mostly 2 MR. BASU: Because this evening I'm 2 commercial uses and then behind it, it's mostly 3 seeing a tendency of all of the witnesses of 3 residential. There are aerial maps in my report projecting facts and figures and studies which have 4 that show pretty much what the surrounding 4 5 never been corroborated, has never been checked or 5 neighborhoods look like. 6 verified. It's never been verified. It's 6 MS. KURTZ: So by commercial, do you 7 7 completely baseless. mean, like, retail or do you mean office? 8 8 CHAIRMAN: Sir, do you have a question? MR. HEFFERNAN: Office, retail. 9 MR. BASU: I did ask my question. 9 combination, service uses. 10 Thank you very much. 10 MS. KURTZ: So it would be hard to tell 11 11 CHAIRMAN: Thank you very much. then whether Quick Chek specifically would have any 12 MR. ROBERTSON: I don't think the 12 particular bearing on sales versus it could be the 13 witness had an opportunity to answer it. 13 whole community, which would be different than what 14 CHAIRMAN: Go ahead. 14 Bridgewater is. 15 MR, HEFFERNAN: The difference in price 15 MR. HEFFERNAN: Well, I don't think 16 it's terribly different than what Route 22 is like. is that the unit that sold for 260,000 had 1640 16 17 1.7 square feet, five rooms, two bedrooms, Route 22 has a lot of commercial uses on it. 18 three-and-a-half baths. The larger units are 2096, 18 MS, KURTZ: Okay. One more question. 19 they are selling around \$300,000. They have eight 19 Did any of these homes that were within say 600 to 20 rooms, three bedrooms, two-and-a-half baths. 20 1,000 feet that you mentioned, did any of them have 21 CHAIRMAN: Thank you very much. 21 wells? 22 MR. HEFFERNAN: So there is a 22 MR. HEFFERNAN: In the three locations 23 23 difference. that we looked at it was all city water, 24 CHAIRMAN: Next. 24 MS. KURTZ: Do you think that if a home 25 MS. KURTZ: Hi. My name is Debra 25 or say six or eight homes within say 400 to 1,000

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	Page 70		Page 72
1	feet, if they had those wells, do you think that	1	the date Mr. Heffernan was hired for this analysis.
2	those homes might be a little less attractive once	2	CHAIRMAN: He said he was hired in
) з	they had a 64,000 gallons of gasoline nearby to a	3.	November. This application was first heard in
4	new buyer?	4	June, You're right.
5	MR. HEFFERNAN: In terms of that, I	5	MR. XIG: All right. That's what my
6	think there was testimony that was provided by the	6	question is. Thank you.
7	engineers in regard to how those tanks are guarded	7	CHAIRMAN: Thank you.
8	from leaks. So I would rest on that testimony.	8	MS. THOMAS: Hi. Jill Thomas, 8 King
9	MS. KURTZ: Okay.	.9	Drive. Do you have any studies that show the
10	CHAIRMAN: Thank you. Thank you very	10	appreciation values in our neighborhood, which is
11	much.	11	the neighborhood surrounding?
12	MR. XIG: Good evening. My name is	12	MR. HEFFERNAN: I'm sorry? Do I have
13	Feng Xig. My address is 42 Purcell Road.	13	any studies showing the
14	Mr. Heffernan, my question to you is, when were you	1.4	MS. THOMAS: Home appreciation values.
15	hired by Quick Chek to do this real estate market	15	MR. HEFFERNAN: Appreciation?
16	analysis?	16	MS. THOMAS: Yes.
17	MR. HEFFERNAN: When?	17	MR. HEFFERNAN: Since when? Over what
18	MR. XIG: Yeah.	18	time period?
19	MR. HEFFERNAN: Toward the early part	19	MS. THOMAS: Past five years.
20	of November. I don't have the specific date	20	MR. HEFFERNAN: They've gone down.
21	because I don't have the signed contract with me.	21	MS. THOMAS: In our neighborhood? Do
22	MR. XIG: That strikes us odd because	22	you have studies to show that because that's not
23	the first hearing for Quick Chek application was	23	true?
24	either in, maybe, early July or early June. So	24	MR, HEFFERNAN: What neighborhood?
25	that means Quick Chek can I say that Quick Chek	25	MS. THOMAS: The whole back
$\rangle$	Page 71		Page 73
1	initial intention does not include real estate	1	neighborhood between Route 28 and Milltown Road.
2	market analysis in your application. Can I say	2	The houses have appreciated in value.
3	that?	3	MR, HEFFERNAN; The Kiser Farm
4	MR. HEFFERNAN: I can't answer that.	4	development?
5	MR. ROBERTSON: It's not a question	5	MS. THOMAS: It's the whole Vanderveer,
6	this witness can answer and the plans were	6	Milltown section.
7	significantly modified in November.	7	MR. HEFFERNAN: No, but I can tell you
8	MR. XIG: That means the only modified	8	the studies we've done in Bridgewater and what have
9	significantly modified is the elimination of the	9	you and other areas are indicating that the market
10	exit off Route 28; am I right?	1.0	is in decline. It's stabilized in 2013, but
11	MR, ROBERTSON: It's not a question	11	between 2006
12	this witness can answer, sir.	12	MS. THOMAS: We have a
13	MR. XIG: Maybe, you can answer because	13	MR. HEFFERNAN: I'm sorry. I'm almost
14	that strikes us. You know, the time the	14	done. Between 2006 and 2012 the market was
15	beginning of time for us to review this multipage	15	declining at the rate of, approximately,
16	document because the judgement	16	four-and-a-half percent per year in this area.
17	MR. ROBERTSON: The witness is being	17	MS. THOMAS: What's this area? How are
18	made available in February, sir.	18	you defining that?
19	CHAIRMAN: We've already addressed this	19	MR. HEFFERNAN: I'm sorry?
20	issue.	20	MS. THOMAS: What is this area? How
21	MR. XIG: No, no. I'm very confused.	21	are you defining this area?
22	I believe most of audience is also confused because	22	MR. HEFFERNAN: I'm defining that as
23	the initial application sounds to me did not	23	Central New Jersey.
24	include the real estate market analysis; am I	24	MS. THOMAS: So as you stated before
25	right? Because the first hearing was way ahead of	25	that it's probably more applicable to look at

Page 76 Page 74 current house prices. There was a house that was 1 explain the difference between a house that sold 1 for sale at three different points since this here for X number of dollars and one that didn't 2 2 application went up. The house price has dropped sell over there, he doesn't have the answer to 3 3 4 almost \$50,000 and it was pulled off the market 4 that. All that he can tell you is what he's told us already. They've looked at the sale of homes 5 finally in September. The other comparable houses 5 around three different Quick Cheks and although б are selling for \$75,000 more in the same 6 7 neighborhood. How do you explain that difference? 7 they don't have enough data for a statistically MR. HEFFERNAN: \$75,000 more than what? significant study, they do come to the conclusion 8 8 MS. THOMAS: Than the house that was that regardless of how far or how close a home 9 9 10 10 pulled off the market without a sale right next to sells, how far or how close a home is to a Quick 11 Chek, there is no difference in the sales price 11 the Ouick Chek? 12 MR. HEFFERNAN: So what does that 12 between it and another home that may be further 13 demonstrate? 13 away. That's all he can tell you. When you get to 14 the details about this house and that house, he 14 MS. THOMAS: It demonstrates that the 15 15 can't answer that. house price --16 CHAIRMAN: That was the question for 16 MS. THOMAS: I understand, but this is 17 17 our neighborhood and he's not looking at our you, Mr. Heffernan. 18 MS. THOMAS: The house did not sell --18 neighborhood. 19 in your expert opinion --19 CHAIRMAN: I understand this is your 20 20 neighborhood and I get the fact that you all feel MR. HEFFERNAN: I can't even interpret very strongly about that. Believe me and we're 21 what you're talking about. 21 22 here with one thing in mind and that's to do what's 22 MS. THOMAS: The house was pulled off 23 the market at a rate of 13 percent sales price 23 best for Bridgewater. Okay. Let's just proceed. 24 lower than other houses in the neighborhood because 24 Stick to the questions that he can answer based on 25 of its proximity to Quick Chek. 25 his expertise and his study. Page 75 Page 77 MR. SHAH: Hi, Ashesh Shah, 11 Francis 1 MR. HEFFERNAN: Because of its 1 2 proximity to Quick Chek? 2 Drive, Bridgewater. I have question about South 3 MS. THOMAS: Yes, the proposed site. 3 Bound Brook condominiums. Do you know how much This house was pulled off the market and not sold they were built for and what price they were going 4 4 5 5 because it was right next to the proposed site. for? 6 Can you give any other explanation? 6 MR. HEFFERNAN: Yes, I do. 7 CHAIRMAN: He can't explain it. 7 MR. SHAH: How much? MR. HEFFERNAN: In 2006, a model that 8 MR. ROBERTSON: Mr. Chairman, not only 8 9 that. It was a comment and it assumes certain 9 is now selling for \$260,000 sold for \$332,813. In 10 2006, a model which now sells for \$305,000 sold for 10 information as true, which isn't necessarily true. \$421,092. In 2006, a model which sold for \$264,000 11 MS. THOMAS: The house was listed in 11 12 in 2015 was selling for 358,777. 12 June for \$594,000. 13 MR. ROBERTSON: Excuse me, ma'am. You 13 CHAIRMAN: All right. Thank you. don't know why it was pulled off or why it 14 MR. HEFFERNAN: In every case, they 14 15 were selling for about 30 to 35 percent higher when 15 was reduced. they were built, which holds true to the amount of 16 MS. THOMAS: It didn't sell. 16 17 MR. ROBERTSON: It didn't have anything 17 depreciation that's happened in the market since to do with this application. 18 2006. 18 MS. THOMAS: You can't say that. 19 MR. SHAH: Okay. I'll tell you, I have 19 20 CHAIRMAN: Listen. Let me say a few 20 three businesses in South Bound Brook. 21 words about appraising. It's a very imprecise --21 CHAIRMAN: You're about to ask a 22 it's not even a science, but it's a very imprecise 22 question, right?

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MR. SHAH: This is my question because

I own three properties over there. I know what I'm

telling. Quick Chek opened two years ago. So

process. Lots of things are factored in, size of a

Mr. Heffernan what's the difference or how do you

home, shape of a home. When you try to ask

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Page 78 Page 80 MR. HEFFERNAN: That are currently on 1 compare the condominiums, which are selling for 425 1 and 310 right are now selling for 249 and 259 and 2 the market? 2 3 there are almost seven condominiums empty and I can 3 MR. HE: The past one. The one you 4 bring that figure next time at the meeting if you 4 show us? 5 5 MR. HEFFERNAN: Do I have --6 CHAIRMAN: Thank you. 6 MR. HE: Do you have the number of MR. KOMLINE: Brian Komline, 5 Decker 7 offers for each of the house you showed us? 7 Lane, Sir, since you have given us three 8 MR, HEFFERNAN: I don't understand. 8 9 CHAIRMAN: Do you have data on the 9 comparable locations, I would like to ask you the 10 10 question. Are you aware that before the Quick Chek number of offers made for each of the homes you 11 in South Bound Brook was built, there was already a 11 studied when they were for sale? 12 MR. HEFFERNAN: No. 12 gas station. There was already a pizza place. There was already a liquor store. There was 13 13 MR. HE: Of course, because as you 14 know, housing prices demand and supply and you know 14 already a restaurant. There was already a sub 15 15 how many offers you need to outbid for my house in shop, et cetera, et cetera, et cetera? MR. HEFFERNAN: No, I'm not aware of 16 Bridgewater? 13 offers. I outbid them and I add 16 17 what was there before. I am aware of what's there 17 20,000 to the list price. That's two years ago and 18 now and I compared prices that have happened since 18 based on what you heard today, no one is buying the 19 19 houses now. So that's my point. the Quick Chek has been established. 20 MR, KOMLINE: How can you make that a 20 CHAIRMAN: Thank you. No more points. 21 21 comparable area to where we live? Questions. 22 MR. HEFFERNAN: It doesn't matter 22 MR. THIMMAPPA: This is Ashok 23 23 whether the area is specifically comparable in Thimmappa. I live at 74 Walters Brook Drive. Sir, 24 terms of house prices because when we try and 24 I wanted to ask you, you know, since you are a real 25 isolate these differences, we try and isolate them 25 estate expert, when you sell a house --Page 81 Page 79 1 on a percentage basis and apply it on a percentage 1 MR. HEFFERNAN: I sorry. I don't sell 2 basis. 2 houses. 3 MR. KOMLINE: Sir, you assess land and 3 MR. THIMMAPPA: Okay. I'll ask the 4 houses as a living, correct? Does land and 4 question another way. The studies you've done what 5 location have anything to do with your prices? 5 is the lowest and highest price in the houses in 6 6 It's an honest question. that area? 7 MR, HEFFERNAN: It does not have 7 MR. HEFFERNAN: What is the lowest and 8 8 anything to do with the study that we did in terms the highest prices? 9 9 of--MR. THIMMAPPA: The appraise range in 10 MR, KOMLINE: Of course not. That 10 that area. 11 11 makes no sense. Thank you, sir. MR. HEFFERNAN: I can tell you what MR. HEFFERNAN: In terms of isolating 12 prices that the properties that we studied sold 12 13 for, but I can't with any accuracy tell you what 13 the problem with a gas station affecting market value, it's going to affect it whether it's a 14 every property in that neighborhood sold for. 14 15 \$200,000 neighborhood or a \$400,000 neighborhood or 15 MR, THIMMAPPA: No, I'm not talking 16 a million dollar neighborhood. 16 about every property. I was talking about the ones 17 17 CHAIRMAN: Thank you, Mr. Heffernan. you studied. My point is and let me make it very 18 18 quick, my point is, the houses in the Bogart Next please. 19 19 MR. HE: Last name, H-E. First name, neighborhood, the Stratton Meadows, the appraised 20 Z-H-E, 14 Purcell Road. My question is, do you 20 ranges are above 500k and all the houses you talked have the data on the number of offers the houses 21 about is in the 200k range and --21 22 22 that you listed there? CHAIRMAN: Thank you very much. We 23 23 MR. HEFFERNAN: The number of need a question. 24 24 MR. THIMMAPPA: My question is, can you offerings? 25 25 MR. HE: Right, the number of offers. make a study comparing apples to oranges? That's

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all. Thank you.

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MR. HEFFERNAN: I'm sorry. I didn't understand it.

CHAIRMAN: You didn't need to understand. It had to do with fruit. That was outside of your area of expertise.

MS. HARTE: Hi, my name is Julie Harte. I live at 389 Garretson Road. From an earlier question the lady who was asking if you thought that people who had wells and live nearby if that were a deterrent to buyers and I think you said no; is that correct?

MR. HEFFERNAN: No, I said that I would defer any testimony in that regard to the expert who testified regarding the engineering of these tanks.

MS. HARTE: No, no, no. I'm not asking a question about safety. I'm asking a question about people making offers, real estate, purchasing because people Google things. I mean, people look up things all the time. So the information that's out there on the internet may or may not be correct. But I Googled, should I buy a house near a gas station. First hit I get, is Scientific American, which is telling me no.

I just think it's naive to say that it's not going to affect real estate values.

CHAIRMAN: A good point.

MR. HEFFERNAN: I'm not saying it's not -- I'm saying that it was testimony with regard to safety these tanks, then I would defer to the -- in terms of wells in that area.

MS. HARTE: I'm talking about perception.

CHAIRMAN: You heard what he's going to give you for an answer. Next. You again.

MR, KELKAR: You have said that you had very little data to work with, which is why you had to do this paired comparison or whatever you talked about; is that correct?

CHAIRMAN: He's already affirmed that. MR. HEFFERNAN: Not specifically. What I said was that there was not a plethora of sales that could be utilized to get statistical analysis and that this particular method that we utilize is an accepted and proven methodology of coming up with an adjustment number.

MR. KELKAR: So then my question would be, why did you focus your analysis just on Quick Cheks, itself because if I were you, I would have

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MR. ROBERTSON: Mr. Chairman, this is

MS. HARTE: It is a question because

I --

CHAIRMAN: It is a question. It is a question and your witness refused to answer it. The question was, if you look at two homes that are identical in all other aspects, one of which has city water and one of which has a well and it's located next to a gas station, would you expect to see a difference in the value of those two homes? That was the question.

MR. ROBERTSON: My only concern was you began your statement about an article on Scientific American.

CHAIRMAN: Forget Scientific American. Answer the question.

MS. HARTE: No. I'm sorry. Excuse me. I'm not talking about the article. I'm talking about the information that people access, the way people look at when they are going to buy a home, if you look and say, real estate values near gas stations, you will see things that are deterring buyers. Zillow will say they've got their comment boards and again, it's no, no, no. Don't do it and

looked at price of real estate before and after a gas station is built next to it. The fact that it's Quick Chek is completely moot. It could be a Sunoco gast station and it would have a same impact on real estate prices and doing that would probably give you a much more statistically robust analysis than sharing with us --

CHAIRMAN: Okay. Your question was asked and can we get an answer?

MR. HEFFERNAN: Yeah. The reason that that is not usually done is because we have a situation in the real estate market where real estate market conditions aren't typically stable. Prices are either going up or down. So that when we look at sales that happen before a service station went in and after a service station, they have to be somehow equated for the of either appreciation or the depreciation that's happened.

MR. KELKAR: But then it would behoove you more to have more data.

MR. HEFFERNAN: And we need to be able to find the data. In other words, we have to find the sale that happened just before and just after. It doesn't always -- it's not always even. It's like a needle in a haystack often times.

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that.

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. MR KELKAR: Then you're trying to make my point is because --
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CHAIRMAN: Don't make points.

MR. KELKAR: He's complaining because of lack of data.

CHAIRMAN: Don't make points. Ask the question,

MR. HEFFERNAN: I will tell you that when I teach the appraisal courses and they ask me how do I come up with an adjustment, I tell them to use the paired data analysis because that is what is advised and that is what appraisers use. That's what we utilize here.

CHAIRMAN: Thank you.

MR. LEVEN: Andrew Leven, 2 Holmes Court. Seeing how difficult it is to formulate questions, I think we can all see that, I'm going to try a different approach. Sir, I'd like you to answer Chairman Sweeney's question, if you would. That is the question about homes that have private wells within several 100 feet of a \$64,000 gas station tank versus homes that have city water at the same distance. Using your paired analysis, apples to apples --

MR. HEFFERNAN: It's not a study that I

MR. HEFFERNAN: I'm saying that the information that we've provided is in the report. If they are areas that were on city water, they were on city water.

MR. LEVEN: Sir, when you're teaching your appraisal class, is that what you tell your students, that I'm going to rely upon what the engineer said and the information that's in the report? That's what's in the report? That's what you're teaching them?

MR. LEONARD: My name is Michael Leonard. I live at 3905 French Drive and I want to ask a question. How many shopping malls do we have here in Bridgewater as it is?

MR. HEFFERNAN: It wasn't part of my study.

CHAIRMAN: He's not going to answer the answer to that. He's an appraiser.

MR. LEONARD: We have enough shopping malls. That's my statement.

CHAIRMAN: Thank you.

MR. ROSENBERG: Richard Rosenberg at 9 Stillwell Court. You talked a lot about home values have declined since 2006. Would you say that also applies to 2014 and 2015?

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performed.

MR. LEVEN: What impact would that have, in your experience as a professional --

MR. HEFFERNAN: I said, it's not a study that I performed.

MR. LEVEN: Let me ask you this, sir. You were talking about paired analysis and making adjustments to similarly situated properties. In your professional view, is a home that is on a private well within several 100 feet of 64,000 gallons of gas similar to a home that is not on a private well, but is on city water, are they apples and apples?

MR. HEFFERNAN: I would look for a situation where I could make a comparison to make a judgement about it.

MR. LEVEN: Did you find such a situation?

MR. HEFFERNAN: No, I did not.

MR. LEVEN: Is your -- are you telling this zoning board that the comparison that you did make of the three sites that are on city water should be considered by them to be apples to match up with the apples that are present here in Bridgewater? Is that your testimony?

MR. HEFFERNAN: No. The market stabilized at the end of the 2012 as best as we can tell from sales.

MR. ROSENBERG: As best as we can tell values have gone up by 20 percent. Just check my tax assessments for that one.

MR. HEFFERNAN: If you want to have a one way conversation, that's fine. I'd be happy to do that.

MR. ROSENBERG: I apologize, Mr. Chairman.

CHAIRMAN: Asked and answered. MR, ROSENBERG: I'll just leave it at

CHAIRMAN: Thank you very much. Last man up.

MR. ISH: Hi, Raj Ish. I live very close to the Kiser Lane and when Quick Chek comes, I can view from my backyard. I want to get to the fact that you said there is a decline in the sales value of the houses in past three years or five years or six years. I've been looking for a house since 2012 in Bridgewater. I've been living in a rental and I bought a house next to Kiser Lane, which is very approximate to your Quick Chek, but

Page 90 Page 92 1 1 there is no decrease in value. I pay more. My station, all things being equal, which would you 2 taxes increased and how you explain this? Why do 2 buy? 3 you see a decrease in Bridgewater? I see 3 MR. HEFFERNAN: You're asking my 4 Bridgewater is strong and how does it correlate personal opinion, not my professional opinion. 4 5 your taxes -- the raise of the taxes from last 5 MR. KOLAVITCH: Yes, I am. 6 vear? 6 MR. HEFFERNAN: I'm not here to give my 7 CHAIRMAN: I think that's well outside 7 personal opinion. 8 8 the bounds of your study, is that right, MR. KOLAVITCH: I think you've answered 9 Mr. Heffernan? 9 the question. 10 MR. HEFFERNAN: It's not in my study, 10 CHAIRMAN: Thank you very much. Next. 11 11 MS. LI: Hi, Mr. Chairman, my board and 110. 12 CHAIRMAN: He can't answer that. 12 Mr. - I'm sorry I forgot your last name. I have a 13 13 simple question. When we buy a house, I know MR. ISH: That is a tax value to the 14 14 property tax increase. Does it correlate the you're in the real estate industry, when we buy a 15 15 value. house, so one of the things you need to obtain 16 CHAIRMAN: He's answered about what's 16 before you close the house is, you need to obtain 17 happened to general trends in home prices since 17 homeowner insurance, 18 18 2006. They declined through 2012, but they've MR HEFFERNAN: I'm sorry. What? 19 stabilize Bridgewater. 19 MS. LI: Homeowner insurance. You need MR. ISH: Not in Bridgewater? 20 20 to have homeowner insurance before you close house. CHAIRMAN: Was that Bridgewater or all 21 21 My question is that, when we buy a new house, 22 of Central Jersey, Mr. Heffernan? 22 standard question, are you aware they are asking 23 MR. HEFFERNAN: It's probably pretty 23 the insurance company is asking how far your house 24 much the eastern coast, but probably New Jersey. 24 from a gas station? Are you aware of that? 25 CHAIRMAN: It's New Jersey. It's New 25 MR. HEFFERNAN: I have no idea how Page 91 Page 93 1 Jersey. 1 insurance companies do their ratings. I am not an 2 2 expert in that field. MR. ISH: Can we be specific next time 3 to Bridgewater and bring some market analysis? 3 MS. LI: You are not aware they are 4 MR. HEFFERNAN: If my client is willing 4 asking for premium, a higher premium, for a close 5 5 to pay for it. to gas station. 6 MR. KOLAVITCH: My name is Steve 6 CHAIRMAN: He said he's not aware how 7 Kolavitch. I live at 21 Kiser Lane and I just want 7 insurance companies run their business. He can't 8 to verify that for the record, you're stating that 8 answer that question. Don't ask it again. He 9 a gas station within a 1,000 feet or 2,000 or 500 9 still can't answer it and don't ask it in a 10 feet of a residential area does not affect the 10 different format because he still can't answer it. 11 value of a home? Is that what you're saying? 11 Okay? 12 12 MR. HEFFERNAN: That's what the --MS, LI; Okay. Thank you. 13 13 CHAIRMAN; Thank you. MR. KOLAVITCH: I'm asking your 14 opinion. 14 MR. MORSE: Walter Morse, 43 Kiser 15 15 MR. HEFFERNAN: That is what our Lane. When we started, did you say that you've 16 16 research indicates. been an expert in this field for the last 40 years? 17 MR. KOLAVITCH: Now, I'm asking your 17 MR. HEFFERNAN: I'm sorry? You're 18 opinion. In your opinion, would you agree with 18 going to have to speak into the microphone. 19 19 MR. MORSE: Did you say that you are an 20 20 expert in this field for the last 40 years? You've MR, HEFFERNAN: I stand behind my 21 21 been working in this field for the past 40 years? research, yes. 22 22 MR. HEFFERNAN: Yes, I've been a real 23 MR. KOLAVITCH: And if you had the 23 estate appraiser since 1971. 24 opportunity to buy two homes, one within 1,000 feet 24 MR. MORSE: And do you know what people 25 of a gas station and one five miles from a gas 25 usually ask when they are buying real estate, what

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they usually ask, one of the questions? It's three words.

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24 25 MR. HEFFERNAN: One of the questions who asks?

MR. MORSE: If you're buying, a buyer.

MR. HEFFERNAN: Do I know one of the questions?

MR. MORSE: Do you know what people usually try and you know --

MR. ROBERTSON: Is there a question, Mr. Chairman?

MR. MORSE: The answer to the question would be location, location, location. So, therefore, I don't understand when you're saying a house next to a gas station and a house four miles away from a gas station, there is no impact on the price.

CHAIRMAN: He's given you the results of his research. You can agree or disagree, but it's not a debate.

MR. MORSE: You're right. Thank you. CHAIRMAN: Thank you.

MS. BODINO: Angela Bodino, 21 Dear Run Drive. Are residents close to a mega gas station entitled to a reduction in their property taxes as

a trend that you picked up?

MR. HEFFERNAN: If you want, I can go through all of the sales that I used and tell you what the days on the market was. None of them were on the market for over 100 days or 120 days. So the marketing periods were within 30 to 120 days. I mean, I can go through each one and give them to you if you'd like.

CHAIRMAN: Mr. Robertson, I believe you have one witness left and that would be your planner?

MR. ROBERTSON: If I could, Mr. Chairman, just briefly to circle back to Mr. Heffernan just to clarify some things that he was questioned about. Mr. Heffernan, there was a question about the statistical significance of other studies and you indicated that it there were not sufficient statistics, which is why you conducted this study. Would you just elaborate for the board and the public a little bit more about that and why you conducted this study?

MR. HEFFERNAN: Just to be somewhat helpful, i think the Chairman referred to an appraisal as an imprecise-type analysis and I would tend to disagree with that. It's really not

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a matter of law? Yes or no?

MR. HEFFERNAN: That's up to the assessor.

MS. BODINO: As a matter of law?

MR. HEFFERNAN: 'That's up to the assessor, ma'am. I can't speak for the assessor.

MS. BODINO: Our research suggests the opposite. That is a matter of law.

CHAIRMAN: He's saying it's up to the tax assessor. Thank you very much.

MR. FROSS: Mr. Heffernan, in your study, did you look at days on market for any of the homes that were sold and was there a correlation between distance from the gas station and the length that a home was on the market before it sold?

MR. HEFFERNAN: I have all that information because it's provided. I can tell you that the property on East Scott Street was on the market for 50 days prior to it being sold and that's the property within 81 feet within the Quick

MR. FROSS: In general, was there a trend in your research? You can always pick out one outsider in any research project, but was there imprecise and if you look back at appraisals that

have been done in my office, we have a very good
record of being close to sales price of properties,

record of being close to sales price of properts
but that context of this is not going to help us

5 here, but one thing that I would like to say is

6 that it takes a significant amount of data and it 7 takes more than 30 days or 60 days to accumulate

takes more than 30 days or 60 days to accumulate in
 order to put together a reasonable statistical

9 analysis and it needs to be a random sampling and

10 the problem is that with most of these Quick Chek

locations that we were able to isolate, nine in theCentral Jersey area, there was not a significant

number of sales to do that type of analysis. So

1.3 number of sales to do that type of analysis. So1.4 I'm just saying that if we were in a situation

15 where we had many of these Quick Cheks in very

16 highly-populated areas where there is a

tremendously active real estate market, which is

not the case right now, perhaps there would beenough sales to do a greater in depth type of

20 statistical study. That's not the way that we can

21 do the study right now because of the lack of the

22 sales. So we've isolated sales, again, that are

close to these Quick Cheks as possible to determine
whether or not there appears to be any difference

whether or not there appears to be any difference because of the location and the distance from the

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Quick Chek. There does not seem to be — the sales are not indicating that. They are indicating that ones that are closest to the Quick Cheks are selling for the same price of the ones that are a greater distance away.

MR. ROBERTSON: Mr. Heffernan, in your professional opinion, based upon your long years of experience and training and in your education in this field, do you have an opinion as to whether or not this method of analysis, this paired data analysis, was an appropriate study for the analysis that was performed?

MR. HEFFERNAN: Yes, it absolutely was. MR. ROBERTSON: Is this type of study --

CHAIRMAN: Counselor, if you have more questions, you need to speak to in the microphone.

MR. ROBERTSON: I'm sorry. With regard to the paired data analysis, are you satisfied that the study and analysis that you conducted was an appropriate study and that you are satisfied with the results of that study?

MR. HEFFERNAN: Yes, I do believe it was an adequate study and I am satisfied with the results of that study.

call Christine Cofone.

3 CHRISTINE NAZZARO COFONE, 4 after having been first duly sworn, testified as 5 follows:

CHAIRMAN: Would you give us your name and address, please?

9 MS. COFONE: Sure. My name is 10 Christine Nazzaro, N-A-Z-Z-A-R-O, Cofone, 11 C-O-F-O-N-E. Business address 125 Half Mile Road, 12 Suite 200, Red Bank, New Jersey. 13 CHAIRMAN: And Ms. Cofone, you've

CHAIRMAN: And Ms. Cofone, you've testified in front of this board a whole lot of times?

MS. COFONE: Yes.

CHAIRMAN: You're still licensed in New Jersey?

MS. COFONE: I'm still duly licensed in New Jersey. I have testified before this board and about 360 other boards throughout the State of New Jersey. I've been practicing consulting planning for, approximately, 20 years. I have a masters degree in city and regional planning from Rutgers University. My firm in addition to providing

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MR. ROBERTSON: And would you please restate your conclusion as a result of the study?

CHAIRMAN: I don't think we need to hear it restated. It's been stated at least two or three times already. So that's fine. Thank you. No. We're done. No more questions for this witness. Counselor, I believe you have a planner to testify?

MR. ROBERTSON: Yes, we do have the applicant's planner. Christine Cofone is here tonight. I would indicate to the board, it was my anticipation that the appraiser would be concluded tonight having been extended into the next meeting and I do not anticipate that we will conclude with Ms. Cofone tonight. I would simply like to reserve the right to have her recalled after the appraiser is cross-examined. Her testimony was to follow all of the fact witnesses because they provide a foundation. I am not looking to adjourn the hearing. We will present her tonight, but I would like to reserve the right to recall her if and based upon the questioning of Mr. Heffernan at the

testimony before the aforementioned 350 boards, we also represent municipalities and the casino redevelopment authority.

In addition to that, I've been qualified as a witness in the state superior court system and I also teach planning and zoning courses for the Rutgers Center for Government Services and in the spring, I taught a course at the Land Use Institute at Monmouth University.

CHAIRMAN: Thank you very much. Please proceed.

MS. COFONE: Good evening. The reason obviously we're here in front of the Zoning Board of Adjustment is because the applicant is seeking a D variance to develop the site with a proposed retail mart and retail fueling station. None of those uses are permitted in the existing C-3 zone district. In addition to that, as your planner has pointed out, we're seeking two other D variances because at this time proposing to retain the existing residence and farm stand on the subject property. I will submit to the board that neither of those uses are permitted in the C-3 zone either.

I would also like to qualify my testimony and Mr. Lamont earlier, it is not

February 3rd hearing.

CHAIRMAN: That's fine.

MR. ROBERTSON: The applicant would

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imperative to this applicant to retain those uses onsite. It's really an offer on behalf of the applicant to sort of keep them on the site as they happen to have an iconic element about them. I would provide testimony for the retention of them on the site, but it's not specifically not the applicant's -- the applicant is not hard and fast that they have to stay onsite if the board were not inclined to have them because we are asking for, as Ms. Doyle points out in her review letter, four separate D variances and she's qualifying the application. The site also has an existing office building that we're proposing to demolish in conjunction with this application.

So we are here for a D-1 use variance for four separate uses on the property. That being the retail mart, the retail fuel and the retention of the farm stand and the single-family home. As such, we have an obligation to the Board of Adjustment to demonstrate that the site is particularly suited for the proposed uses. The concept of particular suitability is somewhat elusive in that it is not defined in the land use law. Nor is it defined anywhere in Bridgewater's zoning ordinance or master plan. So what it is, is

So starting -- the proposal -- I think if we can put the proposed site plan up, I think everybody is probably familiar with that from prior witnesses. You can see the subject property on the overhead projector. You can see that we are proposing a 5700 square foot retail mart as well as the 16 fueling positions under the canopy. I know there was -- as well, you will see the retention of the single-family residence and the farm stand on the western portion of the site. We are proposing as you can also see absolutely no access to the subject property from Route 28. We are proposing to have only access from the Route 22 for the proposed fueling station and the existing farm stand will continue to have its access off of 28, but there will be no interconnection and we will not have access to the fuel and the retail from 28. You can also see that we preserved a significant amount of vegetation along the 28 frontage.

So when you're looking at particular suitability and you're looking at what is it about this 5.47 acre property that makes it particularly suitable for the gasoline filling station? If you were here on November 17th and heard Mr. Cahill's direct testimony, then you know that when you go in

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a concept that we need to demonstrate to the board members that the site particularly suitable in some way for the proposed use. It doesn't have to be uniquely suited to that use and we don't have an obligation to demonstrate to you that no other site could accommodate the use. Just something about this property that is particularly suitable for the proposed use.

In addition to that, we have to demonstrate special reasons because this is a non-inherently beneficial use and we have to demonstrate the positive and the negative criteria as well as Medici reconciliation reconciling the governing body's continuing omission of the proposed use with the master plan. It is my intention is that I will do all that. I don't know think I will conclude this testimony tonight. I know the board has heard a lot of the testimony and the public has heard a lot of testimony. So I will do my best to get through it, but I ask that your patience is going to be probably somewhat longer than the testimony, the Chairman has indicated, I have been here previously. I don't think we can quite go through this at the pace that we typically do, so your patience and indulgence is appreciated.

an east to west pattern, there is a significant grade change of about 30 feet on this property. In addition to that, the proposed roadway of Route 28 is significantly lower than the first floor elevation of these proposed structures. So what that does is, it allows for the site developer to, basically, tuck the building and the canopy into the site, so that you're really having a very filtered view of the property from 28. So I would submit to the board that one of the factors that make this site particularly suitable for the proposed gasoline filling station is the significant grade change along 28 as you move from east to west. 22, where we are having a much more gentle grade change is where we will have our access from, so that's one of the factors.

One of the other factors of this particular piece of property that in my opinion renders particularly suitable, this site has 900 feet of frontage along Route 22. It has 900 feet of frontage along Route 28, as well. Why I think that's important and particularly to the suitability argument is that this use as we've heard from our traffic engineer will, of course, have a peak hour, an a.m peak and a p.m. peak as

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1 any use would. However, it will also have a 2 continuous stream of traffic throughout the day. 3 The 900 feet of frontage along 22 where we intend to have our sole access for the proposed retail 4 5 fuel will allow us to have a proper spacing for a 6 use that's going to have a more steady stream of 7 traffic throughout the day. So certainly the 8 site's frontage along 22 is another factor along 9 this piece of property rendering it particularly 10 suitable for the proposed use.

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In addition to the topography and the frontage, when you have an opportunity to visit the area, this one has not been marked yet. Do we need to mark this?

(At which time, an aerial photograph from Bohler Engineering was received and marked as A-25 for identification.)

MS. COFONE: A-25 is an aerial exhibit that was prepared by Bohler Engineering in conjunction with input from my office. What it shows is, it shows the subject property which is located with green Q in the center of the exhibit and it also shows -- other area service stations.

opportunity for this combined use in that corridor.

These four factors in my opinion render the subject property particularly suitable for the proposed use.

Again, if you can go back to the site plan, the proposed use is a one story, 26-foot high retail building and the canopy is about 17 feet. If you were to compare and contrast that with the permitted use in the zone, you would be allowed to have a three-story structure at a height of 45 feet. So the fact that there is that grade change allowing the building and the canopy to be tucked into the existing grade and therefore radically diminish as far as the viewpoint from the adjoining properties as demonstrated in the prior testimony by Mr. Cahill, I think that is clearly one of the factors that the board can rely on and why the site is so particularly suitable for this proposed use.

In addition to the particular suitability, we have an obligation to demonstrate to the Board of Adjustment that one or more purposes of land use law are advanced by the granting of this application. The purposes of land use law are not unique here to Bridgewater and they are found at 40:55D-2 of the Municipal Land Use Law

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1 So what I think the board can take away from this 2 exhibit, which is A-25 in evidence, is that the dominant locations are east of the circle, of the 3 4 202/206 circle. West of the 202 circle, there is a 5 gap in-service stations of over three miles. In 6 addition to that gap in service stations and I have 7 had an opportunity to drive this corridor in conjunction with this application, other 8 9 applications in Bridgewater, as well as other 10 applicants that I have represented in the area. So I have spent a significant amount of time driving 11 12 the highway corridor of 22. I would submit to the 13 board having had an opportunity to stop in the individual stations represented on A-25, the 14 15 offerings at any of these stations are completely 1.6 dissimilar to that which is offered by the Quick 17 Chek retail store. In none of these other 18 establishments along 22 and there are six or seven 19 of them to the east of the circle and there is 20 three or four to the west of the circle, in none of 21 these other facilities along 22 that have a service 22 station is the ability to have a retail convenience

opportunity where you can get fresh baked bread,

any of the service stations. So there is no other

freshly made soups, freshly prepared sandwiches at

and they are identified by letter and not number. They are certainly not mine. I did not create them and the Bridgewater planning staff did not create them. They are in the land use law and we have an obligation to demonstrate one or more. One of those purposes in the land use law is to provide sufficient space in appropriate locations for a variety of agricultural, residential, recreational, commercial and industrial uses and open space, both public and private according to their respective environmental requirements in order to meet the needs of all New Jersey citizens. Again, that sounds like rigid language. It is because it comes right out of the statute. So I submit to the board I think that reliance on G would be appropriate here. I do think that there is sufficient space on this 5.47 acre property to handle the use program that's being contemplated by the applicant. In the C3 zone, you would be allowed to have 60 percent coverage for building and parking. The applicant has proposed about 26.7 percent. So we are certainly not even coming close to the allowable coverage in the C3 zone. Similarly, we would be allowed to have a FAR or floor area ratio and for anybody that's not familiar with that concept that

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really just talks about the total floor area of buildings or structures on a property to the size of the lot. The C3 zone allows that number to be .07 percent and we're at .03. So I think certainly it can be concluded that there is sufficient space to handle the subject development program.

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Criteria H of the land use law talks about location, design, transportation route, which will encourage the free flow of traffic, while discouraging location such facilities and routes which result in congestion or blight. I was not here on December 1st when Mr. Olivo testified. However, I did have the opportunity to read his transcript cover to cover. So I read his direct, as well as questions from the board and questions from the public. So I think based on the testimony provided by Mr. Olivo, I think you can certainly conclude that there will be no adverse impacts to the adjoining roadway network and that there can be safe and efficient traffic circulation provided to and from the site without degrading any of the roadway network surrounding the property. So I do think it would be appropriate for the board rely to on criteria H.

Criteria I of the land use law talks

into all the details of the architecture because later in my testimony when I get to the Route 22 corridor study that was done in 2010, there's about two pages in that document devoted to architecture, so we'll circle back.

But for arguments sake right now, in talking criteria I, a desirably visual environment, I think it would be helpful for the board and for the members of the public to see what we're proposing here. This is an attractive red brick building. We have in this application changed the ratio of efface to brick that Quick Chek typically does in order to provide a more attractive building and enhance the curb appeal on the subject property. We're also proposing a canopy, which certainly breaks up the building elevations. We also have the brick pilasters on the canopy. One thing also to keep in mind is that Quick Chek is a fairly sleek canopy design. The width of this canopy is only three-foot and I think it's also important to point out, the lion's share of this canopy is not internally illuminated. When you get to the sign on the corner, which is I think is about 22 or 32 square feet, so a pretty small sign, that portion of the canopy will be lit. The rest

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of it is a fairly sleek, unobtrusive structure.

about promoting a desirable visual environment through creative development technique, good civic design and arrangement. This is another new exhibit. I don't think this has been marked either.

(At which time, a rendering of the proposed building by GK&A Architects was received and marked as A-26 for identification.)

MS. COFONE: This is a rendering of the proposed building and canopy that was prepared by GK&A Architects. The sign program is changing, but we're here really just to talk about the use tonight and we will be modifying the sign program. But for arguments purposes, we'll use this to rely on the building and I'll talk about this some more in greater detail because when you get to -- for the record, A-26 in evidence, which is the architectural plans prepared by GK&A & Associates. I cannot see the date on that. It's dated 7/30/14 with revisions current to 4/23/15.

This is a fairly accurate representation of the proposed Quick Chek building and the proposed canopy and I'm not going to get

All four elevations of the building

will be treated in similar materials and that's specifically called for in the master plan and we do treat all elevations of the building similarly and again, we have the entrances to the building clearly delineated. You'll see we have the grills to form the transom window. Again, a specific requirement in the master plan on the 22 corridor.

Again, you'll see we have the crown moldings on the top. So what I believe to be a very attractive, red brick building, somewhat classic, timeless architecture in the red brick. So I think the board can certainly rely on criteria I of the land use law, which talks about providing a desirable visual environment through creative development technique and good civic design arrangement.

The last purpose of the land use law that I'd like to hit on before moving to the negative is criteria M, which talks about encouraging the coordination of the various public and private procedures and activities shaping land development with the view of lessening the cost of development and to the more efficient use of the

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land. I think this is really a great application that efficiently uses irregularly shaped 5.47 acre piece of property that has frontage on two major state highways. So I do think that the board can certainly rely on criteria M in efficient use of the land. That's the particular suitability and the positive criteria.

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7 The next burden of proof I would like 8 to talk about for the D variance is the negative 9 10 criteria and as I said, you know, I'm out a lot doing this testimony and I would like to remind 11 12 those listening, the voting board members as well 13 as the public, that the concept of the negative criteria in the land use law does not ask a board 14 15 to hold an applicant to the standard that there 16 16 will be no detriment at all. It asks the board, 17 the applicant, to make a finding that the benefits 18 of the application outweigh any detriment and I'm 18 19 19 going talking a lot and at length about the benefit 20 of the redeveloping of this commercial property in 21 the corridor, but if you can just keep that premise 22 22 in the back of your mind when you're considering 23 the negative criteria because the negative criteria 24 right out of the land use law, it talks about 24 25 substantial detriment. It doesn't ask the board to

and the impact of the public good, there are a couple factors that I think needs to be kept in mind.

This is a C3 zone. The zoning district here allows for and I'll crossover into both impacts because I'll talk about the impact in the zone plan as well. The zoning districts here allows for absolutely no residential use. So the residential use that we're retaining, as Scarlett pointed out, requires us to seek an additional D variance because this is not a residential zone. The zone permits businesses, professional and service offices and establishments, such as bank and bank-related functions, credit services, security and commodity brokers, insurance carriers, real estate services, advertising services, employment agencies, consumer and mercantile and credit and collection services, consulting services, data processing, engineer and architectural services and accounting services, essential services, nursing homes and assisted living facilities, medical homes and dental offices, research laboratories and research activities. That's all permitted as of right. Then when you have a site that fronts

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hold the applicant that there be no detriment whatsoever when you put a shovel in the ground and when you are developing a use that is not permitted in the zoning district.

Negative criteria really has two prongs to it and this is whether you're dealing with a beneficial use or a non-inherently beneficial use, which clearly in my opinion this is a non-inherently beneficial use.

The negative criteria has two prongs to it. The first prong, is what's called the impact on the public good. The second prong is, of course, the impact on the zone plan.

So we'll start with the public good because when you talk about the public good, what you're essentially talking about is the area that is going to be impacted or surrounded. So you're a neighborhood, which I appreciate is very important to all of you and it's important to Quick Chek, as well. If you were here during the first proceedings, the first application when Mr. Lamont talked about Quick Chek as a company, he talked about how very involved Quick Chek as a company is in this neighborhood and we are very sympathetic to that and when you consider the negative criteria

on 22 as well in the C3 zone like our property does, it brings in even more commercial uses. It brings in health clubs and wellness centers, day spas and gyms, indoor recreation, except that it disallows inflatable structures, adult medical support, medical support centers of limited service for uses, such as diagnostic MRI facilities, outpatient rehab centers and outpatient surgical centers. So this is by all intents and purposes a commercial district that allows for structures to be built at a height of three stories and 45 feet.

You heard Mr. Olivo's testimony that 35,000 vehicles a day pass on this road network already. In addition to that, yes and I appreciate that you have a well-established neighborhood. The homes are very well-maintained. It's a very stable residential community in Bogart and beyond going to the south of the property. But in addition to that, you also have a gas station that is already about a half mile from your homes. You have immediately to the east of the subject property --

CHAIRMAN: Let her speak.

MS. COFONE: To the east of the subject property, you have an existing landscape service use that when I've been out to the site on many

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occasions, the last time I was out there counting trucks on the property which was this past Sunday and I counted about 35 commercial vehicles on that property, which is immediately to the east of the subject property, immediately to the east. So this is an area that is not exclusively devoted to your residential homes. Appreciating that it is your neighborhood, I certainly appreciate that. Recognizing you have a very stable residential community and we have been very sensitive to that. We have really tried and I think have been successful in that effort in preserving that buffer along 28.

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I can represent to you that if one of the aforementioned permitted uses came before the planning board because they wouldn't come before this board, the board would not be able to restrict their access to 28 and in all likelihood, you would see far more clearing along the 28 corridor than is being proposed in conjunction with this application.

So I think when you're looking in terms of the negative criteria, you certainly can conclude that the subject application would have less of an impact than in some respects than well that a permitted use would likely be at about 187 feet. So the proposed structure in conjunction with our application are what we believe significantly lower and it's significantly less visually imposing to the neighborhood than an otherwise permitted use would be.

The other thing that I would point out is our use is somewhat of an anomaly in which Bridgewater regulates its service stations. We typically do not consider this a service station and the reason I say that is because when you look at how Bridgewater and this is not unique to Bridgewater to find a service station and you look at the conditional use standards for a service station, the conditional use standards, two of the four standards don't even apply to the use that's before the board this evening and why I say that is because it deals with making repairs and it deals with the sale of vehicles. Quick Chek has never in its business model engaged in those activities onsite. So what's being regulated typically and it's not just here in Bridgewater, what's being regulated typically in conjunction with a service station is really not occurring on our property. So I think that that's important to note.

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otherwise permitted use in the zone. A health club could be open 24 hours. There are many health clubs throughout the State of New Jersey that are open 24 hours. So this is certainly not an area that is marked by exclusively residential uses and does not have commercial uses in it already. So I certainly think from a negative criteria standpoint that the impacts to both the neighborhood and the zone plan is not particularly significant in relation to a permitted use.

Additionally, we looked at the existing driveway — when you're standing on the existing tectonic driveway and you look at the elevations that's being proposed in conjunction with the subject application, the first floor elevation of our proposed retail building is 135 feet. The height of the building is 26-and-a-half feet, so that puts you at about 161 feet. Similarly for the canopy the first floor elevation of our proposed canopy is about 133.5 feet. The first floor elevation of our canopy is 17. So again from that driveway vantage point 155.5 feet a permitted use because you wouldn't — you wouldn't do the same grading. Our site engineer provided an exhibit. It's A-10 in evidence that demonstrates this as

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Also, here in Bridgewater when you define service station in your ordinance the definition contemplates the sale of other motor vehicle related items as well as the light repair of the motor vehicles. So I think when you're looking at the substantial negative impacts to the zone plan that that does need to be considered because I don't think that the application that you have before you this evening, which is the retail market and the retail sale of fuel has the same necessary impacts that another typical service station might.

So with that, there are a number of planning documents that we reviewed. I should have said in my opening statements because we don't submit a formal planning report like some other witnesses have done Bridgewater does not require a planning report as a checklist item. So it's not — that's not atypical. I've done many use variances here in Bridgewater. It's just not something that's typically submitted.

So I should have offered earlier in my testimony that in addition to reviewing the application submission documents and the reports prepared by others, we did review a number of the

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Bridgewater planning documents. In 2010, specifically in April 13, 2010, Bridgewater adopted a study specifically to the 22 corridor and in addition to that study specifically for the 22 corridor, we did review the reexamination reports and master plans that have been done in the township.

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So starting with the 2010 corridor study, which again is unique to the 11-mile stretch of Bridgewater that is along 22. So it's not just a generic or general master plan document. It was done specifically with the intent of the vision for the Route 22 corridor.

14 In the beginning of that document on 15 page six, there is a statement made that the Route 16 22 corridor is considered to have the greatest 17 potential for increases of real estate value and 18 thereby the greatest potential for increase in 19 rateables. On the next page of that document goes 20 on to read, a goal of this plan is to increase the 21 value of existing commercial properties, provide 22 commercial diversity and promote a heightened value 23 of vacant parcels. In my opinion, the application 24 that's before the board tonight does both of those 25 things. In addition on page eight of that plan,

there are a number of goals and objectives

that Bridgewater retains the high quality of its existing commercial stock and recognizes that adjustments in zoning can be accomplished without compromising excellence in development and I think this that application is a clear example of that. This applicant has worked extensively to introduce and modify this application to make it one that takes into consideration how it will impact your neighborhood.

In addition on page 16 of this plan, it's suggested that the C3 regulations be amended to permit additional uses to provide business offerings in the Route 22 corridor. Again, in fairness, that section goes on to say with service stations there is a discussion and it concludes that this use is adequately represented and the master plan amendment endorses the existing ordinance and does not recommend additional service stations as a permitted use in other zones and I think that that's very important because this application, likewise, does not suggest that retail fuel and the retail market should be a permitted use in other zones. Rather, I believe from a planning point of view that that statement was put into the master plan because Bridgewater did not

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2 identified. Again, specifically, for the Route 22 3 corridor. Those goals include protecting and 4 enhancing the quality of life for Bridgewater 5 residents, enhancing and increasing tax rateables 6 for diversity of high value uses, supporting the 7 existing economic anchors and encouraging 8 reinvestment into existing facilities, adjusting to 9 the contemporary needs of commerce and Bridgewater 10 residents, encourage long-term sustainable site 11 planning, encourage more flexibility in development 12 context and promote economic activity in 13 appropriate locations and offer building design 14 guidelines where appropriate. I think the 15 applicant advances every one of those goals. We 16 are increasing the tax rateable. We are supporting 17 the economic base. We're adjusting to needs and 18 services to the traveling public in corridor. We

are enabling flexibility and development and

location and we are offering building design

design guidelines articulated later in this plan.

promoting economic activity in an appropriate

guidelines that are completely consistent with the

In addition on page 14 of that report

of the 22 corridor study, there is a statement made

want to see this type of use be an as-of-right use on every lot in that corridor. Once you make it a permitted use, that's what happens. It can proliferate the zoning district and it can be developed anywhere.

Additionally, I think that was put into the 22 corridor study. Can we go back to the gas stations? Going back to A-25 in evidence which shows the Q in the center is an aerial exhibit prepared by Bohler Engineering with input from my office and it shows the other area fueling stations and you can see the lion's share of them are east of the 202 circle. There are six or seven that populate this exhibit to the east of that circle. Going west of the circle there are gaps in the service area. So I believe that that was written into that 22 corridor study to predominantly address the stretch of 22 east of the circle. I also think that it was done and the language is very clear it does not recommend additional serve stations as a permitted use in other zones and generally why that is done because it might not be a use, like I said, that you want populating or proliferating the zone on every single property as an as-of-right use. Rather in the subject

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application where you have a use variance that meets all of the statutory criteria for the grant of a use variance.

In addition to that statement on page 33, there are a number of recommendations and design guidelines starting on page 33 and going to page 34. Those design guidelines talk about material. They talk about mass. They talk about materials and they talk about color and texture. I spoke a little bit about this earlier in my testimony with regard to criteria I of the land use law, but there are some things again that I want to mention here.

The master plan specifically calls for buildings that have — that do not have solid or unarticulated buildings. They are to be avoided. It specifically recommends that blank walls be avoided and it calls for the treatment of all four sides of the building. It also calls for the screening of HVAC equipment. So the application and the architecture that's being proposed in conjunction with this application advances all of those design guidelines.

In addition, those design guidelines suggest that there should one dominant building

utilized for a conforming office use anytime soon given the findings in that April 2015 master plan.

So I think this application creates an opportunity for Bridgewater to implement that study that was done just a few years ago in 2010 to promote the development underutilized industrial and commercial areas that complement the variety of uses in the township.

We probably should move to that 2015 reexamination report because that's the next document that I want to refer to. Again, on page five of this 2015 reexamination report that was done in April of this year, the focus of that report indicates that the study and resulting reports focused on nonresidential improvements along much of the Route 22 corridor in an effort to bring land uses along the highway to a higher potential. So clearly, the master planning documents here in the Township of Bridgewater has had a rich history of recommending bringing underutilized parcels to a more productive potential.

On page six of that 2015 reexamination report there are some changes in the changes recommendation section. One of changes recommended

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material, which in the subject application is the red brick. The building design guidelines call for earth tones being preferred and bold tones being avoided. Variation in texture is encouraged and you see that we have the various texture with the brick pilasters, the green canopy and the crown moldings on top of the building. So I think that the application that's before you does a very good job of embracing the architectural design guidelines that are specifically called for on page 33 and page 34 of the corridor study.

On page 36, the master plan concludes with a recommendation to promote the development of underutilized industrial and commercial areas that complement the variety of uses in the township. I think that the subject application and the subject property is certainly an underutilized parcel. When you did a reexamination report earlier in this year, it was found in the 2015 reexamination report a study that was done by Jeff Otto, which specifically referenced in that examination report that there was a 23 percent vacancy rating in the Somerset County office market. So I don't think that anybody could argue that the subject property is one that is underutilized and not likely to be

talks about appropriate development of land use focused areas of the township that will within the limits of zoning return underutilized land to productive use, generate economic development activity, diversify the municipal economic base, create new employment opportunities and strengthen the tax base. The application that's before the board does all of those things.

On page seven, which again, this was done 2015, so this was done five years after the Route 22 corridor study that I talked about before this. And it says consider revising the list of permitted uses along the major corridors of Route 22, 202 and 206 to improve the visual and economic benefits. It's only one statement, but to me that's a really important goal because planning is a living and evolving process and that's a reason why we can't just do our master plan and put them on the shelf and walk away and let them the sleep for two decades and not revisit it them. What happens if you do that is, we lose the presumption of validity that our ordinances are valid because by law, we have to continue looking at these documents because things are changing, areas are changing. When that 22 corridor study was done it

was more vacant land in the 22 corridor than there is today. So I think it's important and noteworthy for the board that five years after you did that corridor study for Route 22 your master plan again encouraged you to consider revising the list of permitted uses there because again, planning is a living process. It continues and it's also a balancing act.

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I understand we're here asking for variances. We would never hide from that and because we're asking for a variance, that's why this board exists. It's the zoning board of adjustment. We're here to give relief and departures from the ordinance. Just because we're asking for D variance relief, does not on its face speak to the merits the application. So I think that that's a really small statement from the master plan, but a really important one to help us be reminded that planning is an evolving process.

In addition to that, there was one or two more statements that I would like to focus on. One is changes and assumptions. If anyone is following along with these documents, I'm on page seven now of the 2015 reexamination report and that says, since the adoption of the master plan

On the same page in that master plan it talks about the 23 percent office vacancy rate in Somerset County. So again, the likelihood of this property developing with an office us is not there. In addition, it's a 5.47 acre site with 900 feet of frontage on both 22 and 28. So the financial entry into this property is significant. So I think for this property to be developed, which again, if you read the master planning documents in Bridgewater, they specifically encourage development in this location.

I think what you have before you is an excellent balancing act of the very goals of that master plan with the very unique piece of property with topography constraints and you have before—I'm sorry. I should have went and talked about the intent of the C3 zone. The intent of the C3 zone wants to have campus-like development with parking not visible from the adjoining roadways. This application and I'm not sure what this marked as an exhibit. A-25, which is up on the overhead screen now absolutely shows that we will be in compliance with the intent of the development program. You see large expansions of green along both Route 22 and Route 28.

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economic element there is an enhanced interest and objective towards evaluation of the busy highway corridors and adopt regulations which will to continue to have a mix of uses which are compatible and complementary to their surroundings.

Again, you heard Mr. Olivo testify at the last meeting 35,000 vehicles a day pass by this site. Up to, approximately, 90 percent of the trips comes to this site are vehicles already on the road today. So this is a busy highway corridor. So I think that certainly this is an opportunity to develop this property in a busy highway corridor in a commercially-zoned area for this use.

The last part of the master plan I'll speak to is on page 12 and it talks about an effort that it wants Bridgewater to undertake. It says, this includes efforts to encourage zoning adjustments that will bring underutilized properties into its productive land use compatible with its surroundings focused on uses appropriate for segments of the highway corridors in the township and the development of a redevelopment plan for properties that have been designated as an area in need of redevelopment.

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In addition to being a large, expansive green along Route 28, we're proposing a 10-foot high berm along the property line. So in my opinion, we are really screening the parking from the adjoining roadway network, which I believe was would be one of the intents of the C3 commercial zoning district and we are doing so in such a way that the buildings will be less visible than in otherwise permitted use in that same C3 zoning district. So I think that's important when you're considering this overall application and how it carries forth not just the intent of the C3 zone, but the intent of the master plan and the corridor studies done here in the past couple years for Bridgewater Township.

Just looking through my notes here to see if there were any other points I wanted to make. Just one other point that I wanted to make about the service station, if you can go back to service station exhibit. Mr. Olivo testified on this in his direct, as well and I think again, it's important in separating our use from others like it in the corridor. It's my opinion from a planning point of view that while there may be other service stations in this 22 corridor, there is nothing that

Page 134 has the same offerings as the retail market and retail sale of fuel that we're doing here. Similarly, there's nothing laid out on a site like our site is proposed to be laid out.

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The lion's share of the gas stations and other service stations in the corridor as testified to Mr. Olivo have activity that is typically 50 or 60 feet off of the right of way.

In the subject application before you get to any real development activity, you're taking a distance of, approximately, 250 feet. I've had an opportunity, like I said, to visit each one of these service stations and look at not only the offerings, but how the site is laid out. None of these other service stations would have even close to the green space in front of their properties that's being proposed in conjunction with the subject application. So I think that is another distinction between our use and some of the other offerings in the corridor.

That essentially concludes my direct testimony and I'll be happy to answer any questions of the board or the public.

CHAIRMAN: We're not going to go there. Since it's 10:25 and we have five minutes, so let

me tell you what we are going to do after tonight.

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MR. ROBERTSON: That is acceptable and agreed upon. We did discuss that earlier today.

CHAIRMAN: Thank you very much. I believe we're done for tonight.

(The hearing concluded at 10:25 p.m.)

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CERTIFICATE

Our next scheduled meeting is going to be on February 2nd. I'd like to do it sooner than that, but it's impossible and that February 2nd meeting will be at the Vo-Tech school. It will start at 7:30. At that meeting there will be questions from the board for Ms. Cofone and it will be an opportunity for you guys to ask questions you have of Ms. Cofone. There will also be testimony offered by Scarlett Doyle, the board planner and after all of that happens, maybe, we'll even get to the point where you guys get to stand up and tell us whether you're in favor of or in opposition to this application. That's an optimistic and hopeful view of where we'll get to on February 2nd. Maybe, we'll do it. At this point, I'm going to adjourn tonight's meeting.

MR. VASTOLA: Before you adjourn, you and I spoke today about the fact that this the matter was going to be continued into February and that the board would need an extension of time. I'm going to ask you grant the extension on the record and I'm going to suggest to the end of February and then follow it up with a letter to the board clerk.

I, LATITISA RUSSELL, a Certified Court Reporter and Notary Public of the State of New Jersey, certify that the foregoing is a true and accurate transcript of the stenographic notes of the deposition of said witness who was first duly sworn by me, on the date and place hereinbefore set forth.

I FURTHER CERTIFY that I am neither attorney, nor counsel for, nor related to or employed by, any of the parties to the action in which this deposition was taken, and further that I am not a relative or employee of any attorney or counsel in this case, nor am I financially interested in this case.

LATITISA RUSSELL, C.C.R.

35 (Pages 134 to 137)

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