

BOROUGH OF MIDLAND PARK – ZONING BOARD OF ADJUSTMENT MINUTES

July 12, 2023

PLEASE TAKE NOTE:

ON WEDNESDAY, JULY 12, 2023, THE ZONING BOARD OF ADJUSTMENT OF THE BOROUGH OF MIDLAND PARK HELD A REGULAR MEETING IN THE MIDLAND PARK COUNCIL CHAMBERS, 280 GODWIN AVE., MIDLAND PARK, NJ. THE FORMAL MEETING BEGAN AT 7:30 P.M

FORMAL MEETING

READING OF THE OPEN PUBLIC MEETINGS ACT

PLEDGE OF ALLEGIANCE

ROLL CALL:

Mr. Les Andersen	present	Mr. Mark Divak	excused
Mr. David Zuidema	present	Mr. William Placier	present
Mr. Richard Formicola	absent	Mr. David Barlow	present
Mr. Nick Papapietro	present	Mr. Joseph Eliya, Alt #1	present
		Mr. James Capalbo, Alt #2	present

Attendance by Board Professionals: P. Ercolano, Acting Engineer; D. Siss, Acting Attorney; D. Novak, Planner; F. Dobiszewski, Traffic Consultant

Minutes of the 3/8/23, 3/29/23, 5/10/23, and 6/14/21 meetings - approved

PUBLIC HEARINGS

MHF Midland Park LLC/Taco Bell – 80 Godwin Avenue – BL 6 LT 17.02 – see attached transcript

RESOLUTIONS

None.

CLOSED SESSION

Discussion of Appointment of New Board Attorney – Motion to go into closed session made by Mr. Papapietro at 9:43 PM. Seconded by Mr. Placier, all voted in favor.

There being no further business to discuss, the Board adjourned the closed session at 9:49 PM and resumed the regular meeting.

Meeting Adjourned – 9:54 PM
Jessica Harmon

BOROUGH OF MIDLAND PARK
 ZONING BOARD OF ADJUSTMENT
 WEDNESDAY, JULY 12, 2023
 7:30 P.M.

IN THE MATTER OF:) TRANSCRIPT OF
 APPLICATION OF) PROCEEDING
 MHF MIDLAND PARK, LLC/)
 TACO BELL -)
 80 GODWIN AVENUE,)
 BLOCK 6, LOT 17.02.)

B E F O R E:

- 10 LES ANDERSON, CHAIRMAN
- 11 NICK PAPAPIETRO, VICE CHAIRMAN
- 12 RICHARD FORMICOLA, SECRETARY (ABSENT)
- 13 DAVID BARLOW, MEMBER
- 14 JAMES CAPALBO, MEMBER
- 15 WILLIAM PLACIER, MEMBER
- 16 MARK DIVAK, MEMBER (ABSENT)
- 17 JOSEPH ELIYA, MEMBER
- 18 DAVID ZUIDEMA, MEMBER

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18	NO.	DESCRIPTION	IDENT/EVID
19	A-9	Revised Site Plan Dated 4/24/23	9
20			
21	PB-1	Report of Frank Dobiszewski, P.E., Boswell Engineering, Dated 6/09/23	86

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

- 3 DARRYL W. SISS, ESQUIRE
Counsel for the Zoning Board of Adjustment
- 4
- 5 BRUCE WHITAKER, ESQUIRE
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Counsel for the Applicant
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- 8 ANNE MARIE RIZZUTO, ESQUIRE
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9 Parsippany-Troy Hills, New Jersey 07054
Counsel for the Objector, Burger Barn
- 10
- 11
- 12 A L S O P R E S E N T:
- 13 JESSICA HARMON, Board Secretary
- 14 DAVID NOVAK, P.P., Board Planner
- 15 PAUL ERCOLANO, P.E., P.P., Board Engineer
- 16 FRANK DOBISZEWSKI, P.E., Special Traffic Engineer
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1 CHAIRMAN ANDERSON: I'll call this
 2 meeting to order. This is the meeting of the Zoning
 3 Board of Adjustment held on Wednesday, July 12, 2023.
 4 Adequate notice of this meeting has
 5 been provided to public by written notice with the
 6 time, date and place of this meeting and delivered to
 7 The Ridgewood News and The Record, and posting a copy
 8 of the said notice on the bulletin board at the
 9 Municipal Building, and by filing a copy of said
 10 notice with the Borough Clerk.
 11 We have four sets of minutes.
 12 (Whereupon, the Board conducts agenda
 13 items.)
 14 CHAIRMAN ANDERSON: MHF Midland Park,
 15 LLC, Taco Bell.
 16 Mr. Whitaker, do you want to enter your
 17 appearance?
 18 MR. WHITAKER: Yes.
 19 Good evening, Mr. Chairman, Members of
 20 the Board.
 21 For the record, Bruce Whitaker from the
 22 firm of McDonnell & Whitaker representing the
 23 applicant.
 24 This is a continuation of a public
 25 hearing. Our last hearing was in May. At that time,

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1 we had concluded with Mr. Missey's testimony in
2 connection with a revised site plan that he had
3 prepared based upon certain engineering requests that
4 were made by your board engineer.

5 On the basis of that, during the course
6 of the last meeting in May, there were some
7 additional comments that were made by board members
8 and some recommendations made to the plan.

9 So very briefly, I have a revised plan.
10 You have an exhibit list this evening. I just failed
11 to put on that exhibit list the last exhibit, which
12 will be the final revision that Mr. Missey is going
13 to testify to tonight.

14 He's still under oath. He was
15 qualified previously as a Professional Engineer. And
16 I just want him to put on the record the
17 modifications that were made, based upon some
18 requests that were suggested by the board.

19 And then from there, I have Mr. Dean
20 with me this evening, Gary Dean, as the traffic
21 engineer. And I was going to limit the presentation
22 tonight just to the traffic engineering aspect of
23 this, which the board raised as a concern. And I
24 know that your traffic consultant is also here to
25 make comment. So I think that we can get through all

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1 CHAIRMAN ANDERSON: All right. I'm
2 sorry.

3 Go ahead.

4 MR. WHITAKER: Thank you.

5 A N D R E W M I S S E Y, PE
6 12 North State 17, Suite 230, Paramus, New
7 Jersey, having been duly sworn previously,
8 testifies as follows:

9 DIRECT EXAMINATION
10 BY MR. WHITAKER:

11 Q. Mr. Missey, you're still under oath.
12 If you would just explain to the board the plan that
13 you have up there, the revision date to it, and what
14 is -- what the revisions are.

15 A. Yes.

16 Good evening. What's mounted on the
17 easel is the Site Layout Plan, Sheet 1 of 3 of the
18 site plan set, revised through April 24th of 2023.

19 The revisions are very modest. The
20 zoning chart in the upper right has been amended to
21 state that the distance between driveways' deviation
22 that exists now along Godwin Avenue has been
23 eliminated because the egress drive on the Godwin
24 Avenue was eliminated.

25 The refuse area, as suggested by the
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1 of the traffic aspect this evening, and then we would
2 move on to the next meeting with our planner.

3 CHAIRMAN ANDERSON: Can I interrupt you
4 for a minute? Do you know, is that going to be your
5 last witness, the planner?

6 Do you have --

7 MR. WHITAKER: Well, I have an
8 architect probably just to show you the building one
9 more time, and then the planner, yes.

10 CHAIRMAN ANDERSON: So you're expecting
11 in August the architect and the planner?

12 MR. WHITAKER: Yes.

13 And conclude.

14 CHAIRMAN ANDERSON: And you're going to
15 conclude your presentation in August?

16 MR. WHITAKER: And I'm going to check
17 with Jessica before I come to make sure there's a
18 seven-member board. It is vacation time. I
19 understand that.

20 CHAIRMAN ANDERSON: We have two
21 alternates who are extremely conscientious.

22 MR. WHITAKER: I understand.

23 But I also recognize it's vacation.

24 Summer starts to wane. So sometimes August, quorums
25 are tough.

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1 construction official, has been shifted to just west
2 of the cell tower location in this vicinity rather
3 than at the most northeasterly corner of the parking
4 area. That was presented as an exhibit in April.

5 The two light fixtures which light the
6 drive-through area have been shifted away from Godwin
7 Avenue to reduce the glare onto the Godwin Avenue
8 right-of-way.

9 The off-hours delivery vehicle is now
10 depicted within a 12-by-40 off-street loading space
11 outlined in the same vicinity of the cell tower and
12 the -- and the refuse area that has been shifted.

13 The board-on-board fencing that was
14 requested along Godwin Avenue between the
15 right-of-way line and the drive-through outer curb is
16 now shown so as it's depicted.

17 The purpose of that board-on-board
18 fencing is to reduce the headlights of a vehicle
19 within the drive-through lane in some way impeding
20 the sight lines on Godwin Avenue for another
21 motorist. That fencing will be 4 feet in height.
22 And it is depicted as a detail on Sheet 3 of 3 of the
23 plan set.

24 That was the sum of the revisions. We
25 did submit a revised photometric plan as an exhibit.

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1 I have that with me. But that is very unremarkable.
 2 Q. So this revised plan is revised through
 3 4-24-23, correct?
 4 A. That's correct.
 5 MR. WHITAKER: We would mark that,
 6 Mr. Chairman, as A-9 on the list.
 7 (Whereupon, Revised Site Plan Dated
 8 April 24, 2023 is marked as Exhibit A-9 for
 9 identification.)
 10 CHAIRMAN ANDERSON: We only have the
 11 full sheet with the last revision date of March,
 12 right, 20. We have -- at the last meeting we got
 13 this.
 14 MR. MISSEY: Yes.
 15 We had delivered on or about the end of
 16 business on April 28th revised plan sets of what I'm
 17 --
 18 CHAIRMAN ANDERSON: The full.
 19 MR. MISSEY: Yes. Full sheets.
 20 MR. WHITAKER: Yes.
 21 CHAIRMAN ANDERSON: So I don't have any
 22 of the latest.
 23 MR. SISS: Bruce, you've got A-3 marked
 24 as site plan, three pages.
 25 MR. WHITAKER: Yeah. This is just a

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1 MS. RIZZUTO: One second, sir.
 2 CHAIRMAN ANDERSON: No, no, not you.
 3 Our substitute board engineer.
 4 MR. ERCOLANO: I do not have any
 5 questions at this time.
 6 But I believe anything that would have
 7 been relevant would have been related to traffic.
 8 MR. NOVAK: No questions at this time.
 9 CHAIRMAN ANDERSON: Do any board
 10 questions have any questions of Mr. Missey regarding
 11 these changes?
 12 VICE CHAIRMAN PAPAPIETRO: Not on these
 13 changes, no.
 14 CHAIRMAN ANDERSON: No.
 15 Unfortunately, I think we've got to
 16 open it up again. So we need to open the meeting to
 17 the public.
 18 I need a motion.
 19 VICE CHAIRMAN PAPAPIETRO: Motion to
 20 open it to the public.
 21 MR. BARLOW: Second.
 22 VICE CHAIRMAN PAPAPIETRO: That's just
 23 to question Mr. Missey.
 24 MR. WHITAKER: On the testimony he gave
 25 this evening.

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1 revised date.
 2 MR. SISS: May 2nd.
 3 This is April.
 4 MR. MISSEY: April 24th of 2023. The
 5 plans's original issue date was April.
 6 MR. WHITAKER: It says 5-23-22, Darryl.
 7 MR. MISSEY: That's correct.
 8 MR. SISS: Oh, okay.
 9 MR. WHITAKER: Well, the plans were
 10 prepared a long time ago before they were submitted.
 11 MR. SISS: That's right.
 12 CHAIRMAN ANDERSON: Do you have a more
 13 recent.
 14 VICE CHAIRMAN PAPAPIETRO: The last one
 15 I have, I have it marked 1 and 2 from April.
 16 CHAIRMAN ANDERSON: That's one. Okay,
 17 that's the one I have.
 18 VICE CHAIRMAN PAPAPIETRO: Version 2.
 19 CHAIRMAN ANDERSON: No. I just want to
 20 have it. I don't need it right now. Okay, yes.
 21 MR. WHITAKER: That concludes our
 22 presentation. It was just to explain what the
 23 revisions were.
 24 CHAIRMAN ANDERSON: Okay. Did you have
 25 any questions or...

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1 VICE CHAIRMAN PAPAPIETRO: Right.
 2 MS. HARMON: Mr. Zuidema?
 3 MR. ZUIDEMA: Yes.
 4 MS. HARMON: Mr. Papapietro?
 5 VICE CHAIRMAN PAPAPIETRO: Yes.
 6 MS. HARMON: Mr. Placier?
 7 MR. PLACIER: Yes.
 8 MS. HARMON: Mr. Barlow?
 9 MR. BARLOW: Yes.
 10 MS. HARMON: Mr. Eliya?
 11 MR. ELIYA: Yes.
 12 MS. HARMON: Mr. Capalbo?
 13 MR. CAPALBO: Yes.
 14 MS. HARMON: Mr. Anderson?
 15 CHAIRMAN ANDERSON: Yes.
 16 Okay. Again, I don't know if there's
 17 anybody who hasn't been here before, but I'm going to
 18 just say again, the members of the public will have
 19 several opportunities to address the board.
 20 After each witness testifies, you can
 21 come forward and ask questions of that witness only.
 22 That's all we're interested in at that
 23 point.
 24 If you are here and you want to advise
 25 the board why you think the application should be

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1 approved, or denied, or have some other concerns
 2 having nothing to do with Mr. Missey's testimony,
 3 you'll have an opportunity to do that.
 4 When all of the testimony is in and the
 5 application is complete, we will open it once again
 6 to the public, and you can come forward and tell us
 7 whatever you believe is pertinent at that time.

8 So for right now, all we're looking for
 9 is if you have questions regarding Mr. Missey's
 10 testimony that he gave tonight. Not on the
 11 underlying site plan that he testified before. Okay,
 12 so?

13 MS. RIZZUTO: So, Mr. Chairman.

14 CHAIRMAN ANDERSON: Enter your
 15 appearance.

16 MS. RIZZUTO: Yes.

17 Anne Marie Rizzuto from the law firm of
 18 Weiner Law Group, LLP on behalf of Burger Barn, which
 19 is the operator of the Burger King across the street
 20 from this proposed site.

21 And with that being said, I just really
 22 want to look at the revisions. And I can question
 23 him later at a later date.

24 MR. SISS: I don't know that he'll be
 25 here at a later date.

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1 Q. That's the new location of the refuse
 2 area?

3 A. Correct.

4 Q. Okay.

5 So where would the person -- the
 6 loading person, where would they go to bring their
 7 materials into the Taco Bell? Where is the entrance
 8 for them to go to?

9 A. It is along the drive-through lane.
 10 And when the architect testifies, he can pinpoint
 11 where that door is.

12 Q. Okay. So it's along the westerly side
 13 of the property? In the drive-through lane, there is
 14 a door for deliveries?

15 A. Yes.

16 Q. Okay. And for people -- I assume Taco
 17 Bell employees having to go -- walk the -- traverse
 18 this area to go to the new proposed garbage
 19 enclosure, what door would they use?

20 A. I believe they would use that same
 21 door, but that should be confirmed with the
 22 architect.

23 Q. Okay. Besides that door -- do you know
 24 if that door is going to be open to the public, or
 25 you don't know?

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1 MR. WHITAKER: We will see.

2 MS. RIZZUTO: So you don't require them
 3 to bring back their witnesses for members of the
 4 public.

5 MR. WHITAKER: No.

6 Questions of them are now.

7 MR. SISS: Yeah.

8 MS. RIZZUTO: Okay. So if I could just
 9 take a quick look at the four things he talked about.

10 CHAIRMAN ANDERSON: Emphasis on quick.

11 MS. RIZZUTO: Okay. So I'll ask some
 12 questions just to orient myself.

13 CROSS-EXAMINATION

14 BY MS. RIZZUTO:

15 Q. So on your revised plan, Sheet 1 of 3,
 16 dated April 24th, 2023, can you please just show me
 17 -- verify for me where the off-street loading space
 18 is in relation to the cell tower? Is it next to the
 19 cell tower, or is it in front of the cell tower?

20 A. It is in front of the cell tower.

21 Q. Okay.

22 And what is this box with this wiggly
 23 line that looks like a heartbeat line? What is that
 24 box?

25 A. That is the refuse area.

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1 A. I don't know.

2 Q. Okay. Besides that door, there is --
 3 you designed this engineering-wise, and I assume
 4 there is a door near where the proposed handicap
 5 aisle is -- handicap space is.

6 A. Yes.

7 Q. Is that correct?

8 A. Yes.

9 Q. Is there any other exterior door open
 10 to the public proposed on your plan?

11 A. Not that I'm aware of.

12 But, again, that should be clarified by
 13 the architect when he appears.

14 Q. Okay, very good. Is the off-hours
 15 delivery vehicle --

16 MR. WHITAKER: We're now going beyond
 17 the scope of the questions that pertain to the
 18 information Mr. Missey testified to this evening.

19 I have to just place that on the
 20 record.

21 CHAIRMAN ANDERSON: Fine.

22 MS. RIZZUTO: Okay, thank you.

23 BY MS. RIZZUTO:

24 Q. Just with respect to the off-hours
 25 delivery vehicle, you said this plan shows this

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1 12-foot-by-40-foot.
 2 Is that a tractor trailer?
 3 A. It is not.
 4 That's the size of a delivery space
 5 required under the Midland Park code.
 6 Q. Okay. And how big of a truck can that
 7 accommodate?
 8 A. Mr. Dean is here to testify this
 9 evening. And I believe Mr. Santana covered that also
 10 in his testimony.
 11 MR. WHITAKER: Prior testimony provided
 12 that information.
 13 MS. RIZZUTO: Okay, thank you.
 14 BY MS. RIZZUTO:
 15 Q. And the fence. The fence that you're
 16 proposing, which is on this plan marked as A-9 today,
 17 is just along Midland, not along Rea?
 18 A. That's correct.
 19 Q. Okay, very good.
 20 Thank you?
 21 A. You're welcome.
 22 CHAIRMAN ANDERSON: Anyone else from
 23 the public have any questions for this witness?
 24 (No response.)
 25 CHAIRMAN ANDERSON: Seeing none, can I

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1 what I recall, the cell tower is -- in front of that
 2 is a line of traffic, ingress and egress?
 3 MR. MISSEY: Yes.
 4 VICE CHAIRMAN PAPAPIETRO: So will that
 5 delivery truck then be impeding on cars in the
 6 parking lot? And then to the side of that then would
 7 be parking spaces that cars can't utilize during some
 8 times of delivery and could have a problem backing
 9 out?
 10 MR. WHITAKER: The operator testified
 11 at the first meeting that the deliveries are made
 12 between, I believe it was 5 and 7 a.m. in the
 13 morning. It's not while the customer is there.
 14 And the testimony, if you recall, from
 15 the operator was that the person that comes with the
 16 truck has a key to the place to bring the product in,
 17 so there's not even an employee there.
 18 VICE CHAIRMAN PAPAPIETRO: Okay. I'm
 19 just concerned about blocking that lane of traffic.
 20 I forgot because it's been so long.
 21 MR. WHITAKER: I understand.
 22 VICE CHAIRMAN PAPAPIETRO: I'm getting
 23 older.
 24 MR. WHITAKER: We all are.
 25 VICE CHAIRMAN PAPAPIETRO: Thank you.

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1 have a motion to close?
 2 VICE CHAIRMAN PAPAPIETRO: Motion to
 3 close the public portion to this witness.
 4 MR. ZUIDEMA: Second.
 5 MS. HARMON: Mr. Zuidema?
 6 MR. ZUIDEMA: Yes.
 7 MS. HARMON: Mr. Papapietro?
 8 VICE CHAIRMAN PAPAPIETRO: Yes.
 9 MS. HARMON: Mr. Placier?
 10 MR. PLACIER: Yes.
 11 MS. HARMON: Mr. Barlow?
 12 MR. BARLOW: Yes.
 13 MS. HARMON: Mr. Eliya?
 14 MR. ELIYA: Yes.
 15 MS. HARMON: Mr. Capalbo?
 16 MR. CAPALBO: Yes.
 17 MS. HARMON: Mr. Anderson?
 18 CHAIRMAN ANDERSON: Yes.
 19 VICE CHAIRMAN PAPAPIETRO: Les, I have
 20 a question.
 21 Can you just clarify? You mentioned
 22 that the delivery with the new plan will be in front
 23 of the cell tower.
 24 MR. MISSEY: Yes.
 25 VICE CHAIRMAN PAPAPIETRO: Now, from

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1 MR. MISSEY: No problem.
 2 CHAIRMAN ANDERSON: Okay.
 3 Anyone else?
 4 MR. WHITAKER: Yes. My next witness
 5 will be Gary Dean.
 6 Mr. Dean?
 7 MR. DEAN: Good evening.
 8 MR. SISS: Would you raise your right
 9 hand, sir?
 10 Do you swear the testimony you're about
 11 to give in this matter tonight will be the truth, the
 12 whole truth, and nothing but the truth?
 13 MR. DEAN: Yes, I do.
 14 G A R Y D E A N, P.E., P.P.
 15 181 West High Street, Somerville, New Jersey,
 16 having been duly sworn, testifies as follows:
 17 MR. SISS: State your name and business
 18 address, please.
 19 MR. DEAN: Gary Dean, D-E-A-N.
 20 Professional address is 181 West High Street in
 21 Somerville, New Jersey.
 22 VOIR DIRE EXAMINATION
 23 BY MR. WHITAKER:
 24 Q. Mr. Dean, I'd like you to give the
 25 board and members of the public the benefit of your

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1 educational and professional background?
 2 **A.** Certainly.
 3 I'm a 1983 graduate of Lehigh
 4 University with a Bachelor of Science degree in Civil
 5 Engineering.
 6 I'm a former member of the faculty of
 7 Lehigh University and Lafayette College, having
 8 served as an adjunct professor teaching
 9 transportation engineering.
 10 I've been licensed as a Professional
 11 Engineer in New Jersey since 1988 and as a
 12 Professional Planner since 1990.
 13 I've been qualified and appeared before
 14 roughly 450 different planning and zoning boards
 15 throughout the state, and, to the best of my
 16 recollection, appeared before this board in 2009 on
 17 behalf of Henpal Realty to conduct a parking
 18 evaluation of the overall shopping center.
 19 Our office has also served, and I have
 20 served, as a traffic consultant to Taco Bell in
 21 roughly 50 to 60 different applications throughout
 22 Connecticut, New York, New Jersey and Pennsylvania.
 23 And we also represent a number of other
 24 fast food and quick-service operators as well.
 25 **Q.** In addition to representing applicants
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1 design of traffic signals, permitting with NJ DOT,
 2 but traffic and transportation related, yes.
 3 **MR. WHITAKER:** I would ask that
 4 Mr. Dean be qualified as an expert witness in the
 5 field of engineering, and specifically as a traffic
 6 engineer.
 7 **CHAIRMAN ANDERSON:** Does anybody have
 8 any questions concerning Mr. Dean's qualifications?
 9 **VICE CHAIRMAN PAPAPIETRO:** No.
 10 **CHAIRMAN ANDERSON:** If not?
 11 **MR. DEAN:** Thank you very much.
 12 **MR. WHITAKER:** Questions by the public
 13 about his qualifications?
 14 I just want to put it on the record.
 15 Thank you.
 16 **DIRECT EXAMINATION**
 17 **BY MR. WHITAKER:**
 18 **Q.** Mr. Dean, you've been engaged by the
 19 applicant for the purpose of doing a traffic analysis
 20 in connection with this application at this site on
 21 Godwin Avenue, correct?
 22 **A.** Correct.
 23 **Q.** You have been to the site?
 24 **A.** Yes, I have.
 25 **Q.** And in connection with this analysis,
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1 before boards, am I correct in saying you have served
 2 as a traffic consultant to various governmental
 3 agencies, including municipalities?
 4 **A.** Yes, I have.
 5 **Q.** And in that capacity, you've done
 6 traffic analyses on behalf of municipalities?
 7 **A.** Municipalities or, much like
 8 Mr. Dobiszewski, have served the board as a board
 9 consultant in the peer review of submitted
 10 information and applications.
 11 In Bergen County, we have served as, at
 12 one point or another, or currently served as a board
 13 traffic consultant in Closter, Park Ridge, Wyckoff.
 14 Those immediately come to mind, but there have been
 15 other.
 16 **Q.** So would it be correct to say that in
 17 addition to being a licensed civil engineer that your
 18 specific area of expertise pertains to traffic
 19 engineering?
 20 **A.** Correct.
 21 **Q.** And that basically is basically
 22 exclusively what you do on a day-to-day basis with
 23 your firm?
 24 **A.** And all things related to traffic,
 25 including parking studies, intersection design, the
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1 you recognize that a restaurant use in this B-3 Zone
 2 is a permitted use but that it's the drive-through
 3 aspect in which the applicant is seeking the D-1
 4 variance, correct?
 5 **A.** Correct.
 6 **Q.** And you obviously have just testified
 7 but just to confirm, you're very familiar with the
 8 fast-food QSR industry and the different needs that
 9 they have from a traffic perspective.
 10 Is that correct?
 11 **A.** Yes, it is.
 12 **Q.** Okay. So what I would like you to do
 13 is to explain to the board how you conducted your
 14 study and what specific aspects from a traffic
 15 standpoint you focused on in connection with that
 16 study.
 17 **A.** Certainly.
 18 First, as the board is aware, there is
 19 already a drive-through use on this particular
 20 property, albeit for a bank.
 21 But the practice of individuals,
 22 customers, awaiting in their vehicles while the
 23 vehicle is within a movable queue, as the bank had,
 24 we're just replacing that one drive-through use with
 25 a different drive-through use.
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1 We recognize the distinction between a
2 financial institution and a restaurant, principally
3 because quick-service restaurants generate more
4 traffic, but the principal aspect of serving vehicles
5 while in their cars is identical.

6 This particular application, we focused
7 on the differences in traffic numbers. While Taco
8 Bell only recently started serving breakfast,
9 historically they had not. They are not like
10 McDonald's and some of their competitors where
11 breakfast is a larger portion of their business.
12 Taco Bell, by and large, is a lunchtime-oriented use,
13 and that represents their peak hours.

14 Our study focused on the
15 characteristics of the site: Its shape, the size of
16 the building, the amount of stacking, as we call it,
17 or queuing for customers.

18 The proposal, because as a driver we
19 need to be served from that side of the vehicle,
20 necessitates a counter-clockwise flow.

21 This particular aspect takes best
22 advantage of the shape of -- I guess I should call it
23 the lease area, but the portion of the site that is
24 proposed for the conversion to Taco Bell.

25 It is, I'll call it, skinny but deep.

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1 driveway on Godwin Avenue. That is how the bank
2 traffic used to exit. We are proposing to close
3 that. That has -- and I will cover that in greater
4 detail, but that has attendant safety benefits for
5 pedestrian activity using the sidewalk.

6 So we contain that drive-through queue
7 entirely around the southerly side of the building.

8 And then the queue or stack continues
9 along the easterly side of the building, at which
10 point the vehicles can exit and then continue out to
11 -- is it Rea? I know it as Rea. Rea, thank you.
12 Rea Avenue or continue within the internal
13 circulation of the site to exit either to Godwin or
14 out to Erie Avenue.

15 As mentioned, the bank, although it was
16 a bigger building, has different characteristics.
17 Certainly banks, you know, as quote, unquote brick
18 and mortar uses has declined. You know, we can do
19 more banking online and digitally. So this
20 represents the rehabilitation and a use in this site
21 that has very specific requirements. It would be
22 challenging, given the configuration of this
23 property, to do much else with it and still fit in a
24 building other than putting in parking.

25 So it does allow for a new use to be

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1 And because of that shape, it allows us to take
2 advantage of three sides of the building for the
3 proposed queuing and stacking configuration,
4 depending on the vehicles.

5 You know, if everyone drives a
6 Suburban, that we can only accommodate, you know, a
7 certain number. But we can fit anywhere between 11
8 and 12 vehicles, depending on the size of the
9 vehicle.

10 And that would wrap around the westerly
11 side of the building first, which is the entrance
12 point.

13 And I'm pointing to -- Bruce, forgive
14 me, I don't know how this exhibit has been marked.
15 But I am referring to the Proposed Quick Service
16 Restaurant from Mr. Missey's office. It is Sheet 1
17 of 3.

18 Q. It's our A-9 this evening.

19 A. Thank you.

20 So in A-9, I'm pointing, the entrance
21 to the drive-through lane would be on the westerly
22 side of the building from within the interior of the
23 parking lot (indicating). That queue would then
24 extend all the way around up to Godwin Avenue.

25 I do want to point out that there is a

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1 developed, and it caters to drive-through customers
2 by and large.

3 In our report -- and I'll refer to
4 Table 1 on page 4 -- what we did is we looked at
5 industry standard trip generation rates. And that's
6 an overly complicated way of saying how much traffic
7 does a given use generate? And the way we determine
8 that is through looking at similar uses, many times
9 identical uses. We go out, we count. We send a
10 person out to the field. And over the course of a
11 morning, a midday, an afternoon, sometimes on
12 Saturdays, people just count the ins and outs of a
13 variety of land uses.

14 All of that data is compiled by the
15 Institute of Transportation Engineers. There are, I
16 think, 275 different land uses that have been
17 cataloged.

18 And in this particular instance, we
19 looked at actual traffic generation data for a
20 drive-through bank, and we looked at the same data
21 for a drive-through quick-service restaurant.

22 And in Table 1, we've outlined the
23 differences in overall traffic. Banks tend to be a
24 little bit busier at their heyday in the evening peak
25 hours, right? People got a paycheck or the bank was

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1 about to close. They were visited on their way home.
2 And that tended to be the highest period of activity
3 for a bank.

4 By contrast, Taco Bell, quick-service
5 restaurants in general, are busiest at lunchtime.
6 Kind of makes sense.

7 So the difference in traffic between
8 the bank and the proposed Taco Bell is most
9 significant at lunchtime, where the difference would
10 be 61 more trips. And that's -- trip is another
11 complicated term. It is the difference between -- it
12 is an in or an out movement.

13 And by that I mean, if one car comes
14 into a site and then leaves, it's only one car, but
15 traffic engineers count that as two trips, and in and
16 an out.

17 So our difference is 61 trips, but in
18 reality it's 30 more cars. That's the highest peak.

19 The other times in the morning -- and
20 again, we relied on the industry standard data. Taco
21 Bell's morning traffic isn't quite as high as 52 in
22 the morning; but, nevertheless, we use that because
23 the standard professional practice. That results in
24 a difference in the morning of 24 trips, or 12 cars.

25 And in the evening, rush hour, the
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1 back on your way to where you were going in the first
2 place.

3 Fast food in general tends to attract a
4 higher percentage of pass-by traffic because it's
5 more of a convenience. We're on our way somewhere
6 else. We'll stop in and grab lunch.

7 In this particular instance, at
8 lunchtime for Taco Bell, we might expect more people
9 who are working in the community might make that
10 special trip to Taco Bell.

11 But in our morning peak hours and in
12 the afternoon rush hours, we do expect to see more
13 people that would just stop by on their way home,
14 say, and get dinner.

15 So because of that, this change in use
16 does not, I'll say, put a whole lot of new traffic on
17 the roadway system. Candidly, any redevelopment of
18 the site would.

19 But I think, given the magnitude of
20 what I've outlined, the size of the building, it is
21 not -- it's not like dropping a new Shop-Rite in a
22 community. It's a fairly innocuous use in terms of
23 overall impact.

24 The second part of our analysis focused
25 on the access and circulation. The access to the
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1 difference is -- they're basically the same use.
2 There is no difference from a traffic engineering
3 perspective between a 2,030-square-foot Taco Bell and
4 the larger bank. The different is only seven trips.

5 Lastly, on Saturday, because banks
6 tended to close right at noon, there is some
7 carry-over, so the Taco Bell would be a little bit
8 busier on a Saturday.

9 In terms of net impact, with that
10 difference of 61 trips midday, what does that mean?

11 Well, over the course of an hour,
12 that's one more traffic movement every minute. And I
13 won't ask you to sit here and wait a minute in total
14 silence.

15 But if you were waiting at a light, it
16 would seem like an eternity. It is a very small
17 impact in terms of effect on the street system.

18 There's another component related to
19 Taco Bell traffic, and that relates to what is known
20 as pass-by trips. A pass-by trip is a movement we
21 all make without thinking about it. And the best
22 example is, you're on your way home at night, or
23 you're on your way to work in the morning, "oh, my
24 goodness, I forgot to get gas." So you pull into the
25 gas station, conduct your business, and you go right

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1 overall center will remain unchanged, meaning the
2 external driveways, the ones to the west on Erie
3 closest to CVS, nothing will be changed with that.

4 The main driveway out to Godwin also
5 will remain unchanged. And the driveway out to Rea
6 will also remain unchanged.

7 The driveway on Rea is somewhat unusual
8 in that local residents further to the north are not
9 supposed to turn right to come and visit the center.
10 That predates obviously my involvement.

11 And somewhere in the process, for
12 whatever reason, that restriction was imposed. And
13 similarly, anyone leaving the site on Rea is directed
14 to the right towards Godwin and cannot make a
15 left-hand turn. All of that will remain unchanged.

16 So the only reconfiguration, as was
17 described, pertains to, I'll call it, the pad site
18 for the Taco Bell.

19 As I mentioned, we have anywhere
20 between 11 and 12 vehicles. The standard
21 recommendation for fast-food restaurants is a minimum
22 of eight stacking. When I referenced the Institute
23 of Transportation Engineers, or ITE, as it's known,
24 among things, you know, consultants like myself do,
25 aside from counting cars in and out, counting the

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1 number of parked cars for a given use, the other
2 thing that's studied is stacking. One of the things
3 that has been found is that for Mexican-themed
4 quick-service restaurants, less stacking is needed.
5 The reason is, the menu is more limited. There's no
6 cooking per se involved. It's really a warming of
7 precooked foods.

8 So the food preparation and service to
9 the customer is much quicker. As a result, you need
10 a little less queuing.

11 We have 11. And so I contrast that
12 with the industry recommendation of seven. We're
13 exceeding that by 50 percent.

14 As a final measure -- and Mr. Whitaker
15 brought it to my attention when I was engaged -- it
16 was expressed some concerns about what goes on at
17 Wendy's, somewhat across the street from us just to
18 the east.

19 Included in our report are some
20 findings where we flew a drone, an aerial drone. We
21 flew it during the peak of lunch hour, and we parked
22 it right over Wendy's. And we just watched that
23 queuing for a whole how are so we could ascertain
24 what the peak was.

25 I've included a photograph video
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1 But everything is kept internal to the
2 site. There's no spillover onto the public street.
3 So I want to distinguish that in terms
4 of the overall design and the fact that it's
5 considered a back-fed instead of front-fed. It is a
6 superior design in terms of some of the neighboring
7 users in the area.

8 And the question is, if that 12th
9 vehicle sticks out and blocks the aisle, well, what
10 happens? If I'm a customer and I'm leaving one of
11 the other tenants -- I'm not painting this scenario
12 as likely.

13 But to answer that hypothetical, the
14 customer would just drive around the back aisle and
15 would still leave if they were going out to Rea.

16 So we have a number of, call it, safety
17 measures or enhancements in our design that, in my
18 opinion, allow this to function with a high degree of
19 efficiency, with no spillover into the public street
20 system or encroaching on the sidewalk.

21 Again, I do want to highlight that from
22 a traffic engineer's perspective, I think the most
23 significant enhancement in terms of overall safety is
24 getting rid of that curb cut on Godwin Avenue.

25 And I think that's a significant and
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1 capture from that footage. And we saw 11 vehicles,
2 poorly stacked, but 11 vehicles within the Wendy's at
3 the peak time. At all other times it was less.

4 We didn't see -- even though I
5 understand there are concerns about spillover onto
6 Godwin Avenue. We didn't see it. We were there on
7 April 12th. It's as normal a day as any other.

8 I do note that the Wendy's is
9 undergoing renovation. And oftentimes with older
10 restaurants, their efficiency, their cooking, their
11 ability to deliver to the customers haven't kept pace
12 with demand.

13 So maybe they have an off day or, you
14 know, there's a problem with staff and there may
15 be queuing.

16 The one area I want to distinction
17 between the Wendy's and the Taco Bell is we are fully
18 internal to the site. Wendy's, on the other hand, if
19 it's the 12th car, that spills out onto the sidewalk
20 and the street. That's not a very good design.

21 We, by capturing everything internally,
22 if for whatever unusual reason -- and if you were the
23 12th person in line, you'd have a long wait. Most
24 people at that point decide to park and walk in
25 (indicating).

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1 positive attribute in contrast to just putting
2 another bank back in there or some other use that
3 just reuses the building.

4 And with that, in my opinion, I think
5 we've met all the appropriate design standards. Yes,
6 at some points of the day there will be an increase
7 in traffic.

8 I think as a lunchtime use with that
9 occurring midday hours, it's not going to aggravate
10 the typical commuter peaks.

11 And on balance, I think the renovation
12 or rehabilitation of the site for this use will not
13 result in any detrimental traffic impact or
14 operational problems.

15 In terms of -- and there was a question
16 asked about the loading. The actual loading spot, as
17 Mr. Missey indicated, is dimensioned in conformance
18 with your ordinance at 12-by-14.

19 If you'll see, there's a dotted outline
20 that extends beyond that loading space. That can
21 accommodate the tractor trailer truck, and it doesn't
22 block the drive-through lane.

23 If the trunk for whatever reason is
24 even longer than that, the only thing it would block
25 is the trash enclosure. I don't find that to be a

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1 particular problem either. So it doesn't interfere
 2 with the free flow of traffic or any kind of safety
 3 measure in that area.
 4 That's all I have.
 5 I know Mr. Dobiszewski has a review for
 6 you. But I think in general -- and I'll let him
 7 speak for himself -- but that it was generally
 8 concurring with our findings as well.
 9 So I'm always pleased to get that kind
 10 of endorsement.

11 Q. Mr. Dean, you prepared a report that
 12 we've submitted, June 1st, 2023.

13 Is that a report that was prepared by
 14 you and under your direction?

15 A. Yes, it is.

16 Q. And the statements that you have in
 17 that report is what you basically have substantiated
 18 in your testimony this evening?

19 A. Yeah, that is correct.

20 Q. On the basis of that and your analysis,
 21 there were three conclusions that came based upon the
 22 three points that you have addressed.

23 The first point that you pertained and
 24 addressed was the impact on surrounding streets. And
 25 your testimony, as I understand it, is that there

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1 a convenience-oriented use, that the overall traffic
 2 would be generally in the same range.
 3 I mean, if it's a jewelry store, no.
 4 But if it's, you know, something that's serving
 5 pre-made meals or, you know, a convenience-type use,
 6 they'll be in the same ballpark in terms of overall
 7 traffic impact.

8 Q. And you recognize that we're seeking
 9 the variance for the prohibition under the restaurant
 10 use for a drive-through facility, correct?

11 A. Yes.

12 Q. And it's your testimony that basically
 13 this drive-through facility in and of itself will
 14 have no impact on the surrounding streets?

15 A. That is my opinion. I believe it meets
 16 and exceeds all of the recognized standards for
 17 stacking and operations.

18 So, yes, I understand that there is a
 19 prohibition. In terms of traffic, I look at it as
 20 it's -- I sometimes call it dynamic parking, meaning
 21 it's moveable parking. The same customers are
 22 visiting the store. We're just accommodating them
 23 and their vehicles in a more efficient manner than
 24 parking.

25 I'll give you an example. If the
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1 will be no impact to the surrounding streets based
 2 upon the use proposed?
 3 A. There is an impact.
 4 I want to clarify and say there's no
 5 adverse impact. I mean, we could quibble over one
 6 more car as an impact. I'm not here to do that.
 7 Yes, we've acknowledged that the change
 8 in use may result in a very modest traffic increase,
 9 but not to the point where it would affect or be
 10 noticeable to any users of the center or the local
 11 street system.

12 Q. And in your background as also a
 13 Professional Planner, you recognize that the
 14 restaurant use, itself, is a permitted use in this
 15 zone?

16 A. Correct.

17 Q. So, in essence, when the zoning
 18 ordinance was prepared, it was contemplated that a
 19 restaurant use -- that the streets around any
 20 restaurant use in this B-3 Zone would have the
 21 sufficiency to accept the traffic that would be
 22 generated by such a restaurant?

23 A. Correct.

24 And I would also further submit that
 25 even if another retail use were developed, you know,

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1 drive-through were not available -- and I don't know,
 2 I haven't looked at an alternative design -- but
 3 there would certainly be individuals who would park
 4 and walk into the building. We would still have
 5 that. We would just have more people crossing the
 6 main access aisle coming in from Rea than we would
 7 with a drive-through design.

8 So in terms of pedestrian safety for
 9 parents with small children, for anyone who is
 10 mobility impaired, it does provide an added amenity
 11 that does enhance safety.

12 Q. And you have testified that from the
 13 standpoint of -- a traffic standpoint, in looking at
 14 a drive-through -- and the queuing aspect here is
 15 between seven and eight, as what you think is
 16 required, and we are showing 11 -- that the other
 17 benefit here, contrary to other drive-through
 18 facilities, is that additional queuing, overflow as
 19 you called it, would be internal rather than being on
 20 the streets

21 Is that correct?

22 A. That is correct.

23 Q. And you've had the benefit of reviewing
 24 the Boswell report of June 9, 2023, correct?

25 A. Yes.

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1 Q. And you concur with the analysis and
 2 the opinions rendered in that report?
 3 A. Yes.
 4 MR. WHITAKER: Thank you.
 5 I have nothing further.
 6 CHAIRMAN ANDERSON: I have a couple
 7 questions.
 8 But would you rather hear from
 9 Mr. Dobiszewski before we ask questions, or do you
 10 have questions you want to ask now?
 11 MR. PLACIER: The only question I had
 12 -- and it's probably been said already.
 13 But the customers for the Taco Bell
 14 will have access from Rea Avenue and they'll also
 15 have it from the CVS side too, anywhere in the
 16 parking lot, correct?
 17 MR. DEAN: Anywhere that you see today,
 18 the same as the bank had.
 19 There are no restrictions in access
 20 from any of the abutting streets, other than, as I
 21 pointed out, the entire plaza is not accessible from
 22 the north.
 23 MR. PLACIER: Right, right.
 24 CHAIRMAN ANDERSON: I have a question.
 25 How long of an excess queue would there be, how many

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1 to the queue?
 2 In other words, if it's already past
 3 the building.
 4 MR. DEAN: Sure.
 5 So the scenario is, we've exceeded what
 6 wraps around the building, and now we have a stack.
 7 The only thing I can surmise is that they would --
 8 they would come in.
 9 Why they would come up Rea instead of
 10 Godwin, I don't know?
 11 CHAIRMAN ANDERSON: People do.
 12 MR. DEAN: But let's assume they did
 13 and made a left. They can come around the back and
 14 join the queue through the second row, the
 15 northernmost parking field.
 16 Practically, what happens -- you know,
 17 I'll speak for myself, both as a professional and as
 18 a customer -- if I see a line that long, I don't go
 19 there or I park and walk in.
 20 It's just -- it's no longer -- I mean,
 21 drive-throughs are a convenience. Once the line is
 22 too long, it loses its convenience.
 23 And we know it's going to be shorter to
 24 walk in, park, place my order and go.
 25 The other thing that many -- I can't

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1 cars, before people entering the center from Godwin
 2 Avenue would T into that queue?
 3 In other words, how many extra cars --
 4 MR. DEAN: I think I understand.
 5 So I'm going to point, if that's okay,
 6 and it's visible.
 7 So our main access from Godwin is in
 8 the midpoint of A-9. To the east is an out -- excuse
 9 me.
 10 To the east is an out-parcel we don't
 11 control. So then we have the trash enclosure and
 12 some parking spaces.
 13 Do I understand correctly your question
 14 is -- I'll use my hand -- how many vehicles would
 15 queue onsite before somebody --
 16 CHAIRMAN ANDERSON: Correct.
 17 MR. DEAN: -- couldn't come in? About
 18 Seven more cars.
 19 CHAIRMAN ANDERSON: Seven more than 11?
 20 MR. DEAN: Eleven.
 21 So there would be 18 total vehicles
 22 queued up to the -- I'll say the T intersection of
 23 the access from Godwin and the main east/west aisle.
 24 CHAIRMAN ANDERSON: Okay. And cars
 25 entering the center from Rea Avenue, how do they get

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1 say all -- but Taco Bell is one of them. We've all
 2 been accustomed to smart phones. And through apps,
 3 there is a way to preorder, pay, and so it cuts down
 4 on all of that service time to sit in line.
 5 So for those customers, which are
 6 increasing daily as people become more comfortable
 7 with technology, rather than sitting in the line to
 8 talk to the person and place an order and have it
 9 made, for those that really want to get in and out,
 10 they will preorder, park, walk in, pick up the bag
 11 that's already there with their name on it and walk
 12 right out. So the whole process can be done in one
 13 minute instead of four or five or longer.
 14 So technology is always improving
 15 customer service. So that's what we've seen.
 16 Starbucks is doing it. Dunkin' has done it for a
 17 while. Taco Bell has had it for at least a
 18 year-and-a-half.
 19 So that's why this queuing issue --
 20 there are some outliers. Starbucks still does some
 21 good queuing, depending on where it is.
 22 And Chick-Fil-A in a league of their
 23 own. But Taco Bell in particular, just because of
 24 the nature of their menu, as I indicated, their
 25 service times are generally faster than the

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1 competitors.
2 CHAIRMAN ANDERSON: Have you looked at
3 the traffic flows along Godwin?

4 And what I'm -- and I don't know
5 whether you can answer this or not. Can you tell,
6 either from your data sources or what you've seen at
7 the site, a likely percentage of people who would
8 access the center from either Godwin or Rea?

9 In other words, is it more likely from
10 what -- if you can tell, that they would access from
11 Godwin or from Rea.

12 MR. DEAN: I don't -- I don't have a
13 good sense for that, Mr. Chairman.

14 Godwin has, I'll say, some unusual lane
15 striping. You know, there's two lanes that become
16 one lane in each direction. And they fall and drop.
17 The good news is that there are dedicated turn lane
18 -- there is a dedicated turn lane to come into the
19 center at the main driveway.

20 So I think traffic that originates from
21 the west will gravitate toward that driveway and then
22 circulate in that direction.

23 The traffic that comes from the east, I
24 think it could be 50/50. Half of those people may
25 say, why do I want to go past my destination and

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1 So just in terms of roadway carrying, I
2 can see maybe a little more traffic, but I'm
3 speculating at this point.

4 CHAIRMAN ANDERSON: Just for sake of
5 argument, let's say -- let's say it's 50/50 entering
6 from Rea or from Godwin.

7 Do you think as far as the circulation
8 on the site that makes any difference?

9 MR. DEAN: No. I expect -- and I don't
10 know whether I'm proud to admit or embarrassed to
11 admit. I like Taco Bell. I think it's a fairly good
12 product. You know, it tastes good. I visit one
13 regularly, Route 22, Bridgewater, New Jersey, where
14 the highway traffic, what I call the exposure
15 traffic, is probably four times higher than what we
16 see on Godwin, a three-lane state highway. Five cars
17 is the typical queue at Taco Bell. I can't say it's,
18 you know, never been longer, but at peak lunchtime.

19 So we've used -- and I've cited seven
20 as the standard. This holds 11. So whether they
21 come in from the west or from the east, it's not
22 everyone coming in at once, you know, going to the
23 Giants where you just have all of this conflict.

24 Every other minute, every minute, there
25 will be someone who comes in and turns right and

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1 double back; I'll just come up Rea and turn left.
2 Other people are just accustomed to using the main
3 driveway. I don't have a good sense of that
4 east-oriented traffic.

5 CHAIRMAN ANDERSON: But based on some
6 prior testimony as to where I think the sign is going
7 to be and every else, it would appear to me that
8 people coming from the east would go in Rea. They
9 would not drive past it and look for another
10 entrance.

11 So to me it would seem, depending --
12 and I don't know where you anticipate your business
13 coming from, whether it's coming more from the west,
14 or the east, or whatever.

15 But it seems to me there would be a
16 fairly substantial percentage of people accessing the
17 site from Rea Avenue.

18 MR. DEAN: Again, we didn't, you know,
19 do a whole traffic study and look at every one of the
20 driveways. Our focus was contrasting the old use
21 with the new use and not redoing the whole center.

22 We have a fairly significant main
23 intersection just to our west. That is the
24 intersection of, you know, two county roads carrying
25 a fair amount of traffic.

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1 someone who may turn left.

2 I think it's a very orderly -- and it
3 won't be any different than what the bank did, just a
4 little higher volume at lunchtime. So I'll have to
5 defer to whatever your experience was as local
6 residents with how that functioned, but it's the same
7 customer base.

8 CHAIRMAN ANDERSON: In your testimony,
9 the queue that's actually not in the lane, that's 11,
10 right, to get to the --

11 MR. DEAN: Eleven fits.

12 And on the plan, you'll see they've
13 been labeled. The 12th one fits about halfway in the
14 lane.

15 So I say 11 fit entirely within the
16 system.

17 CHAIRMAN ANDERSON: And I believe it's
18 your testimony that if the lane is full and people
19 are coming in the Rea Avenue entrance, that they
20 won't get online, that they'll go park.

21 MR. DEAN: At the 11th vehicle, yes.

22 CHAIRMAN ANDERSON: Yes.

23 MR. DEAN: I can't conceive of there
24 being 11.

25 CHAIRMAN ANDERSON: No.

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1 Obviously -- obviously what I'm
 2 thinking of is, you've got 11 in the queue. And
 3 let's say two cars come in from Rea Avenue. How are
 4 they going to get on the queue without blocking the
 5 entrance and exit?
 6 MR. DEAN: Sure.
 7 Well, they won't block the entrance.
 8 What will happen is, if they wait, it's sort of like
 9 the people that come in and they really want that one
 10 parking spot, what do they do?
 11 They sit there. The people behind them
 12 wait. I mean, it's not a safety issue. It's a
 13 convenience and somewhat of an inconsideration issue.
 14 So we're containing that activity off
 15 of the public streets. And the only thing it affects
 16 is circulation onsite.
 17 But because we have this extra aisle,
 18 you know, there's another failsafe mechanism in there
 19 that allows people to -- the impatient ones, you
 20 know, if that person is just paused waiting and they
 21 really want to get to CVS, they just go up and
 22 around.

23 CHAIRMAN ANDERSON: I understand all
 24 that.
 25 But my point is, a person comes Rea
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1 doing what they're supposed to do, before it would
 2 impact the borough road of Rea Avenue?
 3 MR. DEAN: Correct.
 4 CHAIRMAN ANDERSON: Because that was my
 5 concern.
 6 MR. DEAN: And what I was describing --
 7 that would be an awful lot of Taco Bell customers.
 8 But for those customers who don't have
 9 anything to do with Taco Bell and they want to go to
 10 the other tenants, they can get around that on the
 11 upside.
 12 So that would be --
 13 CHAIRMAN ANDERSON: Well, if there's
 14 only one. Not if there's four.
 15 MR. DEAN: Understood.
 16 To me, it's unconceivable to have 11
 17 stacking at Taco Bell.
 18 But as we get to 15 and 16, that's why
 19 I said before, you'd park and walk in. It becomes
 20 self-policing and, you know, that circuit break
 21 tripping.
 22 CHAIRMAN ANDERSON: I understand.
 23 I'm only looking for the maximum
 24 possible problem. And it seems to me 15 cars, you
 25 can accommodate.

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1 Avenue and now -- and the lane is full. The way I
 2 believe you anticipate this happening is, that person
 3 is going to proceed westerly and then turn around and
 4 come back and get on the queue?
 5 MR. DEAN: No, no.
 6 I'm sorry. I didn't understand that
 7 question.
 8 There are a lot of hypotheticals. If
 9 that 11th person -- and again just a hypothetical --
 10 and the 12th person comes in from Rea, just like we
 11 do at any street, we wait until there's a gap.
 12 And when it's safe and there's no
 13 opposing traffic, we turn. Everyone behind us waits.
 14 That's just the rules of the road.
 15 CHAIRMAN ANDERSON: Okay. So they do
 16 that. Let's say they do that. How many cars once
 17 they're sitting there waiting for their -- they don't
 18 block the exit -- how many cars can sit there behind
 19 them to Rea Avenue?
 20 MR. DEAN: Four.
 21 CHAIRMAN ANDERSON: Four, okay.
 22 MR. DEAN: Correct. So now I'm up to a
 23 queue of 15. I mean it's a...
 24 CHAIRMAN ANDERSON: All right. So
 25 there could be -- there could be 15, even people not

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1 MR. DEAN: Yes.
 2 CHAIRMAN ANDERSON: Beyond that it's --
 3 at least if not conceivably impossible, that it could
 4 impact Rea Avenue. That's my only -- and I
 5 understand you are saying that it's not impossible,
 6 highly unlikely.
 7 MR. DEAN: That is correct, yes.
 8 CHAIRMAN ANDERSON: These a.m. midday
 9 and p.m. peaks, what are those hours.
 10 MR. DEAN: Sure.
 11 It's a single 60-minute period.
 12 Traffic engineers talk about peak hours. It's
 13 whenever it's busiest.
 14 So by way of example -- and I'm not
 15 saying it specifically occurs -- but it's somewhere
 16 between 7:30 and 8:30 in the morning. Lunchtime is
 17 generally noon to 1:00. Sometimes it's 11:45 to
 18 12:45. But it is a 60-minute window where --
 19 CHAIRMAN ANDERSON: I apologize. Let
 20 me interrupt you a minute.
 21 The ITE data.
 22 MR. DEAN: Yes.
 23 CHAIRMAN ANDERSON: Then are you saying
 24 when they say a.m. peak, that peak hour may be
 25 different for different uses or different locations,

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1 or is it always 7 to 8 or 8 to 8:30; in other words,
 2 what hours are we talking about?
 3 MR. DEAN: Sure.
 4 That's a very good observation. It's
 5 not any specific hour. When ITE -- when we collect
 6 all this data --
 7 I'll give you an example. In the
 8 morning, we send somebody out for two hours, 7 to 9.
 9 That's our typical commuting hour. We count every
 10 15 minutes. So we look at every 15 minutes. We have
 11 eight intervals. We find the four consecutive ones
 12 that are the busiest. That becomes the peak hour.
 13 And when this data gets sent to ITE,
 14 it's for that peak hour whenever it occurred.
 15 So, you know, in Midland Park it might
 16 be 7:30 to 8:30. In Ridgewood it might be 7:45 to
 17 8:45. In Ramsey it might be a different time. But
 18 the data that gets submitted is still for the busiest
 19 60 minutes that we counted whenever it happened.

CHAIRMAN ANDERSON: And wherever it is?

MR. DEAN: Correct.

22 But it is particular to the use. For
 23 example, a movie theater's peak hour is 7 o'clock at
 24 night. A Dunkin' Donuts is oftentimes, you know,
 25 somewhere 7 to 8 in the morning.

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1 whatever the peak is, 100 and however many.
 2 MR. DEAN: Yes, 103, sure, trips.
 3 So it's 50-some-odd, but yes.
 4 CHAIRMAN ANDERSON: So 52-and-a-half
 5 cars, 51-and-a-half cars. You're looking at four
 6 15-minute intervals?
 7 MR. DEAN: Yes.
 8 CHAIRMAN ANDERSON: Correct.
 9 Is it that those 15-minute intervals
 10 all have the same number of cars?
 11 For instance, what I'm thinking is,
 12 103, there could be 10 in the first 15 minutes, 10 in
 13 the last 15 minutes, and the other 80 are in the
 14 intervening half-hour.
 15 And my question is, during the peak
 16 period, can you tell, or can your data tell us, how
 17 many would be the most cars at one time?
 18 MR. DEAN: Sure.
 19 That's what we did for Wendy's. It's
 20 exactly what we did for Wendy's.
 21 Wendy's peak, the busiest it ever was
 22 at lunchtime was 10. That's the peak. That's peak
 23 queuing.
 24 So that is -- the peak 15 minutes, that
 25 is the worst that we ever saw.

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1 So it does vary by the use.
 2 But when we compare this, for example,
 3 we're looking at the midday peak for a bank; it's
 4 noontime, not 3. It's noon. So it's a side-by-side
 5 comparison.
 6 CHAIRMAN ANDERSON: Right.
 7 Using your ITE data, we'll pick one.
 8 Let's say the midday peak. If you hit that midday
 9 peak, what would be the use of your aisle? How many
 10 cars would be in the field during your peak? Can you
 11 tell that?
 12 MR. DEAN: Yes.
 13 That's where we would expect at that
 14 peak time -- and that's why all of this is designed
 15 for the absolute peak-peak, not evening peak when
 16 there's less demand, but it's when the system is most
 17 loaded and busiest -- seven is the recommended
 18 stacking for a Mexican-themed quick-service
 19 restaurant.
 20 So that is the peak. That is the
 21 maximum queue.
 22 CHAIRMAN ANDERSON: That's not my
 23 question.
 24 MR. DEAN: Okay.

CHAIRMAN ANDERSON: My question is,

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1 CHAIRMAN ANDERSON: And you would
 2 expect that to hold true for this.
 3 MR. DEAN: I would expect it to be less
 4 than that, yes.
 5 MR. WHITAKER: Your expectation there
 6 is the seven.
 7 MR. DEAN: Correct.
 8 CHAIRMAN ANDERSON: Does anybody else
 9 have any questions before we get to Mr. Dobiszewski?
 10 VICE CHAIRMAN PAPAPIETRO: Yes, just a
 11 couple questions.
 12 With the traffic study -- and Les asked
 13 some question about the timing. That was the
 14 question I had.
 15 But the other question is, does this
 16 timing include people that walk in as well, the
 17 volume in here, people that park and walk in, or is
 18 this strictly drive-through?
 19 MR. DEAN: On Table 1.
 20 VICE CHAIRMAN PAPAPIETRO: Yes.
 21 MR. DEAN: Yes.
 22 That's everyone who drove to the site.
 23 VICE CHAIRMAN PAPAPIETRO: So the
 24 walk-in customer and your drive-through?
 25 MR. DEAN: Correct.

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1 VICE CHAIRMAN PAPAPIETRO: The other
2 question, I want to go back to the stacking. You
3 mentioned that cars coming in from Godwin, then they
4 could stack to the right there.

5 And you indicated, I think four --
6 potentially four cars.

7 But aren't there parking spaces there
8 to the right of those cars, and also there are
9 parking spaces to the left as well?

10 And wouldn't that impede people looking
11 to park there or looking to exit those parking spaces
12 by having cars stacked there?

13 MR. DEAN: I don't think cars will ever
14 stack there. I hope that's clear. It was -- it was
15 in response to a very specific question, which is, if
16 we exceed 11, how many fit before we affect the
17 ingress from Godwin? I don't expect it will ever
18 queue.

19 So to your point, doesn't it block
20 parking spaces, yes, it will.

21 VICE CHAIRMAN PAPAPIETRO: It will.

22 MR. DEAN: Yes.

23 VICE CHAIRMAN PAPAPIETRO: I'm
24 concerned about safety in the parking lot and, you
25 know, access for people that are shopping elsewhere

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1 will stack and block the trash enclosure.

2 If they -- even -- even -- even if that
3 scenario were to occur, I can still fit four cars
4 before I block a parking space.

5 So now I've got a queue of 15 cars.
6 It's labeled on the plan. I know it's difficult to
7 see. But it's space 124. Everything to the east of
8 that is a trash enclosure or it's not -- not parking
9 areas.

10 VICE CHAIRMAN PAPAPIETRO: Okay, thank
11 you.

12 MR. DEAN: You're welcome.

13 MR. ZUIDEMA: I have a question, maybe
14 two, I think it comes under the -- you know, your
15 expertise.

16 Are you guys going to be doing
17 DoorDash? Because then you're adding to cars.
18 Because online I was just looking at, there are those
19 Taco Bells that do do that.

20 MR. WHITAKER: Yeah.

21 There was testimony from our operator
22 back at the first one that said, yes, there's
23 DoorDash, and there will be parking spaces.

24 They park and walk in and grab the bag.
25 They don't go in the drive-through.

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1 and things like that.

2 So that's a concern I have is stacking
3 in that parking lot. I'm glad it's not stacking in
4 the street obviously, but the parking lot is a
5 problem.

6 MR. DEAN: Understood.

7 We're not designing for that. We're
8 not showing a queuing lane. We're not -- we're not
9 ever expecting cars would stack there.

10 As a customer, if the drive-through is
11 filled -- I can't conceive, first off, that we'll get
12 to 11.

13 But under the scenario we did, I can't
14 conceive of somebody saying, I'm going to sit in my
15 car and I'm going to wait 20 minutes to get my lunch.
16 I'm going to park and walk there. That's how it
17 works at every driveway through operation.

18 Unless, for example, in the old days --
19 maybe I'm dating myself -- banks used to close. They
20 used to close their lobby at 3. So you could only
21 use the drive-through at certain times. We don't
22 have that with this use. The customer always has the
23 option to park and walk in.

24 So I don't endorse, I don't foresee, I
25 don't predict, and it is not my testimony that cars

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1 MR. ZUIDEMA: Okay. The second
2 question is that, in the State of New Jersey, the law
3 is 53 feet for a tractor trailer. That's what you're
4 allowed.

5 Other states are actually more, but New
6 Jersey is allowed 53.

7 How do you think, or how is it planned
8 for the tractor trailer -- because I'm assuming it's
9 what it's going to be, because less trips, more fuel.
10 I mean, if they're going around to the Taco Bell in
11 Saddle Brook or whatever.

12 How does that tractor trailer --
13 because there's one over at the Starbucks that parks
14 on the road, which is a different subject.

15 But he's 53 feet. It's a big piece of
16 equipment. How does he get in there? Where -- when
17 he parks, does he -- this comes under the
18 transportation part of it.

19 If he unloads from the side, then we're
20 blocking all that traffic that comes through.

21 If he loads from -- how does -- he
22 can't turn around. So how does he get in there, and
23 then how does he park?

24 MR. DEAN: I can't predict how these
25 deliveries may occur. What we have depicted on the

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1 plan is the conforming loading zone.
 2 And you've heard that it will be done
 3 at hours that don't conflict.
 4 So how will that truck do that? He has
 5 two options. One is to come in Godwin, turn left,
 6 flow clockwise and then pull forward with his
 7 tailgate nearest the trash enclosure (indicating).
 8 And I know I'm pointing. Forgive me.
 9 If it's not visible, I'll do a better
 10 way to describe it.
 11 So then all of that product has to be
 12 brought around the front of the truck and into the
 13 store.
 14 The alternative is the truck enters via
 15 Rea, pulls in a westerly direction, so he's basically
 16 facing the wrong way, but then his tailgate is
 17 closest to the store.
 18 MR. ZUIDEMA: He can't enter through
 19 Rea Avenue. That's impossible.
 20 MR. DEAN: Yeah.
 21 I don't...
 22 MR. ZUIDEMA: Okay. I just...
 23 CHAIRMAN ANDERSON: The turning radius.
 24 MR. ZUIDEMA: You can't -- you can't
 25 enter through Rea. You can only get in with a

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1 Jersey. And I remember the one that opened on
 2 Route 17 in Hasbrouck Heights. They had police
 3 controls, a half-a-mile delay. That was the first
 4 one.
 5 Every planning and zoning board meeting
 6 I went to, everyone in the state knew about what a
 7 problem Sonic was.
 8 Then we did one in Green Brook. Then
 9 we did one in Franklin. And we did one in
 10 Flemington. We did one in Howell. And it became a
 11 big snooze.
 12 Why? Because people figured it out.
 13 Either A, it's not that big a deal, or it's just
 14 food.
 15 I mean, it's just another quick-serve
 16 operator.
 17 So I have yet to see the same
 18 circumstance with Sonic anymore. Taco Bell has been
 19 in the state for 35 years or so. It's not -- it
 20 doesn't have that same novelty as a Chick-Fil-A or
 21 even Sonic when they first opened.
 22 So I don't expect -- there's always a
 23 honeymoon period where operationally they overstaff,
 24 they make sure that the operator is hitting his marks
 25 and they have internal times for processing of

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1 pickup. So you can't enter through Rea. So there's
 2 one option. It's probably Godwin or Erie, or you
 3 have to come from Erie.
 4 And then Erie means you're kind of
 5 going the wrong way.
 6 So being that as it may, I'm asking the
 7 question just for -- we can follow up on that.
 8 The other thing is that -- one other
 9 thing is that you mentioned Chick-Fil-A. When they
 10 first opened up, the line is out on Route 17. You
 11 know, now it's calmed down. So I take it that Taco
 12 Bell -- is the closest one in Ramsey?
 13 MR. DEAN: That, I don't know.
 14 MR. ZUIDEMA: Okay, I think it is.
 15 MR. DEAN: I'm not that big a fan.
 16 MR. ZUIDEMA: So if you are a Taco Bell
 17 fan and one opens in Midland Park, Ramsey is about
 18 five miles up that way, or there's one in Saddle
 19 Brook. I think there's one in Paramus.
 20 Don't you expect this thing to, kind
 21 of, get like -- finally Taco Bell is open. Don't you
 22 see initially your queuing be a little -- a little --
 23 it would be a little tight, correct, or not?
 24 MR. DEAN: I don't. And here's why.
 25 We represented Sonic when they first came into New

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1 customers.
 2 After that honeymoon phase or grand
 3 opening and free giveaways that always attract more
 4 traffic, it will normalize to what we typically see.
 5 If this were the only Taco Bell, the
 6 first one to open in New Jersey, very different
 7 scenario.
 8 But there are enough around that
 9 they've saturated the market that it's -- it's
 10 delicious, but, I mean, it's not I'm going to drive
 11 30 miles out of my way to check out something I
 12 haven't seen before.
 13 So there's that.
 14 But, yes, those types of precautions
 15 for that grand opening, whether it's requiring
 16 additional police control, making sure things are
 17 organized, that is a typical practice.
 18 MR. ZUIDEMA: I think the board
 19 probably should consider what size truck goes in
 20 there, because a truck can't make a three-point turn.
 21 And the parking lot is never, even at 5:00 in the
 22 morning -- I'm thinking CVS is open all hours.
 23 But I think that that has to be
 24 addressed at some point during this hearing.
 25 And I'm just maybe asking for your

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1 thought about not kind of, oh, it will work.
 2 MR. DEAN: Fair point.
 3 MR. ZUIDEMA: But that type of answer
 4 may not -- with that big of a truck, it would be --
 5 like you had said, to come in off of Rea.
 6 So maybe we should become a little more
 7 familiar about -- there's a huge dip at Godwin, which
 8 I'm not saying that the truck is going to bottom out,
 9 but it's very, very difficult to get into that site
 10 with that size truck.
 11 And I think most of these, like,
 12 Driscoll Foods and most of these people, they're
 13 running the max size trailer because of the employee
 14 in it, the fuel, and then the -- you know, the amount
 15 of stops they could make.
 16 If they can go to ten Taco Bells with a
 17 53, then they're not going to go with a 40 and only
 18 be able to get to, you know, half.
 19 MR. DEAN: Understood.
 20 I think between Mr. Missey and I and
 21 the next hearing, we'll spend some time with the
 22 templates. We'll look at, you know, can it
 23 physically fit.
 24 I respect and understand your position
 25 regarding Rea. You know, maybe that truck circulates

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1 Say, in the event that we have 15 going
 2 out to Rea, right. You've got people coming into Rea
 3 and stacking there, and it's blocking the exit out of
 4 the Taco Bell, right? And people wanted to go to
 5 Godwin. They're going to go out to Rea.
 6 How long do you think that would take
 7 to kind of resolve itself?
 8 MR. DEAN: Again, I don't know if I can
 9 beat this drum loudly enough. I can't ever conceive
 10 of 15 cars stacking where that scenario occurs.
 11 I do appreciate the board's concern.
 12 That's why I do what I do, and we model, and we fly
 13 drones. And we look and we study this information.
 14 To your point, we don't ever want a
 15 circumstance where it's gridlocked. The good news
 16 is, because we drive on the right-hand side of the
 17 road, the exit to the Taco Bell would always be open.
 18 What they can't do is, obviously, turn
 19 directly left and go directly back through the
 20 shopping center.
 21 But there always is the safety valve
 22 for that person to turn right and go out to Rea,
 23 because that wouldn't be blocked.
 24 I just, again prefaced on a Taco Bell
 25 or similar type operation in this size building, it's

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1 around the parking field. We need to look at that
 2 geometry. We also need to consult with the operator
 3 and their distribution system. So we will get you
 4 that information.
 5 MR. ZUIDEMA: Thank you.
 6 CHAIRMAN ANDERSON: Anybody else?
 7 MR. BARLOW: Yeah, I have one. I have
 8 one question. Regarding the employee parking, where
 9 would they park and is there enough space for them.
 10 MR. DEAN: Sure.
 11 The center has abundant parking.
 12 Typically the operator likes to leave the closest
 13 spaces for customers. Employees are typically
 14 directed to park in the perimeter spaces.
 15 I don't have any specific operational
 16 practice information from the operator, but as a
 17 standard business practice, you leave the spaces for
 18 customers, yes.
 19 MR. BARLOW: Right.
 20 MR. DEAN: But we'll figure that out
 21 before the next meeting as well.
 22 MR. BARLOW: Okay.
 23 MR. ELIYA: Yeah.
 24 One question about this stacking, going
 25 back to the stacking.

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1 not a 4,000-square-foot Chick-Fil-A. We just can't
 2 have queuing that long. That means the operator is
 3 doing something wrong.
 4 So I understand the concern. I don't
 5 know how to better help you with your comfort level
 6 other than all I can suggest is, pretend you're the
 7 15th car in line, why would you be here?
 8 MR. BARLOW: I've definitely seen
 9 people who do it. And we see it all over in plenty
 10 of places. I see it in town. I see it in different
 11 towns. People in the street. I wouldn't do it
 12 but...
 13 MR. DEAN: You know, we have
 14 competitors in the area that, you know, if we're at
 15 11 and they're at seven, you know, unless it's a very
 16 hardcore fan that needs their taco, again, the
 17 commonsense -- not everyone follows commonsense --
 18 it's park and walk in.
 19 And -- but over time, specifically with
 20 the apps, we are seeing processing be much more
 21 efficient and faster.
 22 MR. ZUIDEMA: I think the board is --
 23 going with my board member here, the peak -- the
 24 place across the street, the Starbucks, there was a
 25 big to-do over all that, part of the queuing.

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1 And we got -- we got, kind of, tricked
2 on that because now what they do is they come out,
3 they go down the street, and they block the out --
4 the out -- out lane of Starbucks.

5 Okay. So you say, well, that's your
6 problem now; you live with it. Okay.

7 So I think what we're concerned about
8 is that it happened there, and that's less than a
9 half-a-mile away from what we're doing now.

10 So, no, we don't want to assume that
11 the lady with the three kids in the car is going to
12 say, okay, you have to wait. They're going to wait
13 to get whatever, you know, you're going to get there,
14 a taco.

15 So it's happened in Midland Park, so we
16 already have experienced that. And as the traffic
17 expert, you know, I'm not looking for you to, like,
18 wave a wand over it, but, like, we're trying to
19 address, do we want the same situation where
20 everybody is all up in the air on the other street
21 there?

22 MR. WHITAKER: Can you explain the
23 difference between the different animal that
24 Starbucks is compared to a Taco Bell?

25 MR. DEAN: Sure.

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1 MR. WHITAKER: -- something that's --
2 the question that's asked about 15, that it's
3 something that's reasonable.

4 When you have the data that says that
5 seven is the max and we have queuing for 11, and you
6 say can you accommodate double the max and we say
7 yes, why would we go beyond that? Do you follow?

8 In other words, we have given you the
9 data from -- not that we've created, but it's come
10 out of the ITE manual.

11 And with the questions you have asked,
12 we're not going to go past seven, but if we did, we
13 can accommodate up to 11, and we can accommodate up
14 to over double the seven, up to 14.

15 MR. ZUIDEMA: Did Chick-Fil-A come out
16 of the ITE manual?

17 MR. WHITAKER: Chick-Fil-A is a
18 different animal totally.

19 MR. ZUIDEMA: I'm just saying, did it
20 come out of the ITE manual?

21 MR. WHITAKER: My -- I mean, I'll let
22 Mr. Dean talk about it.

23 MR. ZUIDEMA: He doesn't need to talk
24 about it. I mean, you go by the ITE manual.

25 Like, what happened there?

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1 It's a little difficult. I do work for
2 Starbucks.

3 MR. ZUIDEMA: No. I get it.

4 You don't even have to explain it. I'm
5 not -- listen, I'm not that stupid.

6 MR. WHITAKER: I wasn't suggesting
7 that.

8 MR. ZUIDEMA: What I'm saying is that,
9 you can get a croissant, you can get a coffee, you
10 can get all these mocha things and everything else.
11 You're telling me, yeah, it is a different food
12 source.

13 But still we have a problem in Midland
14 Park with the queuing. Okay? And to say that -- I
15 don't think the answer is good enough for me, is to
16 just say, hey, you're going to leave because the line
17 is too long. That's not good enough, I don't think,
18 when you're talking something this big.

19 MR. WHITAKER: I think you've got to
20 look at the empirical data that we've provided to
21 you.

22 And when a board asks a hypothetical
23 question, it's got to be a question that's within,
24 with all due respect --

25 MR. ZUIDEMA: It's not a hypothetical.

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1 MR. WHITAKER: I'm told that the ITE
2 manual is going to have a separate designation for
3 Chick-Fil-A because it's a different animal.

4 MR. DEAN: DOT is using a distinct
5 category for Chick-Fil-A because of those issues.

6 And I do work for Starbucks. I would
7 never advocate for a Starbucks that seven or eight
8 stacking is enough, because I know it isn't. I've
9 studied it. I've sent my staff out. Tell me the
10 longest queue we have in the morning. That's what we
11 measure.

12 I don't know how many your Starbucks
13 has. I can't answer that. I wasn't the consultant.

14 MR. ELIYA: I mean, if you want to talk
15 about the empirical data, that's fine.

16 You provided us with the study on
17 Wendy's. Just the one day, but today and I think
18 even yesterday, I saw it way out on the street. So
19 if you get maybe an average of a couple days, it
20 might be --

21 MR. WHITAKER: But your study was more
22 than a day.

23 MR. DEAN: No. Just the one.

24 MR. WHITAKER: Saturday, yes. The
25 maximum day.

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1 MR. DEAN: Right.
 2 On the weekday, we looked at it. We
 3 also looked at it on a Saturday. I gave you the
 4 worst weekday lunchtime.
 5 I do know because it's under renovation
 6 that they may not be operating the way they should be
 7 and certainly they way they will in the future.
 8 So, you know, here we are in July. I
 9 was out there in April. That was what, four months
 10 ago, three months ago.
 11 Possibly -- I'm not saying it was -- a
 12 little different circumstance with how their
 13 operations are working. I don't know that what you
 14 saw today is necessarily a fair apples-to-apples.
 15 But I do want to distinguish it.
 16 That's what make this site way better than Wendy's,
 17 is that we're all internal.
 18 And again, we're a different use in
 19 that Taco Bell's preparation of orders is a whole lot
 20 faster than Wendy's. There isn't grilling, there
 21 isn't fries that have to be fried and the like.
 22 So even in the QSR business where we
 23 have Chick-Fil-A is horrible traffic, quite frankly,
 24 and then we have things like Starbucks that are kind
 25 of in that range, and then we get the mid-level

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1 And I know this because the one on
 2 Route 4 next to what used to be Dress Barn, I did.
 3 And we are capitalizing on stacking.
 4 And it's different than the one on
 5 Route 17, because when I was before the Paramus board
 6 for that, they said Route 17 is terrible; we don't
 7 want that same thing on Route 4.
 8 And we said here's why it's terrible.
 9 The kitchen layout was inefficient. It was just not
 10 a modern ground-up building. So that's part of the
 11 problems we see with that, which is why I keep, you
 12 know, trying to say, these operators have learned
 13 retrofitting is not always the answer.
 14 And they have a very specific system on
 15 how to maximize efficiency.
 16 So we're not retrofitting the bank.
 17 We're scraping it down and rebuilding it to the
 18 current standards.
 19 But I do know there are problems.
 20 We're here not to replicate them. And I'm very
 21 sensitive to that.
 22 MR. CAPALBO: Two questions.
 23 MR. DEAN: Yes, sir.
 24 MR. CAPALBO: Did you do a traffic
 25 count on Godwin?

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1 player, right.
 2 We have the Wendy's, the Burger King,
 3 the McDonald's. Then we have Taco Bell. Taco Bell
 4 is fast and quick by comparison, and not nearly as
 5 busy.
 6 MR. ZUIDEMA: There's more players here
 7 too because what you leave out is Popeyes.
 8 So now Popeyes, if you happen to be in
 9 one of these towns, whether on Route 46 or on -- you
 10 know where they are -- so Route 4.
 11 I want to know what the ITE for them
 12 is, because they're out in the road. And now this is
 13 -- even having been open. They're out on Route 4,
 14 you know, Route 17.
 15 MR. WHITAKER: Route 17.
 16 MR. ZUIDEMA: So, you know, I think
 17 it's kind of -- then they have deliveries on top of
 18 that.
 19 So ITE thing, I don't know if it's
 20 going to convince me on the board, but like... So
 21 address Popeyes.
 22 We can forget about Wendy's.
 23 MR. DEAN: That Popeyes was a retrofit.
 24 It wasn't designed from the ground up as a Popeyes.
 25 It was converted.

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1 MR. DEAN: We did not, no. I have
 2 numbers because when we flew the drone, we can see
 3 the cars that passed.
 4 But I didn't tabulate it.
 5 MR. CAPALBO: The only one is kind of
 6 personal. How comfortable did you feel working for
 7 Lehigh and Lafayette?
 8 I mean, they're big rivals.
 9 MR. DEAN: Let's just say that I didn't
 10 wear my sweatshirt.
 11 You're absolutely right.
 12 CHAIRMAN ANDERSON: Does anyone else
 13 have questions before we get to Mr. Dobiszewski?
 14 (No response.)
 15 CHAIRMAN ANDERSON: I didn't want to
 16 butcher your last name.
 17 MR. DOBISZEWSKI: Actually, my
 18 congrats, you said it better than some of my friends.
 19 I'm going to stand for a little bit, if you don't
 20 mind.
 21 MR. SISS: Sir, would you raise your
 22 right hand?
 23 Do you swear the testimony you're about
 24 to give in this matter tonight will be the truth, the
 25 whole truth, and nothing but the truth?

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1 MR. DOBISZEWSKI: I do.
 2 F R A N K D O B I S Z E W S K I, P.E.
 3 330 Phillips Avenue, South Hackensack, New
 4 Jersey, having been duly sworn, testifies as
 5 follows:
 6 MR. SISS: Name and business address,
 7 please.
 8 MR. DOBISZEWSKI: My name is Frank
 9 Dobiszewski. My last name is spelled D as in David,
 10 O-B-I-S-Z-E-W-S-K-I.
 11 Project Manager with Boswell
 12 Engineering, 330 Phillips Avenue, South Hackensack.
 13 MR. SISS: Would you give the board the
 14 benefit of your qualifications and education?
 15 MR. DOBISZEWSKI: I have a Bachelor's
 16 in Science and Civil Engineering from NJIT.
 17 I've been practicing for 40 years.
 18 I am a registered Professional Engineer
 19 in good standing with the state.
 20 I'm also a Professional Traffic
 21 Operations Engineer certified by the Transportation
 22 Certification Board in the country.
 23 And I've had my time in my career split
 24 between public sector and private sector. And I've
 25 been around a little bit so...

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1 agreed with the one gentleman up here is that the ITE
 2 numbers are great and they're used quite extensively.
 3 So what I did, I wanted to take a look
 4 at a couple of other areas. And one area that I
 5 wanted to look at is, is there any significant
 6 accident history in and around the site, on the
 7 streets or any of the access points?
 8 And there was actually an attachment
 9 onto my letter, and it showed that there was no
 10 significant accident history here.
 11 So that being said, I can't imagine
 12 that anything would be generated that would make that
 13 accident history change. Except I do see -- and I do
 14 agree with Mr. Dean on one point, is that the
 15 driveway being eliminated on Godwin is a very
 16 positive thing, because it's reducing the number of
 17 conflict points.
 18 So I certainly think that's something
 19 that we can -- that should be supported, potentially
 20 for the rear-end collisions.
 21 Now, a couple of things that I did here
 22 when I started to look at the report was I wanted to
 23 compare it not just to the ITE numbers, but I also
 24 want to look at what the industry is doing as well.
 25 One thing, Gary, if you could make

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1 MR. SISS: Mr. Whitaker.
 2 MR. WHITAKER: No questions whatsoever.
 3 CHAIRMAN ANDERSON: Any questions about
 4 Mr. Dobiszewski's -- no.
 5 MR. DOBISZEWSKI: Okay.
 6 Good evening. A couple of questions
 7 for you and a couple of other things that I heard
 8 throughout the questions of your testimony.
 9 I was making some notes here.
 10 One thing that I did -- I just want to
 11 clarify. You did mention pass-by credit?
 12 Did you take any pass-by credit when
 13 you did your numbers or your analysis?
 14 MR. DEAN: I did not.
 15 MR. DOBISZEWSKI: So it was
 16 conservative.
 17 MR. DEAN: Conservative in that it
 18 would be the traffic that lines up on the site, so,
 19 yes.
 20 MR. DOBISZEWSKI: And again, what we
 21 looked at was very specific in terms of what the
 22 actual site would look like with the drive-through
 23 using Dolan & Dean's report and then, basically,
 24 backing in and saying does it make sense.
 25 One of the things that I certainly

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1 available to us the drone footage that you recorded,
 2 I think that would be very useful.
 3 MR. DEAN: I will do that, yes.
 4 MR. DOBISZEWSKI: Okay, thank you.
 5 So one thing I think Gary didn't
 6 differentiate is, when ITE looks at the land uses, it
 7 also looks at where these land uses are, densely
 8 populated urban versus a suburban setting, such as
 9 what we have up here in Midland Park.
 10 As far as the distribution goes for the
 11 number of trips in a 24-hour period, for this area,
 12 for this particular site, which is the land use is
 13 what they call Code 934, fast-food restaurant with a
 14 drive-through window, the typical peak during the
 15 weekend occurs between 12 and 1 p.m., with 12 percent
 16 of the total daily traffic coming through in that one
 17 particular hour.
 18 And then on Saturday, it's right around
 19 the same time as well, between 12 and 1.
 20 So what this is, this is a distribution
 21 throughout the day from midnight until midnight by
 22 hour for this particular use, the size of the,
 23 building taking into account the square footage and
 24 the number of trips that are going to be generated,
 25 this is what they're saying.

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1 So at 12 percent during the weekday for
2 this particular use is at 12 percent of whatever that
3 number is.

4 Now, the pass-by trip credit that he
5 mentioned -- and that's something that I think is
6 very important to remember -- is that what we're
7 looking at here in terms of traffic, these are not
8 going to be new trips. These are trips, as Gary had
9 said -- and I concur with him in his report -- that
10 these are trips that are people that are already on
11 the road. They're going to stop off. They're going
12 to get their gas. They're going to go. They're
13 going to stop at Taco Bell or Wendy's or wherever.
14 They're going to continue on their way.

15 So there's very few instances where a
16 trip to this particular type of land use is the only
17 reason why a person is on the road getting in their
18 car to make that trip.

19 Now, one thing I think is the most
20 important -- because I'm very concerned about the
21 queue as well.

22 So, yes, ITE is great. But ITE is a
23 collection of studies that are done from around the
24 country. And in this particular instance, they did
25 focus on the northeast.

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1 all this other information is gathered and it's
2 thrown into this mix and it's generated based upon
3 the data that they collected for that particular day.
4 October 27th in 2022, turns out Taco
5 Bell, they said, had the best processing times of the
6 other fast-food restaurants.

7 Now, what they're looking at here is
8 that they have a chart. Was this in the report? I
9 hope you didn't get it.

10 CHAIRMAN ANDERSON: This.

11 MR. DOBISZEWSKI: The last page. Yep,
12 that's the one.

13 CHAIRMAN ANDERSON: It's in your
14 report, yeah.

15 MR. DOBISZEWSKI: Okay. Then if you
16 reference that, what this is, this is a breakdown of
17 that information that they gathered from this
18 October 17, 2022 study. This is summarized.

19 And what they did here is, how many
20 vehicles were in line in front of you when you pulled
21 into this drive-through.

22 If you look, they go from zero all the
23 way up to nine and then 10-plus cars, and they have
24 percentages.

25 So not a surprise here, because we did

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1 NJ DOT also has their own trip
2 generation rates. So I wanted to compare what the
3 NJ DOT numbers are with the ITE numbers, and they're
4 practically identical.

5 So what that's saying is that if this
6 particular site was on a state highway and they were
7 looking for frontage on a state highway, that there
8 would be a trip generation number that would be
9 generated for this particular use, and that's what
10 they would use as the basis for determining what the
11 traffic impact was going to be.

12 So in that regard, they're very close
13 and so I felt comfortable with that number.

14 Moving on to the final, I wanted to see
15 what the industry was saying about this as well. And
16 what wasn't mentioned -- I'm surprised actually,
17 Gary, that you didn't mention it -- was that there
18 was a report. There's a publication called "QSR."
19 And every year around October/November they do what
20 they call a drive-through survey.

21 What this is, they actually send people
22 out to a number of restaurants and they observe and
23 they calculate things -- not calculate -- but they
24 gather things. How many vehicles are in front of me,
25 how long does it take my order to be processed, and

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1 mention Chick-Fil-A.

2 For some reason, yes, they are --
3 they're off the charts in this in every category from
4 five, six, seven, eight and none cars. They all had,
5 you know, 11 percent and counting.

6 Taco Bell had 1 percent of the
7 occurrences where there were nine cars in front of
8 them, none at eight, and there was 1 percent for
9 seven, and then 10-plus, zero.

10 So to me at least, the data that not
11 just the ITE looked at, not the NJ DOT as well, but
12 also from the industry standard QSR, which is a very
13 -- it's like the ITE of the drive-through industry,
14 for lack of a better way to put it -- concurred with
15 what the observations were made and the conclusions
16 that were made in the Dolan & Dean report.

17 Based upon that, I felt very
18 comfortable that his modeling and his process were --
19 they were reasonable. And this is very -- this is
20 very rare.

21 Because Gary and I, we've crossed paths
22 a little bit here and there's a lot of times where I
23 don't agree with him. This is one of those
24 instances, though, where what he said is very
25 reasonable, and I found absolutely nothing weak in

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1 the -- in the report whatsoever.
 2 The queuing, absolutely. But I think
 3 we also have to keep in mind as well, if this is a
 4 standalone site, maybe the queuing. This is a part
 5 of an overall area of development, it's part of an
 6 overall area.
 7 So, therefore, I think it's somewhat
 8 reasonable to assume that these massive queues, you
 9 know, these 12, 13, 14 queuing instances, I just -- I
 10 have to agree with Gary on that one. I just don't
 11 see it happening. And it's not just my opinion but
 12 the same thing here too, is that looking at this
 13 overall number, it was never observed as well.
 14 So I feel very comfortable in that
 15 regard. Okay.
 16 There's just one other... I think
 17 you've answered it. I just want to clarify. And it
 18 had to do with the -- it's the last paragraph on
 19 page 2 of the letter here. I'm asking you if you can
 20 clarify the last paragraph, the ability for the site
 21 to exit either Rea Avenue directly to Godwin.
 22 Can you just give me a little bit of
 23 clarification on that, please? I just wasn't -- I
 24 just want to make sure that I understood it
 25 correctly.

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1 paragraph under the Trip Generation section.
 2 MR. WHITAKER: His report. You've got
 3 yours.
 4 MR. DEAN: No. He's asking me to
 5 clarify what I wrote and I want to...
 6 MR. DOBISZEWSKI: Yeah.
 7 MR. DEAN: What I said is -- okay.
 8 It's poor English more than anything else. That the
 9 proposed change in use between the bank and the Taco
 10 Bell, I felt will not affect internal circulation or
 11 the ability for site traffic to safely enter and exit
 12 to Godwin, Rea or Erie as a result of this
 13 application.
 14 It was a lengthy sentence. I see that
 15 now. But aside from poor grammar, that's the
 16 clarification.
 17 Does that help?
 18 MR. DOBISZEWSKI: Yes, it does.
 19 CHAIRMAN ANDERSON: Do you concur with
 20 that, Mr. Dobiszewski?
 21 MR. DOBISZEWSKI: I do.
 22 That's pretty much all I have. If
 23 there's any questions, please.
 24 MR. SISS: Questions.
 25 CHAIRMAN ANDERSON: Dave?

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1 CHAIRMAN ANDERSON: You're referencing
 2 the last paragraph of his letter?
 3 MR. DOBISZEWSKI: No.
 4 On page 2 of mine.
 5 CHAIRMAN ANDERSON: Oh, yours.
 6 MR. DOBISZEWSKI: Yes, sir. Yes.
 7 It says, "I concur with the findings;
 8 however." I'm asking him to clarify the last
 9 paragraph in that section under the Projected Trip
 10 Generations.
 11 MR. SISS: As long as you just
 12 referenced your letter, why don't we just mark that
 13 as an exhibit.
 14 It's June 9th, 2023 correspondence.
 15 We'll mark that PB-1. That's the report you're
 16 referring to, sir?
 17 MR. DOBISZEWSKI: Yes, it is.
 18 (Whereupon, Report of Frank
 19 Dobiszewski, P.E., Boswell Engineering, Dated
 20 June 9, 2023 is marked as Exhibit PB-1 for
 21 identification.)
 22 MR. DEAN: If you could just direct me
 23 to which paragraph in my report?
 24 MR. DOBISZEWSKI: Yeah.
 25 It's under Trip Generation, the last

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1 MR. NOVAK: I just have one question of
 2 either traffic engineer. And for the record, this is
 3 David Novak with Burgis Associates, the board
 4 planning professional.
 5 Is there a difference in traffic
 6 generation between a quick-service restaurant and a
 7 quick-service restaurant with a drive-through?
 8 MR. DOBISZEWSKI: Yes.
 9 MR. DEAN: There is.
 10 And ironically, I will say, as we look
 11 at the ITE data per square foot, a quick-service
 12 restaurant without a drive-through window generates
 13 more traffic than one with a drive-through window.
 14 MR. NOVAK: Okay, that's all I had.
 15 Thank you.
 16 CHAIRMAN ANDERSON: It's
 17 counter-intuitive. All right.
 18 If no board members have questions, we
 19 need to open to the public for questions first of
 20 Mr. Dean.
 21 Motion? I need a motion.
 22 MR. CAPALBO: So moved.
 23 VICE CHAIRMAN PAPAPIETRO: Second.
 24 MS. HARMON: Mr. Zuidema?
 25 MR. ZUIDEMA: Yes.

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1 MS. HARMON: Mr. Papapietro?
 2 VICE CHAIRMAN PAPAPIETRO: Yes.
 3 MS. HARMON: Mr. Placier?
 4 MR. PLACIER: Yes.
 5 MS. HARMON: Mr. Barlow?
 6 MR. BARLOW: Yes.
 7 MS. HARMON: Mr. Eliya?
 8 MR. ELIYA: Yes.
 9 MS. HARMON: Mr. Capalbo?
 10 MR. CAPALBO: Yes.
 11 MS. HARMON: Mr. Anderson?
 12 CHAIRMAN ANDERSON: Yes. All right.
 13 Anybody in the public who has any
 14 questions for Mr. Dean?
 15 MS. RIZZUTO: I do.
 16 But can I just take a quick bathroom
 17 break?
 18 CHAIRMAN ANDERSON: Okay. I don't know
 19 how I can say no to that.
 20 MS. RIZZUTO: I'm sorry.
 21 Is it up here?
 22 CHAIRMAN ANDERSON: Yeah. It's right
 23 here.
 24 MS. RIZZUTO: Okay, thank you.
 25 (Whereupon, a brief recess is taken.)

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1 MR. WHITAKER: The size of the truck.
 2 MS. RIZZUTO: The truck and also this
 3 gentleman's questions as well.
 4 CHAIRMAN ANDERSON: That's what it was.
 5 MR. DEAN: It was about the trucks and
 6 delivery, and the route that they would follow, and
 7 how they would circulate on the site.
 8 BY MS. RIZZUTO:
 9 Q. Right. The geometry.
 10 A. Yes.
 11 Q. So are you anticipating coming back
 12 here?
 13 MR. WHITAKER: We will have that
 14 information supplied, but we're not going to have him
 15 testifying again.
 16 MS. RIZZUTO: I see.
 17 So it's not going to be subject to
 18 cross-examination?
 19 MR. SISS: I assume your engineer will
 20 testify.
 21 MR. WHITAKER: I was just going to say,
 22 we'll have Mr. Missey here for that.
 23 MS. RIZZUTO: Okay. Just a few
 24 questions.
 25 And forgive me, I'm not a traffic

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1 CHAIRMAN ANDERSON: Does anybody in the
 2 public -- did you have questions?
 3 MS. RIZZUTO: Yes, I do.
 4 CHAIRMAN ANDERSON: Okay.
 5 MS. RIZZUTO: And my first question is
 6 --
 7 MR. SISS: Just state your name.
 8 MS. RIZZUTO: Oh, I'm sorry.
 9 Again, Anne Marie Rizzuto of Weiner Law
 10 Group on behalf of the objector, Burger Barn, which
 11 operates as the Burger King.
 12 Thank you.
 13 CROSS-EXAMINATION
 14 BY MS. RIZZUTO:
 15 Q. I guess my first question too is, am I
 16 to understand from your testimony that you are going
 17 to do some additional work and studies and come back
 18 to testify again?
 19 CHAIRMAN ANDERSON: About what?
 20 What do you think you he is going to
 21 again?
 22 MS. RIZZUTO: He indicated that he's
 23 going to work with the engineer and the operator and
 24 provide additional information.
 25 CHAIRMAN ANDERSON: About the truck.

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1 expert. I usually rely upon them for my boards and
 2 my applicants.
 3 BY MS. RIZZUTO:
 4 Q. So one of the first questions I wanted
 5 to ask you, however, was about the distance between
 6 -- I'm just going to use A-6, which all of you board
 7 members already have. It's a color version.
 8 So looking at A-6, this is strictly the
 9 site where the Taco Bell is being proposed, not the
 10 entirety of the site.
 11 My question is to you is, what is the
 12 distance from the corner of Godwin and Rea up to the
 13 first intersection of the driveway; what is the
 14 distance?
 15 A. I do not know that.
 16 MR. MISSEY: Do you need this?
 17 MR. DEAN: I have one.
 18 CHAIRMAN ANDERSON: Is there some
 19 significance to that? Why do you want to know that?
 20 I'm just curious.
 21 MS. RIZZUTO: Because I have a series
 22 of questions to ask him about the surrounding
 23 streets.
 24 MR. DEAN: I'm not exactly sure what
 25 distance, but from the painted stop bar on Rea to the

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- 1 nose of the island for the exit is 140 feet
 2 (indicating).
 3 BY MS. RIZZUTO:
 4 Q. Is that an island, or is that a painted
 5 stripe?
 6 A. That's an island.
 7 Q. Okay. It's 120 feet?
 8 A. Correct.
 9 Q. So how many --
 10 A. It's 140.
 11 Q. How many cars could be parked at the
 12 stop sign waiting to go out to Godwin before they
 13 come to the first exit out of the site?
 14 A. Roughly six.
 15 Q. Six cars?
 16 A. Yes.
 17 Q. Stopped at the stop sign?
 18 A. Yes.
 19 Q. Okay.
 20 Did you do counts on Rea?
 21 A. No.
 22 Q. Is there a reason why you didn't do
 23 counts on Rea?
 24 A. Yes.
 25 As I've explained, we're looking at a

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- 1 to this site?
 2 A. That is correct.
 3 Q. On the other side -- on the other side
 4 of Godwin, correct?
 5 A. Right.
 6 Q. Okay. You indicate that the turning
 7 onto Rea and off of Rea is limited in different ways.
 8 A. Correct.
 9 Q. So if a tractor trailer did, in fact,
 10 come down Rea, make -- say, make a right turn off of
 11 Godwin down Rea and found themselves unable to enter
 12 at Rea, they would continue up Rea Avenue?
 13 A. As would any vehicle.
 14 Q. Okay. But I'm not asking about any
 15 other vehicle. I'm asking about a tractor trailer --
 16 A. Sure.
 17 Q. -- that can't make the turn into --
 18 into the site.
 19 A. We were going to look at that template.
 20 That is part of the information that we will provide.
 21 Q. I understand.
 22 So let's assume that they can't make
 23 that turn safely into the site. They would then
 24 traverse up the street of Rea in that residential
 25 neighborhood?

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- 1 change in use from a former commercial use, that was
 2 the bank, and I compared the traffic generation
 3 differences between the proposed Taco Bell and the
 4 bank.
 5 And so this is not a study of the
 6 entire center, points of ingress and egress and how
 7 much traffic is going to CVS. It is what is swapping
 8 out a drive-through bank for a drive-through
 9 restaurant do in terms of traffic.
 10 Q. Yes, I understand. So you did no
 11 counts for Rea.
 12 Did you do any counts on Erie Avenue
 13 with respect to traffic?
 14 A. I did not.
 15 Q. Did you do any counts at all on Godwin
 16 with respect to traffic?
 17 A. I didn't do those counts. I had the
 18 information because, as I indicated, we filmed the
 19 perspective of looking over the top of the Wendy's
 20 and its drive-through stacking. But we didn't
 21 tabulate that data.
 22 Q. And you didn't do a drone drive-over
 23 for a Taco Bell either, correct?
 24 A. No.
 25 Q. You only did one for the Wendy's nearby

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- 1 A. Correct.
 2 Q. Okay. And are you aware that there are
 3 limitations for the other entrance/exits on Erie
 4 Avenue, even as depicted on Exhibit A-9?
 5 A. Yes.
 6 Q. There are limited ability to turn in
 7 and turn out there as well?
 8 A. There are restrictions to go --
 9 Q. On both of them?
 10 A. Yes.
 11 Q. So then the only -- is it true that
 12 there's a limited entranceway -- entrance and exit on
 13 Godwin?
 14 A. There is no limitation on the entrance.
 15 There is a restriction so people do not make a left.
 16 Q. Okay. So a tractor trailer could go in
 17 from Godwin on either the westbound or the eastbound
 18 traffic?
 19 A. Correct.
 20 Q. So they could come into Godwin into
 21 that one lane going through, okay.
 22 Are you aware that there is -- that
 23 this is open at the site? Are you sure that that is
 24 open?
 25 A. When you say "this" --

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1 Q. All right.
 2 So, for the record, that's a bad
 3 question.
 4 Behind the Taco Bell, at the back of
 5 the Taco Bell is a parking lot that you have referred
 6 to numerous times as people being able to circle
 7 around it.
 8 A. Yes.
 9 Q. Is it in fact open, or is it blocked by
 10 materials?
 11 A. Well, it may be temporarily blocked
 12 during the construction. I don't know specifically.
 13 Q. Okay.
 14 A. I'm looking at the approved site plan
 15 that calls for it to remain open.
 16 Q. This is the site plan. Do you mean
 17 you're looking at this site plan?
 18 A. Correct.
 19 Q. So, for the record, we're talking about
 20 the parking lot that has spaces 78 through 122
 21 depicted on Sheet 1 of 3, dated 4-24.
 22 All right. So if this area was blocked
 23 in some way, would that limit the ability of cars or
 24 tractor trailers making a traverse around that
 25 parking lot?

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1 A. It is a drive aisle that leads to Rea.
 2 Q. It's the only drive aisle in this
 3 section coming from Rea to the site, right?
 4 A. Correct.
 5 Q. There's no other way for people who are
 6 parked here to avoid that drive aisle?
 7 A. Correct.
 8 Q. Does that present a safety concern for
 9 the potential queuing of more than 11 cars?
 10 A. I think we've beat up the queuing a
 11 lot. I'm comfortable with 11. It's 50 percent more
 12 than this use requires.
 13 Q. I'm sorry, you said seven required?
 14 A. Yes.
 15 Q. And 50 percent is what, 14?
 16 A. Three-and-a-half, so it's 11.
 17 Q. Okay.
 18 A. So that access aisle, in my opinion,
 19 based on the nature of the use, will remain free and
 20 open. The QSR data -- thank you for sharing that --
 21 buttresses that testimony.
 22 But forget about the application. Just
 23 leave it alone. The bank was there. Those same
 24 parking spaces backed in and out presumably for
 25 decades.

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1 A. It would, yes.
 2 Q. And are you going to look at geometry
 3 to see -- let's assume it's not closed off there.
 4 Will you look at the geometry of a
 5 tractor trailer being able to traverse through that
 6 parking lot?
 7 A. Yes.
 8 Q. Okay. These spaces 111 through 122,
 9 they back up into the main drive aisle of this
 10 parking lot, correct?
 11 A. They back into an aisle, which is how
 12 parking spaces are accessible, yes.
 13 Q. Right. So there's an eastbound lane
 14 and a westbound lane; that's the main traffic aisle
 15 in this section of the...
 16 A. I'm not going to qualify it as main.
 17 It is an aisle that leads --
 18 Q. You qualified it as main in your
 19 earlier testimony, sir.
 20 A. It's an access aisle that leads to Rea.
 21 There is an access aisle that leads to Godwin. And
 22 there are two access aisles that lead to Erie.
 23 Q. Okay. So these 12 spaces can both pull
 24 in and pull out into the area where -- where there is
 25 the main drive aisle?

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1 Q. And you gave us some numbers about the
 2 difference between a proposed QSR. I'm sorry. Your
 3 report only -- does not give us the numbers for Taco
 4 Bell, correct?
 5 A. It does.
 6 Table 1, page 4, shows Taco Bell with
 7 drive-through, and it shows each of the trip
 8 generation projections for four different peak hours.
 9 Q. Yes.
 10 And during your testimony, you said
 11 this is not based upon Taco Bell, this is based upon
 12 the drive-through QSR?
 13 A. Correct.
 14 Q. So you didn't base it upon the numbers
 15 only from Taco Bell, you based it upon QSR numbers,
 16 correct?
 17 A. I based it on the ITE data for --
 18 Q. QSR?
 19 A. -- a fast-food restaurant with
 20 drive-through.
 21 I forget the land use code but...
 22 MR. NOVAK: 9377.
 23 MR. DEAN: Thank you.
 24 So, yes, it is what would be expected
 25 for a fast-food restaurant.

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1 BY MS. RIZZUTO:

2 Q. Other than the handicap space -- other
3 than the handicap space, which is located -- where is
4 the handicap space located?

5 A. It is directly north of the proposed
6 Taco Bell building.

7 Q. And so that is a space that is not
8 across the double drive aisle to that parking lot?
9 That is -- the handicap space is right next to the
10 proposed building?

11 A. It is the closest space that would
12 allow a disabled individual to proceed directly into
13 the building without crossing any aisles.

14 Q. Right.

15 So all the other parkers -- people that
16 are going to park, instead of getting in the queue,
17 will have to park back here and traverse across the
18 double lane drive aisle, correct? The people who
19 park back here in the parking lot will have to cross
20 over the drive aisle to get into --

21 A. Yes.

22 Q. -- Taco Bell?

23 A. Yes, that's correct.

24 Q. And, in fact, in the main proper area
25 where Taco Bell is actually located, they have

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1 A. It meets the ADA standards for
2 barrier-free code. And it is van accessible, by my
3 understanding of it. It's 8-foot wide with an 8-foot
4 landing next to it.

5 Q. Okay. How wide is the drive-through?

6 A. The drive-through lane is 12 feet.

7 Q. And so there will only be one
8 drive-through lane, correct?

9 A. Correct.

10 Q. There is no bypass lane?

11 A. Correct.

12 Q. Isn't that standard in QSR industry?

13 A. It is not.

14 Q. It is not standard?

15 A. Not at all.

16 I've designed sites without bypass
17 lanes. The entire center is a bypass. So in the
18 scenario where it's the 11th vehicle, a bypass lane
19 is often used, for example, at Wendy's to drive
20 around the back of the building and bypass the queue.

21 In this instance, the customer just recirculates
22 within the parking lot.

23 Q. I understand.

24 But once the customer goes in into the
25 drive-through, they cannot get out of it, correct?

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1 absolutely zero parking, they only have one handicap
2 space?

3 A. Correct.

4 Q. Where are the Uber drivers going to
5 park?

6 A. In any available parking space.

7 Q. In the back?

8 A. Any available parking space.

9 Q. Okay. So you do see available parking
10 spaces in the parking lot?

11 A. I see 12 closest to the building. I
12 see 12 in the next aisle from the building.

13 And I see, I think it's 15 in the
14 northernmost row at the property boundary. And then
15 there's another six spaces fronting on Rea.

16 Q. Right, I see that. Okay. And all of
17 which lead to people walking across the two lanes of
18 drive aisle into the Taco Bell, correct?

19 A. Yes.

20 Q. It's just yes or no. They have to
21 cross over.

22 Besides the handicap space -- is the
23 handicap space provided with all of the requirements
24 necessary surrounding it as far as space is
25 concerned, or did you not look at that?

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1 A. That is correct, yes.

2 Q. Okay. And so the Wendy's that you
3 looked at has a bypass lane where people can drive
4 past the drive-through and get out, correct?

5 A. Correct.

6 Q. And the Burger King also has a second
7 drive-through lane where the people can bypass,
8 correct?

9 A. I haven't looked at Burger King, but
10 perhaps.

11 Q. Okay. And the Dunkin' Donuts down the
12 street, that also has a bypass lane?

13 A. I have not looked at that.

14 Q. Starbucks?

15 A. I have not looked at that. I do not
16 know.

17 Q. Do you consider that a safety problem
18 that no cars can get past the drive-through lane in
19 an emergency?

20 A. Not at all.

21 Q. Okay.

22 So if an emergency was happening in my
23 car with one of my kids and I was in the
24 drive-through, what would I do?

25 A. You would wait to leave. You would

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1 back up to leave.
 2 Q. Back up?
 3 A. Correct.
 4 Q. In the queue?
 5 A. You would wait to leave the queue,
 6 correct.
 7 Q. Okay.
 8 So I would have to wait for ten other
 9 cars to get through --
 10 A. Correct.
 11 Q. -- before I could take care of my kid
 12 screaming in the back. No bypass. Not standard in
 13 the industry?
 14 A. It is not.
 15 MR. WHITAKER: Asked and answered.
 16 Let's move on.
 17 MS. RIZZUTO: Yes, I understand.
 18 By the way, Mr. Chair, I did want to
 19 note for the record that Mr. Whitaker was giving a
 20 substantial statement to the board as if he was a
 21 witness.
 22 And I was wondering if I will get an
 23 opportunity to cross-examination him or just note my
 24 objection for the record on that point.
 25 MR. WHITAKER: You should have raised a
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1 question at the time I made a statement. The
 2 statement I made was an introduction of what the
 3 proffer would be of the witness.
 4 MS. RIZZUTO: Yes.
 5 I did not want to interrupt you.
 6 MR. WHITAKER: You can always interrupt
 7 me.
 8 But you lost the opportunity.
 9 CHAIRMAN ANDERSON: Excuse me.
 10 At the end of the application, if you
 11 choose to make a closing argument, we'll listen to
 12 you.
 13 MS. RIZZUTO: Okay. Yes, that's what
 14 it sounded like, a closing argument.
 15 All right. Thank you, Mr. Chairman.
 16 Okay, I think I'm almost done.
 17 BY MS. RIZZUTO:
 18 Q. Is there any traffic counts in your
 19 report?
 20 A. There are no counts in my report.
 21 Q. So you did not do any counts
 22 whatsoever, you merely relied on --
 23 MR. WHITAKER: Objection.
 24 This has been asked and answered three
 25 times.
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1 MS. RIZZUTO: Excuse me. I didn't even
 2 ask a question. He interrupted me.
 3 And I didn't ask it three times.
 4 BY MS. RIZZUTO:
 5 Q. You have no traffic counts whatsoever
 6 for the site other than the reliance upon the ITE,
 7 correct?
 8 A. Correct.
 9 Q. And why didn't you do the traffic --
 10 oh, I did ask you about the traffic.
 11 MR. WHITAKER: You did.
 12 MS. RIZZUTO: I understand.
 13 BY MS. RIZZUTO:
 14 Q. People who order on the app and pay on
 15 the app, they only have to run in and get their --
 16 pick up their food, is that how it works?
 17 A. Correct.
 18 It's preordered, prepaid, merely just
 19 needs to be picked up.
 20 Q. Okay. And do the Uber Eats people also
 21 prepay and they only have to pick up?
 22 A. I candidly am unfamiliar with that
 23 system.
 24 But if it's like the rest, it is also
 25 preordered and prepaid, and it is waiting.
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1 Instead of the customer picking it up,
 2 it is a contracted driver who picks it up.
 3 Q. Will there be designated spaces for
 4 Uber Eats, DoorDash and online use?
 5 A. No. They will park in a spot, wherever
 6 there's an empty spot. I think we covered that as
 7 well.
 8 Q. Okay. With respect to the garbage
 9 recycling, or garbage center, or trash enclosure, or
 10 whatever, if you are saying the -- I'm sorry.
 11 The tractor trailer, you're providing a
 12 space that's 12-by-14, but you also indicate that the
 13 tractor trailer size is depicted in a broken line,
 14 correct, on Sheet 1 of 3 on A-9?
 15 A. I am trying to interpret Mr. Missey's
 16 drawing, and I don't think he's here.
 17 So there are two areas depicted. I
 18 don't understand the distinction, quite frankly.
 19 So I'm going to have to ask you to ask
 20 that question of Andy.
 21 I see a 40-foot-long dashed area. And
 22 I see a secondary area that is 31- or 32-foot long.
 23 I don't know what the difference is.
 24 Q. When you say you see a second area,
 25 you're talking about --
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1 A. There are two rectangles shown. I
 2 don't know what the difference is.
 3 MR. MISSEY: I'm here, Bruce, if that
 4 would help.
 5 MR. WHITAKER: Later.
 6 MS. RIZZUTO: Okay, thank you, yes.
 7 BY MS. RIZZUTO:
 8 Q. How long is the standard tractor
 9 trailer?
 10 A. The trailer, if it's the largest one
 11 allowed in the state, could be as long as 53 feet
 12 plus the length of the tractor.
 13 So they wind up being somewhere on the
 14 order of 65-foot long.
 15 Q. Does the width change?
 16 A. No.
 17 Q. This is 12-foot?
 18 A. No.
 19 Q. Do we know what the level of service is
 20 on the county road, Godwin?
 21 A. We do not, or I do not.
 22 CHAIRMAN ANDERSON: Are you through,
 23 Ms. Rizzuto?
 24 MS. RIZZUTO: Yes, I am. I just was
 25 looking at my notes, making sure.

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1 A. I do not.
 2 Q. In connection with not doing traffic
 3 counts, you delineated that in your report, but just
 4 to go over it again. Restaurant uses are permitted
 5 in this zone?
 6 A. Yes.
 7 Q. Correct?
 8 A. Yes.
 9 Q. And you did not do the traffic counts,
 10 as you stated in your report, because in essence
 11 there is -- the ordinance contemplates a restaurant
 12 use on this site?
 13 A. Number one.
 14 And number two, there's not a material
 15 difference between at -- the critical peak hours a.m.
 16 and p.m. are rush hours.
 17 There's no material difference between
 18 the bank, the former bank, and the proposed Taco
 19 Bell.
 20 Q. And both the bank as well as a
 21 restaurant use are permitted uses in the zone?
 22 A. Correct.
 23 Q. And a restaurant use actually
 24 generates, as we understand and learned tonight, more
 25 traffic than one with the drive-through?

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1 Thank you very much.
 2 CHAIRMAN ANDERSON: Okay. Does anybody
 3 else in the public have any questions for either
 4 witness?
 5 MR. WHITAKER: I have a couple of
 6 redirect based on that.
 7 CHAIRMAN ANDERSON: Go ahead.
 8 MR. WHITAKER: Not to keep the board
 9 late.
 10 REDIRECT EXAMINATION
 11 BY MR. WHITAKER:
 12 Q. Mr. Dean, the parking areas that are
 13 shown on this site plan are not being modified in any
 14 manner whatsoever by this applicant, correct?
 15 A. Correct.
 16 Q. Is it correct from a traffic aspect
 17 that people park in parking spaces in a shopping
 18 center and they walk across aisles?
 19 A. Shopping centers, office buildings, the
 20 Municipal Building.
 21 Q. So here tonight I had to get out of my
 22 car and I walked across the aisle?
 23 A. Correct.
 24 Q. Do you consider that to be a safety
 25 problem?

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1 A. Let me just say in response to the
 2 question, the data, the ITE data that has been
 3 collected, like Mr. Novak asked the question,
 4 indicates that a drive-through -- excuse me -- a
 5 quick-service fast-food restaurant without a
 6 drive-through generates more traffic, same building
 7 size, than one that has a drive-through.
 8 I can only tell you what the data
 9 shows. I can't tell you why that is. It does seem
 10 counter-intuitive, but... and I know Frank answered
 11 the exact same way.
 12 So in terms of your ordinance, traffic
 13 generation, and at least from what the data supports,
 14 if we had proposed a Taco Bell without a
 15 drive-through, it would generate more traffic than
 16 this application.
 17 Q. In connection with the question asked
 18 about a tractor trailer going up Rea Avenue, so if it
 19 goes up and it couldn't make the left, you have
 20 testified it would go further up the road, correct?
 21 A. Well, that was the hypothetical posed
 22 by Counsel.
 23 Q. If there was a traffic limitation on
 24 the roads, it would be violated?
 25 A. He would be violating that because he

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1 doesn't have a delivery on that street.
 2 Q. And that tractor trailer going up Rea
 3 Avenue could be servicing one of the other uses in
 4 the retail shopping center like a CVS also?
 5 A. It could.
 6 It could also be delivering a load of
 7 Sheetrock to a resident that, you know, is undergoing
 8 a renovation. There is a 4-ton weight limit
 9 restriction on Rea Avenue to prevent truck traffic.
 10 Now, if there is a carveout in the
 11 Motor Vehicle Code that says even though those truck
 12 prohibitions exist, if someone is delivering to a
 13 resident or to a business on that street on that,
 14 they're exempt.
 15 Otherwise, people could never move
 16 out of their house. So that's why there is that
 17 code.
 18 We are going to evaluate in response to
 19 -- it's very tight. I drove it. I understand.
 20 Trucks are often driving over islands. I'm not
 21 saying it's correct or proper.
 22 But I want to look at that turning
 23 template. And we will provide you with the specific
 24 routing information that will be provided to the
 25 delivery drivers how to come into the site.

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1 MR. WHITAKER: But not tacos. Okay.
 2 With that said, I have no further
 3 questions, Mr. Chairman.
 4 That concludes our presentation this
 5 evening.
 6 CHAIRMAN ANDERSON: Anybody else?
 7 (No response.)
 8 CHAIRMAN ANDERSON: Did I already ask
 9 that?
 10 So I need to a motion to close to the
 11 public.
 12 VICE CHAIRMAN PAPAPIETRO: Motion to
 13 close.
 14 MR. BARLOW: Second.
 15 MS. HARMON: Mr. Zuidema?
 16 MR. ZUIDEMA: Yes.
 17 MS. HARMON: Mr. Papapietro?
 18 VICE CHAIRMAN PAPAPIETRO: Yes.
 19 MS. HARMON: Mr. Placier?
 20 MR. PLACIER: Yes.
 21 MS. HARMON: Mr. Barlow?
 22 MR. BARLOW: Yes.
 23 MS. HARMON: Mr. Eliya?
 24 MR. ELIYA: Yes.
 25 MS. HARMON: Mr. Capalbo?

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1 MR. ZUIDEMA: Yeah.
 2 I, as a board member, I'm not even
 3 looking for that because you can't do it.
 4 MR. WHITAKER: And I'll remind the
 5 board, it's the operator's testimony at the first
 6 meeting -- and I know Ms. Rizzuto was not here -- but
 7 the operator testified that the truck driver that
 8 comes there is the regular driver and will have a
 9 regular route.
 10 MR. ZUIDEMA: Yeah.
 11 You have the job for three months, then
 12 your regular driver six months down the road is a
 13 different driver.
 14 MR. WHITAKER: But they get to have a
 15 route. We know that.
 16 MR. ZUIDEMA: Yeah, no, they don't have
 17 a routine.
 18 MR. WHITAKER: So in any event --
 19 MR. ZUIDEMA: I know that for a fact
 20 because when they come to my shop, there's a
 21 different guy every single time.
 22 MR. WHITAKER: Well, your shop's a
 23 little different.
 24 MR. ZUIDEMA: No, it's not. I get
 25 deliveries with tractor trailers.

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1 MR. CAPALBO: Yes.
 2 MS. HARMON: Mr. Anderson?
 3 CHAIRMAN ANDERSON: Yes.
 4 MR. WHITAKER: I would ask that the
 5 matter be carried without further notice to your
 6 August meeting.
 7 CHAIRMAN ANDERSON: Yes.
 8 MR. WHITAKER: August.
 9 CHAIRMAN ANDERSON: Whenever it is.
 10 MR. WHITAKER: I just want to put it on
 11 the record.
 12 MS. RIZZUTO: August 9th.
 13 MR. WHITAKER: The second 9th, yes.
 14 CHAIRMAN ANDERSON: Oh, yeah, I'm
 15 sorry. We need a motion. Motion to carry this
 16 without further notice?
 17 MR. BARLOW: I make a motion to carry
 18 it out to August 9th.
 19 CHAIRMAN ANDERSON: With no further
 20 notice.
 21 VICE CHAIRMAN PAPAPIETRO: I second
 22 that.
 23 MS. HARMON: Mr. Zuidema?
 24 MR. ZUIDEMA: Yes.
 25 MS. HARMON: Mr. Papapietro?

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1 VICE CHAIRMAN PAPAPIETRO: Yes.
 2 MS. HARMON: Mr. Placier?
 3 MR. PLACIER: Yes.
 4 MS. HARMON: Mr. Barlow?
 5 MR. BARLOW: Yes.
 6 MS. HARMON: Mr. Eliya?
 7 MR. ELIYA: Yes.
 8 MS. HARMON: Mr. Capalbo?
 9 MR. CAPALBO: Yes.
 10 MS. HARMON: Mr. Anderson?
 11 CHAIRMAN ANDERSON: Yes.
 12 MR. WHITAKER: Thank you very much.
 13 Have a good evening.
 14 (Whereupon, this matter is continuing
 15 at a future date. Time noted: 9:39 p.m.)
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1 C E R T I F I C A T E
 2
 3 I, RONDA L. REINSTEIN, a Certified Court
 4 Reporter of the State of New Jersey, authorized to
 5 administer oaths pursuant to R.S.41:2-2, do hereby
 6 certify that the foregoing is a true and accurate
 7 transcript of the testimony as taken stenographically
 8 by and before me at the time, place and on the date
 9 herein before set forth, to the best of my ability.
 10 I DO FURTHER CERTIFY that I am neither a
 11 relative nor employee nor attorney nor counsel of any
 12 of the parties to this action, and that I am neither
 13 a relative nor employee of such attorney or counsel,
 14 and that I am not financially interested in the
 15 action.
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 RONDA L. REINSTEIN, CCR No. 30X100217800

LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C.
201-641-1812

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