

<p style="text-align: right;">1</p> <p>1 CITY OF HACKENSACK ZONING BOARD OF ADJUSTMENT THURSDAY, APRIL 29, 2010 COMMENCING AT 7:15 P.M.</p> <p>3 IN THE MATTER OF: : TRANSCRIPT 4 Application V#23-08 SP# 21-08 : OF Address 320 Summit Avenue/ : PROCEEDINGS 5 329 Prospect Avenue : Block 344, Lots: 3,4,5,14 : 6 Zone R-75 & R-3 : Applicant requests to demolish : 7 the existing structures and : Construct a 19 story medical : 8 office building. :</p> <p>9 B E F O R E : 10 11 CITY OF HACKENSACK ZONING BOARD THERE BEING PRESENT:</p> <p>12 MICHAEL GUERRA, CHAIRMAN 13 GEORGE DIANA, MEMBER 14 FRANK RODRIGUEZ, MEMBER 15 HUMBERTO GOEZ, MEMBER 16 DAN GILMORE, ALTERNATE MEMBER 17 18 19 20 21 22 23 LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. CERTIFIED COURT REPORTERS P.O. BOX 505 24 SADDLE BROOK, NJ 07663 201-641-1812 25 201-664-6339 FAX laccsr2@aol.com</p> <p>LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</p>	<p style="text-align: right;">3</p> <p>1 I N D E X</p> <p>2 WITNESS SWORN PAGE</p> <p>3 ERIC L. KELLER, P.E., P.P. Cross Examination by Mr. Moskowitz: 10</p> <p>4</p> <p>5 FRANK MISKOVICH, P.E. 77 84 01:00 Questions by the Board 01:00 6</p> <p>7</p> <p>8 E X H I B I T S</p> <p>9 NO. DESCRIPTION ID EVID</p> <p>10 (NO EXHIBITS MARKED) 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p> <p>LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</p>
<p style="text-align: right;">2</p> <p>1 A L S O P R E S E N T : 2 3 MARCELLA SBARBARO, LAND USE SECRETARY 4 GREGORY POLYNIAC, P.E., NEGLIA ENGINEERING 5 FRANK MISKOVICH, P.E., BIRDSALL ENGINEERING 6 7 8 A P P E A R A N C E S : 9 THE LAW OFFICES OF RICHARD MALAGIERE, P.C. RICHARD MALAGIERE ESQUIRE 10 14 Bergen Street, 1st Floor Hackensack, New Jersey 07601 11 Counsel to the Board 201-261-1414 12 13 WINNE, BANTA, HETHERINGTON, BASRALIAN & KAHN, P.C. JOSEPH L. BASRALIAN, ESQ. 14 21 Main Street Court Plaza South 15 Hackensack, New Jersey 07601 Counsel to the Applicant 16 201-487-3800 17 18 McCARTER & ENGLISH, ESQS. THEODORE D. MOSKOWITZ, ESQ. 19 100 Mulberry Street Newark, New Jersey 07102 Counsel for Interested Party, Prospect Avenue 20 Coalition, LLC 973-639-2048 21 22 DIKTAS, SCHANDLER GILLEN, ESQS. CHRISTOS J. DIKTAS, ESQ. 23 596 Anderson Avenue Cliffside Park, New Jersey 07010 24 Counsel for Interested Party, Anastasia Burlyuk 201-943-8020 25</p> <p>LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</p>	<p style="text-align: right;">4</p> <p>00:06 1 CHAIRMAN GUERRA: I'll read in the 00:06 2 case. Application V# 23-08, SP# 21-08, address, 320 00:06 3 Summit Avenue, 329 Prospect Avenue, Hackensack, Block 00:06 4 344, Lot 3, 4, 5, 14, Zone R-75 and R-3 Bergen 00:07 5 Passaic Long Term Acute Care Hospital L.L.C. 00:07 6 Counsellor? 00:07 7 MR. BASRALIAN: Good evening, Mr. 00:07 8 Chairman. Joseph Basralian for the Applicant. 00:07 9 I have brought back Eric Keller our 00:07 10 traffic consultant for cross examination by Mr. 00:07 11 Moskowitz who asked that he be brought back for this 00:07 12 hearing. 00:07 13 So I think we -- then the next step in 00:07 14 the process. 00:07 15 Mr. Keller? 00:07 16 MR. DIKTAS: Mr. Chairman, point of 00:07 17 order? 00:07 18 CHAIRMAN GUERRA: Please. 00:07 19 MR. DIKTAS: Just a housekeeping. 00:07 20 MR. MALAGIERE: I just ask you to make 00:07 21 your appearance, Mr. Diktas? 00:07 22 MR. DIKTAS: Sure, Chris Diktas on 00:07 23 behalf of Anastasia Burlyuk. At the last hearing Mr. 00:07 24 Basralian indicated that there were to be site plans 00:07 25 delivered to all the Board Members because there</p> <p>LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</p>

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00:07 1 weren't enough that night.

00:07 2 Were those plans delivered to the Board

00:07 3 Member so that we can review the file during the

00:07 4 week, even though it's not applicable tonight for my

00:07 5 client's appearance, but it would be in the future.

00:08 6 CHAIRMAN GUERRA: Well, let's

00:08 7 specifically say what site plan and revision. Let's

00:08 8 make sure we're all looking at the same thing.

00:08 9 MR. MALAGIERE: Mr. Basralian, do you

00:08 10 want to respond?

00:08 11 MS. SBARBARO: Yes, they were.

00:08 12 MR. BASRALIAN: Yes, they were all

00:08 13 delivered. Marcella has the delivery date and the

00:08 14 number of plans that were provided to your office.

00:08 15 CHAIRMAN GUERRA: Can be make sure

00:08 16 we're looking at -- how do I know this is the right

00:08 17 one?

00:08 18 MR. BASRALIAN: The latest revision

00:08 19 date which has -- I'll pull Mr. Polyniak's report.

00:08 20 CHAIRMAN GUERRA: Do you have this?

00:08 21 MR. MALAGIERE: Let's let the --

00:08 22 CHAIRMAN GUERRA: That's what he's

00:08 23 talking about, right?

00:08 24 MR. GILMORE: Yes.

00:08 25 MR. BASRALIAN: Revised February 3rd,

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00:08 1 2010.

00:08 2 Is that the date you have?

00:08 3 MR. POLYNIAC: Correct.

00:08 4 MR. MALAGIERE: Mr. Basralian, what's

00:08 5 the latest revision date?

00:08 6 MR. BASRALIAN: Revision date

00:08 7 February 3, 2010.

00:08 8 MR. MALAGIERE: April what?

00:09 9 MR. BASRALIAN: Revised date

00:09 10 February 3rd, 2010.

00:09 11 CHAIRMAN GUERRA: Wait, oh, we're

00:09 12 looking at the survey, is that what you're talking

00:09 13 about?

00:09 14 MR. BASRALIAN: No, no, we're talking

00:09 15 about the site plan. The next page.

00:09 16 MR. POLYNIAC: February 3rd, we got it.

00:09 17 MR. BASRALIAN: February 3, 2010,

00:09 18 that's the plan.

00:09 19 MR. DIKTAS: Thank you.

00:09 20 MR. BASRALIAN: Those are the plans.

00:09 21 MR. MALAGIERE: Mr. Moskowitz, would

00:09 22 you like to make your appearance, sir?

00:09 23 MR. MOSKOWITZ: Yes. Thank you.

00:09 24 I have -- someone else has left some of

00:09 25 their papers here.

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00:09 1 Good evening, Chairman Guerra,

00:09 2 Counsellor Malagiere, Mr. Basralian. My name is Ted

00:09 3 Moskowitz. I'm a resident of 307 Prospect Avenue,

00:09 4 Hackensack, New Jersey. An attorney at law of the

00:10 5 State of New Jersey, work for McCarter & English law

00:10 6 firm headquartered in Newark, New Jersey.

00:10 7 MR. MALAGIERE: And who are you here on

00:10 8 behalf of, sir?

00:10 9 MR. MOSKOWITZ: I am here on behalf of

00:10 10 the Prospect Avenue Coalition an L.L.C. that was

00:10 11 formed on November 11th or 10th of the 2009 for the

00:10 12 purposes in the name opposing this present

00:10 13 application before the Board.

00:10 14 MR. MALAGIERE: I'm going to swear in

00:10 15 your witness again, I'm not going to re-qualify him

00:10 16 --

00:10 17 MR. BASRALIAN: Yes.

00:10 18 MR. MALAGIERE: -- but I'm going to

00:10 19 re-swear him.

00:10 20 MR. BASRALIAN: Point of order, though,

00:10 21 I would like a list of the persons who constitute the

00:10 22 coalition L.L.C. so I know who Mr. Moskowitz is

00:10 23 representing, because they do not have the right to

00:10 24 cross examine the witnesses, only he does on their

00:10 25 behalf.

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00:10 1 MR. MALAGIERE: Would you provide that

00:10 2 Mr. Moskowitz under separate letter?

00:10 3 MR. MOSKOWITZ: A list of the persons?

00:10 4 MR. MALAGIERE: Yes, for whom you

00:10 5 represent.

00:10 6 MR. MOSKOWITZ: I promise you I will

00:10 7 provide a response to Mr. Basralian's request.

00:11 8 MR. BASRALIAN: Well, I had requested

00:11 9 this on two separate occasions both in January and in

00:11 10 December and I still haven't had a response to it.

00:11 11 I think what Mr. Moskowitz is saying,

00:11 12 if I read his statement correctly, he will prepare a

00:11 13 response to my request for a list. But that doesn't

00:11 14 mean I will get the list of people he represents.

00:11 15 And I'd like to clarified.

00:11 16 MR. MALAGIERE: We'll see what Mr.

00:11 17 Moskowitz provides. I don't think the issue is

00:11 18 relevant now because this witness is only here for

00:11 19 Mr. Moskowitz to cross examine, so no one else is

00:11 20 going to ask him any questions.

00:11 21 Mr. Basralian, in my estimation, is

00:11 22 entitled to disclosure.

00:11 23 Mr. Moskowitz provide your submission,

00:11 24 and we'll deal with it next time we convene.

00:11 25 I'm going swear you in again, sir.

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00:11 1 MR. KELLER: Sure.
 00:11 2 MR. MALAGIERE: Just put your hand on
 00:11 3 the Bible.
 00:11 4 Do you swear the testimony you're about
 00:11 5 to give before this Board to be the truth, the whole
 00:11 6 truth and nothing but the truth, so help you God?
 00:11 7 MR. KELLER: I do.
 00:11 8 E R I C K E L L E R, P.E. P.P.
 00:11 9 54 Horsehill Road, Cedar Knolls, New Jersey,
 00:11 10 having been duly sworn, testifies as follows:
 00:11 11 MR. MALAGIERE: Would you please
 00:11 12 identify yourself for the record, indicate for the
 00:11 13 record the capacity in which you will offer
 00:11 14 testimony.
 00:11 15 MR. KELLER: Certainly, Eric Keller,
 00:12 16 Omland Engineering Associates traffic engineer.
 00:12 17 MR. MALAGIERE: Just for the record, Mr.
 00:12 18 Keller has testified at least one complete hearing
 00:12 19 before this --
 00:12 20 VICE CHAIRMAN DIMINNO: Three.
 00:12 21 MR. MALAGIERE: More. And he's
 00:12 22 currently here and sworn in again for cross
 00:12 23 examination.
 00:12 24 Mr. Moskowitz?
 00:12 25 MR. MOSKOWITZ: Thank you.

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00:12 1
 00:12 2 CROSS EXAMINATION
 00:12 3 BY MR. MOSKOWITZ.
 00:12 4 Q. Good evening, Mr. Keller.
 00:12 5 A. Good evening, Mr. Moskowitz.
 00:12 6 Q. With reference to Omland Engineering's
 00:12 7 engagement in these matters and the production of
 00:12 8 these reports of 9/28 and 11/23/09, when was Omland
 00:12 9 first retained by the LTACH to become their traffic
 00:12 10 and parking expert?
 00:12 11 A. May of last year.
 00:12 12 Q. In May.
 00:12 13 By whom were you -- were you the
 00:12 14 primary contact?
 00:12 15 A. No. My partner Stan Omland was the
 00:12 16 initial contact.
 00:12 17 Q. One of the principals of your firm?
 00:12 18 A. Yes.
 00:12 19 Q. And who are the other two principals?
 00:12 20 You're one also?
 00:12 21 A. I'm one also.
 00:12 22 Chuck Thomas who's testified here is
 00:13 23 another principal.
 00:13 24 And Bill Hamilton who has not testified
 00:13 25 is a fourth principal of the firm.

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00:13 1 Q. And from the initial point of the
 00:13 2 engagement, have you been the main contact at Omland?
 00:13 3 A. It's shared between myself and Mr.
 00:13 4 Thomas --
 00:13 5 Q. And who --
 00:13 6 A. -- depending on the area of the
 00:13 7 engagement.
 00:13 8 Q. During your retention or just prior to
 00:13 9 and as you were being retained, were you given an
 00:13 10 assignment or an engagement listing by the LTACH?
 00:13 11 A. I -- I don't understand your question,
 00:13 12 sir.
 00:13 13 Q. Well, how did you learn from them what
 00:13 14 they wanted you to do? Did they give you specific
 00:13 15 requests to what your duties would be?
 00:13 16 A. Yes. Yes, we did receive that.
 00:13 17 Q. Was that a written request?
 00:14 18 A. No, it was discussed in a meeting with
 00:14 19 the -- with Mr. Basralian and Mr. Pineles.
 00:14 20 Q. Has the nature of your assignment, and
 00:14 21 by "your" in this instance I'm speaking your personal
 00:14 22 areas, ever in writing?
 00:14 23 A. Yes.
 00:14 24 Q. And you were given a manifest or a list
 00:14 25 of what you were expected to do?

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00:14 1 A. No.
 00:14 2 They -- they described what they
 00:14 3 wanted. We wrote a proposal outlining what was our
 00:14 4 understanding of the request. And they accepted it.
 00:14 5 And that's what we based your engagement upon.
 00:14 6 Q. Have you ever produced your engagement
 00:14 7 paper?
 00:14 8 A. To this -- to the Zoning Board?
 00:14 9 Q. Yes.
 00:14 10 A. No.
 00:14 11 Q. Might I request that you produce that?
 00:14 12 A. I defer to the -- our attorney.
 00:14 13 MR. BASRALIAN: I object to that. It's
 00:14 14 an engagement letter between a client and an
 00:14 15 engineering firm outlining the fees, the services
 00:15 16 that would be provided.
 00:15 17 MR. NIX: Can't hear.
 00:15 18 AUDIENCE MEMBERS: What? Can't hear.
 00:15 19 Can't hear.
 00:15 20 MR. BASRALIAN: It's an engagement
 00:15 21 little between an engineer and a client as to the
 00:15 22 cost of the services that are going to be provided
 00:15 23 and at outline of the things that he would undertake
 00:15 24 as a traffic consultant.
 00:15 25 If your -- and I object to providing

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00:15 1 that as privileged, if you will as an engagement
 00:15 2 letter between an attorney and a client.
 00:15 3 MR. MOSKOWITZ: I would represent --
 00:15 4 MR. MALAGIERE: What's the -- just if
 00:15 5 you would, Mr. Moskowitz, without providing the
 00:15 6 strategy of your cross examination, of course, can
 00:15 7 you give us a proffer on that?
 00:15 8 MR. MOSKOWITZ: Yes.
 00:15 9 My proffer is that it's very difficult
 00:15 10 to tell exactly -- (cell phone rings) -- whose cell
 00:15 11 phone is ringing.
 00:15 12 MR. MALAGIERE: No, no, it's not mine.
 00:15 13 Thank you. Someone's was.
 00:15 14 MR. MOSKOWITZ: Yes. But I think it's
 00:15 15 important for the public and for the Board to
 00:15 16 understand the full nature and the scope and
 00:15 17 magnitude of Omland's work here because we can't
 00:16 18 forget that there was initially another traffic
 00:16 19 report. And although in form and the shape of the
 00:16 20 English and the writing, there is no question, but
 00:16 21 that the Omland report looks nicer and sounds nicer,
 00:16 22 excepting it utilizes just about all of the same
 00:16 23 material.
 00:16 24 And I think it would be important to
 00:16 25 know if Omland came in and basically was told do not
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00:16 1 restudy, do not create any new assumptions, use all
 00:16 2 the old data. We need something new, we'll tell you
 00:16 3 -- you tell us what you want and we'll let you know.
 00:16 4 So that's my proffer is to know exactly
 00:16 5 what work was to be done here. I will deal with some
 00:16 6 of that in my cross.
 00:16 7 MR. MALAGIERE: Let me just -- right.
 00:16 8 MR. MOSKOWITZ: But also, I might add,
 00:16 9 if there is no such privilege --
 00:16 10 MR. MALAGIERE: Yes, I would agree with
 00:16 11 that.
 00:16 12 MR. MOSKOWITZ: -- as Mr. Malagiere
 00:16 13 (sic) was suggesting.
 00:17 14 MR. MALAGIERE: Mr. Basralian.
 00:17 15 Why don't you just keep moving on with
 00:17 16 your cross examination ans we'll reserve on the
 00:17 17 request.
 00:17 18 MR. BASRALIAN: May I make a
 00:17 19 suggestion?
 00:17 20 MR. MALAGIERE: Yes.
 00:17 21 MR. BASRALIAN: Why doesn't he just ask
 00:17 22 Mr. --
 00:17 23 AUDIENCE MEMBER: Can't hear.
 00:17 24 MR. BASRALIAN: Why doesn't he just ask
 00:17 25 Mr. Keller if he was --
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00:17 1 MR. MALAGIERE: Well --
 00:17 2 MR. BASRALIAN: -- given instructions
 00:17 3 on a conclusion that he reach instead of going about
 00:17 4 the -- and wasting all this time --
 00:17 5 MR. MALAGIERE: Well, he's entitled --
 00:17 6 MR. BASRALIAN: -- I mean that's really
 00:17 7 interesting.
 00:17 8 MR. MALAGIERE: He's entitled to
 00:17 9 document, to challenge the witness.
 00:17 10 Why don't we reserve on the request and
 00:17 11 at the end of the cross examination, Mr. Chairman,
 00:17 12 we'll deal with the issues, one of them being that
 00:17 13 request for that document.
 00:17 14 I think it's easily dealt with if we
 00:17 15 could have the document redacted. And that's
 00:17 16 probably what I'm going to suggest to you, but we'll
 00:17 17 move forward.
 00:17 18 BY MR. MOSKOWITZ:
 00:17 19 Q. Mr. Keller, were you asked to prepare a
 00:17 20 budget for this project?
 00:17 21 A. **A budget for what part of it?**
 00:17 22 Q. The traffic and parking parts.
 00:17 23 Unless --
 00:17 24 A. **For our services?**
 00:17 25 Q. Yes. Unless I state otherwise you can
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00:17 1 assume I'm asking about the traffic and parking,
 00:17 2 essentially those matters about which you've
 00:17 3 testified previously?
 00:17 4 A. **We -- we gave them a -- a budget to**
 00:18 5 **produce the original traffic report and I believe we**
 00:18 6 **gave them a budget to prepare the revised traffic**
 00:18 7 **report when the program, the building program, was**
 00:18 8 **reduced.**
 00:18 9 Q. And that was a budget for fees and
 00:18 10 whatever expected outside services would be involved?
 00:18 11 A. **It was for our service to prepare the**
 00:18 12 **report.**
 00:18 13 Q. Did you propose taking a new traffic
 00:18 14 study?
 00:18 15 A. **You mean traffic counts?**
 00:18 16 Q. Yes.
 00:18 17 A. **Okay. We did not propose to redo the**
 00:18 18 **intersection traffic counts. We proposed -- because**
 00:18 19 **there had been some time since the counts were done**
 00:18 20 **to validate them by installing the machine counters,**
 00:18 21 **to tube counters on Summit Avenue and Prospect**
 00:18 22 **Avenue. So we did not redo the intersection counts**
 00:18 23 **because we felt that they were representative and**
 00:18 24 **reasonable to use. And we just validated them by**
 00:19 25 **using the tube counters.**
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00:19 **1** Q. You know that by know they're about two
 00:19 **2** years old?
 00:19 **3** A. Yes.
 00:19 **4** I also know that Mr. Miskovich did
 00:19 **5** counts and his were equal to or lower than the counts
 00:19 **6** from 2008, which I think bears out the fact that the
 00:19 **7** counts used in our study are representative and
 00:19 **8** appropriate.
 00:19 **9** Q. Did you review the Boswell report?
 00:19 **10** A. Yes, I did.
 00:19 **11** Q. Did you speak with Mr. Tombalakian
 00:19 **12** about it?
 00:19 **13** A. I did.
 00:19 **14** Q. Did you have meetings with him?
 00:19 **15** A. I believe I did.
 00:19 **16** Q. How many times did you meet with him?
 00:19 **17** A. I don't remember.
 00:19 **18** Q. Was is five --
 00:19 **19** A. I don't remember it's -- it's been
 00:19 **20** almost a year since we were engaged.
 00:19 **21** Q. Did you meet with Mr. Pineles with
 00:19 **22** respect to your review of the Boswell report?
 00:19 **23** A. Yes, a number of times.
 00:19 **24** Q. When you spoke to Mr. Tombalakian and
 00:20 **25** you looked the assumptions as contained in his
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00:20 **1** report, you do recall that there was some 20, 22
 00:20 **2** assumptions identified in his report, correct?
 00:20 **3** A. I -- I don't recall. My conversations
 00:20 **4** with Mr. Tombalakian were to gather information, the
 00:20 **5** basis -- the base data that he used in preparing the
 00:20 **6** reports, so that I had a complete package of
 00:20 **7** information from him.
 00:20 **8** I did not discuss the conclusions of
 00:20 **9** his report, the findings for the report, what he did.
 00:20 **10** In discussions with Mr. Pineles,
 00:20 **11** essentially, what we did is, because I have to sign
 00:20 **12** this, it's my name on this report, I went through the
 00:20 **13** -- the report and, essentially, redid it to my
 00:20 **14** satisfaction, so that I could stand here for the
 00:20 **15** fourth night and testify as to the contents of that
 00:21 **16** report.
 00:21 **17** Q. Well, I don't know how many nights you
 00:21 **18** testified has to do with anything.
 00:21 **19** But my question was, did you review the
 00:21 **20** assumptions contained in the Boswell report with Mr.
 00:21 **21** Tombalakian, about 20 or so assumptions?
 00:21 **22** A. I -- I don't believe that I sat down
 00:21 **23** and went through each page of his report.
 00:21 **24** Q. Do you --
 00:21 **25** A. I don't know.
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00:21 **1** Q. Is that a no or you don't know or you
 00:21 **2** may have forgotten?
 00:21 **3** A. I don't know.
 00:21 **4** Q. You did know enough to incorporate all
 00:21 **5** 22 of them in your report?
 00:21 **6** A. I don't know that there's 22 in there.
 00:21 **7** Q. Well, I counted them.
 00:21 **8** A. Okay.
 00:21 **9** Q. And after the meeting, if you'd like a
 00:21 **10** copy of those pages, I'll let you count them.
 00:21 **11** A. Okay.
 00:21 **12** Q. And if there were 19 of them instead of
 00:21 **13** 22, how would that change the answer to my question?
 00:21 **14** A. It wouldn't.
 00:21 **15** Q. Well, you incorporated those
 00:21 **16** assumptions in your report, correct?
 00:21 **17** A. I know I --
 00:21 **18** Q. Would you like a copy of your report?
 00:22 **19** A. I have a copy.
 00:22 **20** Q. Well, take a look.
 00:22 **21** A. What I'm saying is I don't remember how
 00:22 **22** many assumptions there are; what the assumptions are.
 00:22 **23** And if you want to be more specific about the -- what
 00:22 **24** those assumptions are and what relevance that has to
 00:22 **25** my report, I'd be happy to answer it --
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00:22 **1** Q. Well -- -
 00:22 **2** A. -- but I can't answer in general
 00:22 **3** whether I took all of his assumptions and used them
 00:22 **4** in the same manner.
 00:22 **5** Q. Did you ever question him about any of
 00:22 **6** his assumptions?
 00:22 **7** A. No.
 00:22 **8** I discussed -- I reviewed the materials
 00:22 **9** he gave me and then discussed with Mr. Pineles the
 00:22 **10** operations of his facility and asked the questions
 00:22 **11** that I needed to produce this report. I did not
 00:22 **12** review it with Mr. --
 00:22 **13** MR. MOSKOWITZ: Might I ask the
 00:22 **14** reporter to read my question back?
 00:22 **15** (Whereupon, the Court Reporter reads
 00:22 **16** back the requested portion.)
 00:23 **17** A. No, not that I recall.
 00:23 **18** Q. Did you ever question Mr. Pineles about
 00:23 **19** the basis of Mr. Tombalakian's assumptions?
 00:23 **20** A. No.
 00:23 **21** Q. Did you every test the factual nature
 00:23 **22** of any of those assumptions?
 00:23 **23** A. I don't understand the question.
 00:23 **24** Q. Well, if there's an assumption that
 00:23 **25** says there will be one visitor every two days and you
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00:23 1 read it and you include that in your report, does
 00:23 2 that mean that you took the least trouble to check
 00:23 3 whether or not that assumption was correct?
 00:23 4 **A. No. In that case now that you used a**
 00:23 5 **specific example we discussed that with Mr. Pineles**
 00:23 6 **about the functions and type of operation that exist**
 00:24 7 **with this type of facility. Because there is no**
 00:24 8 **industry documentation about these types of**
 00:24 9 **facilities in the traffic engineering references**
 00:24 10 **world.**
 00:24 11 MR. MOSKOWITZ: I apologize, but I'd
 00:24 12 like the reporter to read that question back.
 00:24 13 MR. NIX: I couldn't hear what he said.
 00:24 14 I couldn't hear what you said.
 00:24 15 MR. MOSKOWITZ: What I said.
 00:24 16 MR. NIX: Apologize?
 00:24 17 MR. MOSKOWITZ: I apologized to the
 00:24 18 reporter, because I wanted her to read my question
 00:24 19 again for Mr. Keller.
 00:24 20 (Whereupon the Court Reporter reads
 00:24 21 back the requested portion.)
 00:25 22 **Q.** Would you answer the question?
 00:25 23 **A. Oh, I -- I'm sorry. Now I'm going to**
 00:25 24 **ask you to read it back because I didn't realize he**
 00:25 25 **wanted me to respond in a different way than I have**
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00:25 1 **already responded.**
 00:25 2 (Whereupon the Court Reporter reads
 00:25 3 back the requested portion.)
 00:26 4 MR. NIX: I can't -- I cannot hear it.
 00:26 5 **Q.** Maybe I can help you. This is an
 00:26 6 assumption that was included in the Boswell report
 00:26 7 and --
 00:26 8 FEMALE AUDIENCE MEMBER: Use the mike.
 00:26 9 The mike.
 00:26 10 **Q.** -- the incorporated in your report.
 00:26 11 "At the LTACH visitors 8 to 8, 7:30 to
 00:26 12 7:30 departure 8:00 p.m. assumption number
 00:26 13 one" --
 00:26 14 I can share it with you, sir. Would
 00:26 15 you like to come over here and look?
 00:26 16 "Each patient receives one visitor
 00:26 17 every other day".
 00:26 18 **A. Yes.**
 00:26 19 **Q.** Yes, you recognize that?
 00:26 20 **A. Yes.**
 00:26 21 **Q.** And, yes, it was in the Boswell report?
 00:26 22 **A. Correct.**
 00:26 23 **Q.** And yes it's incorporated in your
 00:26 24 reports?
 00:26 25 **A. And we discussed that with Mr. Pineles**
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00:26 1 **as to the operations of an LTACH and his experiences**
 00:27 2 **with that.**
 00:27 3 **Q.** Does he operate other LTACHs?
 00:27 4 **A. I don't recall.**
 00:27 5 **Q.** Well --
 00:27 6 **A. I don't believe so.**
 00:27 7 **Q.** -- you -- oh --
 00:27 8 **A. But, it's --**
 00:27 9 **Q.** -- so his experience with it was
 00:27 10 nothing then. It must have been an interesting
 00:27 11 discussion.
 00:27 12 So now, what did you do to try to
 00:27 13 objectively verify anything at all about that fairly
 00:27 14 important assumption which was one of a pack of 20
 00:27 15 others in the Boswell report that you took lock,
 00:27 16 stock and barrel into your report?
 00:27 17 **A. The -- the statement or your position**
 00:27 18 **that the visitors is an important part of the study,**
 00:27 19 **I take exception to.**
 00:27 20 **Q.** Well, I figured you would because you
 00:27 21 don't think very many people come to see the sick the
 00:27 22 last time as I recall.
 00:27 23 So you don't get --
 00:27 24 **A. Well --**
 00:27 25 **Q.** -- to take that exception.
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00:27 1 What did you do to try the factually
 00:28 2 check out the correctness of that assumption besides
 00:28 3 talk to Mr. Pineles about his experience in an LTACH
 00:28 4 that he never had?
 00:28 5 **A. The -- there is no information, no**
 00:28 6 **published information, as far as I know, as far as**
 00:28 7 **the frequency of visitors to a hospital in -- in this**
 00:28 8 **particular case to a long term acute care hospital.**
 00:28 9 **This is not somebody who's had heart surgery at**
 00:28 10 **Hackensack University and is being visited by their**
 00:28 11 **family every day. This is long term.**
 00:28 12 **Q.** Well, they're sick enough to be there
 00:28 13 an average that 25 days, right?
 00:28 14 **A. That's correct.**
 00:28 15 **Q.** So it's not a bad cold?
 00:28 16 **A. That's correct. That's why it's long**
 00:28 17 **term acute care.**
 00:28 18 **Q.** So let me ask you again, it sounds to
 00:28 19 me like you're telling us that you did nothing to
 00:28 20 check up the factual basis of that assumption; is
 00:28 21 that correct?
 00:28 22 **A. What I'm saying is there is no factual**
 00:29 23 **-- there is no basis on which to check it. There is**
 00:29 24 **no published information.**
 00:29 25 **So it was a reasonable assumption of**
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00:29 **1 the likelihood of visitors.**
 00:29 **2 We had -- and Mr. Miskovich made a**
 00:29 **3 comment about he thought that our visitor load was**
 00:29 **4 low. So we added people during the midday period and**
 00:29 **5 during the evening period. So we actually -- what we**
 00:29 **6 ended up using in the revised report is more than**
 00:29 **7 each person getting a visitor every other day.**
 00:29 **8 Q.** So you know that Mr. Pineles is the
 00:29 **9 operator, I guess, about five medical care**
 00:29 **10 facilities, correct?**
 00:29 **11 A. I -- I don't know how many, but I know**
 00:29 **12 he's in that business, yes, obviously.**
 00:29 **13 Q.** Did you ever ask him if you could just
 00:29 **14 take a peak at the visitor log book in any of those**
 00:29 **15 five so you could get a better handle than just**
 00:29 **16 guessing how many people you felt would come?**
 00:29 **17 A. Well, I don't believe it was guessing.**
 00:30 **18 But, no, I did not look -- ask to look at his visitor**
 00:30 **19 logs.**
 00:30 **20 Q.** Did you look at his visitor log from
 00:30 **21 across the street, from his place across the street?**
 00:30 **22 A. No.**
 00:30 **23 Q.** You know there are other LTACs,
 00:30 **24 correct?**
 00:30 **25 A. I do.**
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00:30 **1 Q.** Did you reach out of any of them to
 00:30 **2 check their visitors' logs?**
 00:30 **3 A. I did not, no.**
 00:30 **4 Q.** So when you read this in the Boswell
 00:30 **5 report you thought it looked pretty good like the**
 00:30 **6 rest of it and you took it lock, stock and barrel**
 00:30 **7 again into your report?**
 00:30 **8 A. No, I did not.**
 00:30 **9 Q.** Did you change any of the assumptions
 00:30 **10 in the Boswell report?**
 00:30 **11 A. Yes.**
 00:30 **12 Q.** Apart from making the adjustment for
 00:30 **13 the size of the LTACH?**
 00:30 **14 A. No, we made some adjustments to the**
 00:30 **15 calculations and -- and to the underlying basis for**
 00:30 **16 the trip generation and the parking. Yes, we made**
 00:30 **17 changes.**
 00:30 **18 Q.** You made adjustments, but not in the
 00:30 **19 assumptions.**
 00:30 **20 A. Without comparing the two reports I**
 00:30 **21 couldn't tell you that.**
 00:30 **22 Q.** Well, didn't you decide what went into
 00:31 **23 your report?**
 00:31 **24 A. Yes, absolutely.**
 00:31 **25 Q.** Wasn't --
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00:31 **1 A. Seven months ago. I don't remember.**
 00:31 **2 Q.** Wasn't it you that decided to take all
 00:31 **3 of the assumptions from the Boswell report and**
 00:31 **4 include them in your own?**
 00:31 **5 A. You're presuming that I included all of**
 00:31 **6 Boswell's assumption. I'm not saying that I did and**
 00:31 **7 we may have made other adjustments.**
 00:31 **8 I don't recall because I don't remember**
 00:31 **9 what Boswell had in their report as compared to**
 00:31 **10 what's in my report.**
 00:31 **11 I reviewed all of it with Mr. Pineles**
 00:31 **12 and produced a report under my signature.**
 00:31 **13 MR. BASRALIAN:** Excuse me. I'd like to
 00:31 **14 interpose an objection here just for the record**
 00:31 **15 Mr. Keller prepared a report dated September 28,**
 00:31 **16 2009.**
 00:31 **17 AUDIENCE MEMBERS:** Microphone.
 00:31 **18 Microphone. Talk into the mike.**
 00:31 **19 MR. BASRALIAN:** Mr. Keller prepared a
 00:31 **20 report dated September 28, 2009, revised**
 00:31 **21 November 23rd, 2009. It is signed by him and sealed**
 00:31 **22 by him. Those are the assumption that he made based**
 00:32 **23 upon what he's doing and the report he prepared.**
 00:32 **24 The cross examination should be on his**
 00:32 **25 report, and not a comparison to one that is not in**
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00:32 **1 the record and not testified to.**
 00:32 **2 So whatever assumptions that are there,**
 00:32 **3 let him direct his questions to the specific**
 00:32 **4 assumptions that are in Mr. Keller's report, not in**
 00:32 **5 the Boswell report that was never utilized in this**
 00:32 **6 hearing.**
 00:32 **7 MR. MALAGIERE:** Mr. Basralian, he can
 00:32 **8 cross examine on whatever he'd like to and use any**
 00:32 **9 premise he wants. That's not --**
 00:32 **10 MR. MOSKOWITZ:** I would --
 00:32 **11 MR. MALAGIERE:** -- there's no response
 00:32 **12 to that, sir.**
 00:32 **13 You can cross examine.**
 00:32 **14 MR. MOSKOWITZ:** I would just say as a
 00:32 **15 clarifying point --**
 00:32 **16 MR. BASRALIAN:** I continue the
 00:32 **17 objection for the record, though.**
 00:32 **18 MR. MOSKOWITZ:** -- as a clarifying
 00:32 **19 point of order, the Boswell report was submitted**
 00:32 **20 prior to the resignation of Boswell so --**
 00:32 **21 MR. MALAGIERE:** So noted.
 00:32 **22 MR. MOSKOWITZ:** So the Boswell report
 00:32 **23 is a part of this record whether Mr. Basralian likes**
 00:32 **24 it or not.**
 00:32 **25 MR. BASRALIAN:** Just for the record it
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00:32 1 was superseded and we referenced it was superseded --

00:32 2 MR. MALAGIERE: Hold on. Hold on.

00:32 3 Hold on.

00:32 4 MR. BASRALIAN: -- by the --

00:32 5 MR. MALAGIERE: -- Mr. Basralian.

00:32 6 You can cross examine. You can object

00:32 7 on evidence basis no lawyers testify.

00:33 8 Please continue with cross examination.

00:33 9 MR. BASRALIAN: No, but it was

00:33 10 superceded --

00:33 11 MR. MALAGIERE: The record speaks for

00:33 12 itself.

00:33 13 MR. BASRALIAN: -- and it noted on the

00:33 14 record.

00:33 15 MR. MALAGIERE: Thank you.

00:33 16 BY MR. MOSKOWITZ:

00:33 17 Q. Can you point me -- well, have you read

00:33 18 the transcripts of the prior hearings, any, all,

00:33 19 some?

00:33 20 A. Some.

00:33 21 Q. Can you identify them --

00:33 22 A. I've read some.

00:33 23 Q. -- if you can?

00:33 24 A. I've read some.

00:33 25 Q. They're hard to keep track?

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00:33 1 A. Yes.

00:33 2 Q. Have you read all of yours?

00:33 3 A. At some point, yes.

00:33 4 Q. Well, where -- I am assuming that where

00:33 5 you adopted the Boswell or Mr. Tombalakian's

00:33 6 assumption that your assumptions were the same as

00:33 7 his, where they're identical.

00:33 8 And I represent to you -- well, we'll

00:33 9 give you and your Counsel a chart that they are

00:33 10 virtually a hundred percent identical, but that can

00:33 11 be for another time.

00:33 12 Did you do any research personally on

00:34 13 the corrections of the assumptions in your -- the

00:34 14 collection of assumptions in your own report. The

00:34 15 factual basis for it.

00:34 16 A. I -- I don't understand your question

00:34 17 at all.

00:34 18 Q. To what reference to objective external

00:34 19 data did you make with reference to the employee

00:34 20 composition, to the parking needs, to the traffic

00:34 21 flow, to the visitors, to the number of ambulances or

00:34 22 ambulettes that are going to be required each year?

00:34 23 What industry guides did you check?

00:34 24 A. The -- other than the -- the dialysis

00:34 25 and the adult day care there is no state regulations

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00:34 1 that specify the employee composition for an LTACH

00:35 2 that is not governed by state regulations. We --

00:35 3 we've reviewed the state regulations for these

00:35 4 various facilities. We reviewed the State's website

00:35 5 under the Department of Health and Senior Services

00:35 6 that governs LTACs and adult day care centers, but

00:35 7 because they are a -- the operational characteristics

00:35 8 of them, where they're not regulated by the State are

00:35 9 subject to the operator's feeling and have -- feeling

00:35 10 -- analysis of the appropriate employee needs, what

00:35 11 they need to have in the full range from

00:35 12 administration to nursing to doctors to support staff

00:35 13 and so on.

00:35 14 I'm not qualified to -- I'm not a

00:36 15 health services consultant. I can't tell what is an

00:36 16 appropriate employee basis, what the numbers are.

00:36 17 And Mr. Pineles, at the beginning of

00:36 18 this process, went through, from what I understand,

00:36 19 because of some it was before we were retained, quite

00:36 20 a detailed discussion on the operations of the

00:36 21 facility, which we used as a basis for our studies.

00:36 22 Q. Well, just to get back the our other

00:36 23 discussion, you know there are other LTACs?

00:36 24 A. I do.

00:36 25 Q. And you have never taken any steps to

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00:36 1 talk with management or to try to talk with

00:36 2 management concerning their personnel needs, their

00:36 3 staffing needs, their traffic flows, you've not

00:36 4 spoken to anyone in the industry.

00:36 5 I understand that you didn't find

00:36 6 someone in Trenton that knew -- that has a report or

00:37 7 a form or an answer.

00:37 8 What affirmative steps, if any, did you

00:37 9 take to investigate or find out about what actually

00:37 10 goes on at any other LTACH?

00:37 11 A. We -- we did not.

00:37 12 Q. And with any other --

00:37 13 A. And that's a --

00:37 14 Q. I understand.

00:37 15 A. And that's -- and that's appropriate.

00:37 16 Q. I understand and I know that's the

00:37 17 answer. That's what I've been trying to get --

00:37 18 A. But, could I --

00:37 19 Q. -- you to tell me for a while?

00:37 20 A. -- could I -- could I -- well, maybe...

00:37 21 Well, let me finish my -- my response.

00:37 22 But that question is better -- would

00:37 23 have been better directed to Mr. Pineles because he's

00:37 24 in the health care industry. He's operating these

00:37 25 facilities. He knows better how to put a program

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00:37 1 **together, from an operational standpoint.**

00:37 2 **I take those numbers and say we have a**

00:37 3 **staff population and what are their traffic and**

00:37 4 **parking generation characteristics going to be.**

00:38 5 **We've done other hospitals before and**

00:38 6 **they provide information.**

00:38 7 **Q.** Mr. LTACH -- Mr. LTACH.

00:38 8 Mr. Pineles and his organization run a

00:38 9 medical facility across the street, correct?

00:38 10 **A.** **That's correct.**

00:38 11 **Q.** Di you go over and look at it?

00:38 12 **A.** **I've driven through the property, but I**

00:38 13 **did not go inside. It's -- it's not relevant to go**

00:38 14 **inside, it's a nursing home. It's not similar in**

00:38 15 **character to this operation that is being proposed.**

00:38 16 **Q.** It is a nursing home a hundred percent?

00:38 17 **A.** **I don't know that it's a hundred**

00:38 18 **percent. I know that it is a --**

00:38 19 **Q.** Do you know what percent?

00:38 20 **A.** **No.**

00:38 21 **Q.** So you don't know what it is because

00:38 22 you didn't go in it.

00:38 23 And you just told me it's a nursing

00:38 24 home a hundred percent --

00:38 25 **A.** **I --**

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00:38 1 **Q.** -- but it's not a nursing home. I've

00:38 2 been in it. I know what it is.

00:38 3 So it never crossed your mind to check

00:38 4 any visitor data there, any staffing data there or

00:38 5 any parking data there?

00:38 6 **A.** **It's not relevant because it's not the**

00:39 7 **same uses that are proposed in this facility.**

00:39 8 **Q.** You think coming and going from work is

00:39 9 different, you're in a car and you need to park it.

00:39 10 Does your car know where you work?

00:39 11 So would it be fair to say that you

00:39 12 took the data that you were given, the assumptions

00:39 13 that were given either by Boswell or by Mr. Pineles

00:39 14 or another member of his group, without any test

00:39 15 whatsoever of its validity?

00:39 16 **A.** **As far as the healthcare aspects of it,**

00:39 17 **no, I...**

00:39 18 **Q.** No, as far as parking, working,

00:39 19 traveling and visiting.

00:39 20 **A.** **That's not true, no.**

00:39 21 **Q.** Well, what did you do to try to prove

00:39 22 out the parking data, the assumptions that you were

00:39 23 operating under?

00:39 24 **A.** **The -- the parking analysis that we did**

00:39 25 **is we looked at the number of employees, which was**

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00:40 1 **provided by Mr. Pineles. So, yes, that's an**

00:40 2 **assumption from my perspective that he's providing**

00:40 3 **the information that is appropriate from a dialysis**

00:40 4 **and the adult day care. It's governed by state**

00:40 5 **regulations.**

00:40 6 **We look at it in a very methodical**

00:40 7 **manner. There's two pages in the back of the report**

00:40 8 **that looks at it in half hour increments of when**

00:40 9 **people arrive. I know, unfortunately from too much**

00:40 10 **personal experience, that the shifts of medical staff**

00:40 11 **and other staff in a hospital situation 7 to 3, 3 to**

00:40 12 **11, 11 to 7, that's the norm.**

00:40 13 **The dialysis is somewhat flexible**

00:40 14 **depending on the specifics of the program. Other**

00:40 15 **than the fact that if you're getting dialysis you're**

00:40 16 **there for three-and-a-half to four hours. So you're**

00:40 17 **coming in and there's a -- you got to have a specific**

00:40 18 **amount of time for that.**

00:40 19 **The adult day care is like child day**

00:41 20 **care, is a little bit more flexible. But you have**

00:41 21 **certain start times.**

00:41 22 **That's what we used in doing a parking**

00:41 23 **generation to look at what the parking demands would**

00:41 24 **be for this facility, because it's not like an office**

00:41 25 **building and say, okay, there's 8,000 square feet and**

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00:41 1 **there's -- you need four spaces per thousand. I -- I**

00:41 2 **need 32 parking spaces for this building. You can't**

00:41 3 **do that for a facility that runs 24/7 365 and has**

00:41 4 **shift work. You can't do it that way. It doesn't**

00:41 5 **work.**

00:41 6 **Q.** I don't think that's responsive, but

00:41 7 that's fine.

00:41 8 Let me get to something --

00:41 9 **A.** **That's your opinion.**

00:41 10 **Q.** -- that's a little easier now.

00:41 11 Table 8, mode of travel at Prospect

00:41 12 Heights Care Center?

00:41 13 **A.** **Yes.**

00:41 14 **Q.** Now, that's not from Mr. Tombalakian,

00:41 15 is it?

00:41 16 **A.** **No, it's not.**

00:41 17 **Q.** This is a new report and a new chart

00:41 18 from you, correct?

00:41 19 **A.** **We -- yes. We asked a -- that a survey**

00:42 20 **be taken of the employees of Prospect Heights so they**

00:42 21 **could tell us how they get to work.**

00:42 22 **Q.** Did you design the questionnaire?

00:42 23 **A.** **I discussed it with Mr. Pineles and he**

00:42 24 **distributed it to his employees.**

00:42 25 **Q.** Did you design the questionnaire?

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00:42 1 **A. I answered the question.**
 00:42 2 **Q.** No, you didn't. You told me who you
 00:42 3 discussed it with.
 00:42 4 Did you design the questionnaire?
 00:42 5 MR. MALAGIERE: Please answer.
 00:42 6 **A. I told him the questions to ask.**
 00:42 7 **Q.** Did you see the questionnaire before it
 00:42 8 was presented to the employees?
 00:42 9 **A. No. It was pretty simple: Do you**
 00:42 10 **drive to work? Do you get dropped off? Do you take**
 00:42 11 **the bus or do you walk or take -- ride a bike?**
 00:42 12 **It's not a -- it's not a difficult**
 00:42 13 **questionnaire.**
 00:42 14 **Q.** Well, it was little difficult because I
 00:42 15 think you told us that you forgot a very important
 00:42 16 question, didn't you?
 00:42 17 **A. In -- when I reviewed the census data I**
 00:42 18 **realized I should have asked whether people shared a**
 00:42 19 **ride to work.**
 00:42 20 **Q.** Right. And you forgot.
 00:43 21 **A. Yeah.**
 00:43 22 **Q.** So would you have forgotten if you
 00:43 23 reviewed a draft of the questionnaire?
 00:43 24 **A. I don't know. Maybe, maybe not.**
 00:43 25 **Q.** You thought it's important enough to
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00:43 1 include it in your report as Table 8 and if my count
 00:43 2 is correct, you answered in reference to Table 8
 00:43 3 between 30 and 40 times at a couple of the meetings
 00:43 4 it's very critical this mode to work thing.
 00:43 5 But how many employees work at Prospect
 00:43 6 Heights?
 00:43 7 **A. I don't know. I don't recall.**
 00:43 8 **Q.** Any rough idea?
 00:43 9 **A. No.**
 00:43 10 **We may have discussed it at one point,**
 00:43 11 **but I don't -- I don't remember.**
 00:43 12 **Q.** How many answered the questionnaire?
 00:43 13 **A. I don't know.**
 00:43 14 MR. NIX: Where are we going?
 00:43 15 **Q.** How many responses did you expect? I
 00:44 16 mean you've given us a chart that says 84 percent, 11
 00:44 17 percent, 3 percent and 2 percent. They're just
 00:44 18 pretty precise percentages, doesn't sound like
 00:44 19 someone's guessing.
 00:44 20 **A. I --**
 00:44 21 **Q.** And yet you don't know how many people
 00:44 22 work there. And you don't know how many answered it.
 00:44 23 You don't know what percentage of the employees
 00:44 24 answered the questionnaire?
 00:44 25 **A. It -- it was 10, 11 months ago.**
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00:44 1 **I mean I --**
 00:44 2 **Q.** Did you ever ask?
 00:44 3 **A. I don't remember. It was 10 or**
 00:44 4 **11 months ago. What I can tell --**
 00:44 5 **Q.** Is your firm in possession of the
 00:44 6 tabulation of the results?
 00:44 7 **A. Yes.**
 00:44 8 **Q.** So you could tell us how many people
 00:44 9 work there and how many people answered the
 00:44 10 questionnaire?
 00:44 11 **A. Well, it may not have how many people**
 00:44 12 **work there. It would have how many people responded**
 00:44 13 **to the questionnaire.**
 00:44 14 **Q.** So how would you know how much validity
 00:44 15 to place on a questionnaire response when you don't
 00:44 16 know if 5, 10, 20, 50 or 80 percent of the people
 00:45 17 responded to the questionnaire?
 00:45 18 **A. Well, what we did is compared it to the**
 00:45 19 **census data, the journey to work data for the census**
 00:45 20 **for Hackensack. And this is conservative when I**
 00:45 21 **compare it to the census data.**
 00:45 22 **Q.** Well, perhaps I would like --
 00:45 23 MR. MOSKOWITZ: I'm sorry, but I have
 00:45 24 to ask you to read my question back again.
 00:45 25 MR. NIX: Why can't he read his own
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00:45 1 questions back.
 00:45 2 (Whereupon, the Court Reporter reads
 00:45 3 back the requested portion.)
 00:46 4 **A. It's a representative sample of -- of**
 00:46 5 **the employees.**
 00:46 6 **Q.** How do you know if you don't know how
 00:46 7 many answered it?
 00:46 8 How do you know it was a representative
 00:46 9 sample if you have no idea how many people answered
 00:46 10 it?
 00:46 11 **A. Not standing here tonight, I haven't**
 00:46 12 **looked at it in 10 or 11 months.**
 00:46 13 **Q.** You didn't look at this before you gave
 00:46 14 testimony and referenced it 20, 30 times in these
 00:46 15 hearings?
 00:46 16 Well, I guess that's your statement.
 00:46 17 Now, I asked you before if you reviewed
 00:46 18 transcripts from prior proceedings. And you said
 00:46 19 yes.
 00:46 20 Do you recall if you read the
 00:46 21 transcript from one of Mr. Pineles' early appearances
 00:46 22 when he was outlining the project, trying to help us
 00:46 23 to understand the nature of the project?
 00:46 24 **A. I don't recall if I did.**
 00:46 25 **Q.** Do you recall reading Mr. Pineles'
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00:46 1 admission that Prospect Heights parking, planning and
 00:46 2 assumptions varied sharply from their present use,
 00:47 3 that he was wrong and the assumptions used for
 00:47 4 parking at Prospect Heights were wrong.
 00:47 5 **A. I did -- I did not read that.**
 00:47 6 **Well, I don't recall reading that in**
 00:47 7 **the transcripts. I've heard that mentioned at**
 00:47 8 **various meetings. I don't recall that Mr. Pineles**
 00:47 9 **said that they were wrong, but...**
 00:47 10 **Q.** Doesn't that suggest there may be a
 00:47 11 little bit something wrong with your questionnaire?
 00:47 12 You do know, and I'm sure you must have
 00:47 13 noticed it in the transcripts, that at Prospect
 00:47 14 Heights Mr. Pineles has confirmed that employees are
 00:47 15 not allowed to park there. You know that, don't you?
 00:47 16 **A. No, I don't know that.**
 00:47 17 **Q.** Didn't anybody ever tell you that?
 00:47 18 **A. I did not focus on Prospect Heights.**
 00:48 19 **Q.** Well, that's a different question.
 00:48 20 Did anybody ever tell you that Prospect
 00:48 21 Park Height employees couldn't park there?
 00:48 22 **A. Not that I recall.**
 00:48 23 **Q.** Well --
 00:48 24 MR. BASRALIAN: I'd like to ask Mr.
 00:48 25 Moskowitz to point out in the transcript.
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00:48 1 AUDIENCE MEMBERS: Microphone.
 00:48 2 Microphone.
 00:48 3 MR. BASRALIAN: -- in the transcript
 00:48 4 where that was stated. That is not my recollection
 00:48 5 of Mr. Pineles' testimony.
 00:48 6 MR. MALAGIERE: He's asking him what
 00:48 7 his recollection is of the testimony. He can say he
 00:48 8 doesn't recall.
 00:48 9 MR. BASRALIAN: No, Mr. Moskowitz asked
 00:48 10 do recall that Mr. Pineles said that the employees
 00:48 11 were not permitted to park on the site. That's not
 00:48 12 the testimony, as I recall it.
 00:48 13 MR. MALAGIERE: Right. But he's just
 00:48 14 saying he doesn't recall that either, so you may very
 00:48 15 well be right.
 00:48 16 MR. MOSKOWITZ: I will provide those
 00:48 17 pages of testimony to Mr. Basralian.
 00:48 18 MR. BASRALIAN: Thank you.
 00:48 19 **Q.** Well, let me ask you another
 00:48 20 hypothetical related to that.
 00:48 21 Make believe that what I just said is
 00:48 22 true, not just about Mr. Pineles confirming it, but
 00:48 23 that it's also objectively true.
 00:49 24 MR. BASRALIAN: I object to the use of
 00:49 25 a hypothetical for a facility that is not part of the
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00:49 1 discussion here. There's a full report on an LTACH
 00:49 2 facility and the direction of the question should be
 00:49 3 to the traffic report, not hypothetical about a
 00:49 4 nursing home across the street that happens to share
 00:49 5 common ownership.
 00:49 6 MR. MALAGIERE: Understood, Mr.
 00:49 7 Basralian, he's an expert.
 00:49 8 You're allowed to cross examine him
 00:49 9 with hypotheticals.
 00:49 10 Thank you.
 00:49 11 MR. BASRALIAN: But not as to
 00:49 12 facilities that aren't before the Board.
 00:49 13 MR. MALAGIERE: I don't agree with
 00:49 14 that.
 00:49 15 MR. BASRALIAN: Well, I post my
 00:49 16 objection.
 00:49 17 MR. MALAGIERE: Thank you.
 00:49 18 BY MR. MOSKOWITZ:
 00:49 19 **Q.** All right. So now if you had known, if
 00:49 20 anyone had told you or you had read the transcript,
 00:49 21 do you think that would have made you change the
 00:49 22 questionnaire?
 00:49 23 **A. No.**
 00:49 24 **Q.** So what you're telling me is it would
 00:49 25 be a valid questionnaire on how people are likely to
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00:49 1 come to work at a facility across the street?
 00:49 2 So you could use these modes of travel
 00:49 3 as modes?
 00:49 4 **A. Yes.**
 00:50 5 **Q.** Which is what you did.
 00:50 6 Don't you think your questionnaire
 00:50 7 answers would be quite different if you put in a line
 00:50 8 how would you come to work if you were allowed to
 00:50 9 park where you work?
 00:50 10 Your asking a bunch of people that
 00:50 11 aren't allowed to park where they work how they come
 00:50 12 to work. And it would seem to me that their answers
 00:50 13 might be different if they could drive and park where
 00:50 14 they work.
 00:50 15 **A. Well, I disagree with that. We asked a**
 00:50 16 **question --**
 00:50 17 AUDIENCE MEMBERS: Ohhhh.
 00:50 18 **A. We asked a question --**
 00:50 19 MR. MALAGIERE: Hold on. Hold on.
 00:50 20 Let the witness answer the question
 00:50 21 please.
 00:50 22 Thank you.
 00:50 23 THE WITNESS: Thank you.
 00:50 24 **A. What we said was what mode of**
 00:50 25 **transportation do you use to travel from your home to**
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00:50 1 work. And 84 percent of them said that they drove to
 00:50 2 work. We didn't ask whether they parked on-site or
 00:50 3 they parked in a public lot.
 00:50 4 We said how do you get to work. They
 00:50 5 drive. Eleven percent said that they were dropped
 00:50 6 off by somebody. And the rest said that they took
 00:51 7 the bus. And others said that they walked or rode
 00:51 8 their bikes.

00:51 9 So I -- it's -- it's not relevant as to
 00:51 10 where you parked. The question is how do you get to
 00:51 11 work.

00:51 12 Q. And you do think that's affected by
 00:51 13 whether or not you can park your car there?

00:51 14 A. No. Not -- not -- not when I
 00:51 15 substantiate it and verify it by looking at the
 00:51 16 census data, the journey to work in the census data.

00:51 17 As a matter of fact it's posted right
 00:51 18 over here (indicating) on the bulletin board.

00:51 19 And when I compare what we found here
 00:51 20 to the City of Hackensack, these are very
 00:51 21 conservative.

00:51 22 I mean in the City of Hackensack almost
 00:51 23 11 percent of the people car pool to work. Almost
 00:51 24 16 percent use public transportation. Seven percent
 00:51 25 walked.

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00:51 1 And we have half those numbers. So to
 00:51 2 me, that validates the data that's in here, whether
 00:51 3 it was a sample of 20 or a sample of 200.

00:52 4 Q. You have in your report a truck traffic
 00:52 5 table for expected truck use and truck deliveries,
 00:52 6 correct?

00:52 7 A. Yes.

00:52 8 Q. That's exactly the same one that was in
 00:52 9 the Boswell report, correct?

00:52 10 A. That's correct.

00:52 11 Q. Did you ask Mr. Tombalakian where this
 00:52 12 data came from?

00:52 13 A. No, I reviewed it -- I reviewed it with
 00:52 14 Mr. Pineles.

00:52 15 Q. And then you printed out copies of Mr.
 00:52 16 Tombalakian's list?

00:52 17 A. Actually, I believe it was Mr. Pineles'
 00:52 18 list that he provided to Mr. Tombalakian and to
 00:52 19 myself.

00:52 20 Q. Did either you or to our knowledge Mr.
 00:52 21 Tombalakian ever do anything to verify the
 00:52 22 correctness of this list?

00:52 23 A. I -- I can't testify to what Mr.
 00:53 24 Tombalakian did or didn't do.

00:53 25 I did not verify it. Again it's an
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00:53 1 operational issue. Mr. Pineles is in the business.

00:53 2 And I -- I reviewed it in general and it seemed

00:53 3 appropriate. But I defer to him and his experience
 00:53 4 in the field.

00:53 5 Q. Well, this is a new lift. This is a
 00:53 6 new business. I mean you told us a number of times
 00:53 7 that this business operation is new and unique,
 00:53 8 correct? That there's none other like it?

00:53 9 A. Well, there's -- there's -- there's no
 00:53 10 other facility that brings all three of these
 00:53 11 facilities together.

00:53 12 There are certainly adult day cares in
 00:53 13 this State. There's certainly dialysis centers. And
 00:53 14 there's certainly LTACs.

00:53 15 Most of the LTACs in the State are
 00:53 16 associated with hospitals.

00:53 17 Now, what research Mr. Pineles did, I'm
 00:53 18 sure he testified at length during his testimony
 00:53 19 about how he got to that point, you know. And we're
 00:53 20 relying upon his efforts and research in that matter
 00:54 21 in putting together our report.

00:54 22 Q. Did you examine this list when you
 00:54 23 first saw it?

00:54 24 A. What do you mean? I --

00:54 25 Q. Did you look at it? Did you read it?

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00:54 1 A. Yeah, I did.

00:54 2 Q. Seem right to you?

00:54 3 A. Seemed reasonable, yes.

00:54 4 Q. Just on a quick look, you think they're
 00:54 5 boycotting FedEx for example?

00:54 6 A. I --

00:54 7 Q. Well, I mean I see a United Parcel
 00:54 8 delivery, but no FedEx.

00:54 9 A. It's -- it's a generic term.

00:54 10 Q. I don't think it is to either United
 00:54 11 Parcel or FedEx, but if that's your view that's fine?

00:54 12 A. Well, that --

00:54 13 Q. Does that count as one truck or two?

00:54 14 A. What do you mean one truck or two?

00:54 15 Q. Well, if it's generic does that include
 00:54 16 all outside delivery service trucks? Is that -- how
 00:54 17 many trucks? When it says United Parcel Service one
 00:54 18 time a day, does that mean every truck also one time
 00:54 19 a day? And when you read it, what did it mean to
 00:55 20 you or did you just not pay much attention?

00:55 21 A. It's a typical day. I mean on some day
 00:55 22 you may get a FedEx truck and the UPS truck that
 00:55 23 come. And the next day they don't get any
 00:55 24 deliveries.

00:55 25 Q. How do you know that?

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00:55 1 **A. Specifically?**
 00:55 2 **Q.** Yeah.
 00:55 3 **A. I don't.**
 00:55 4 **Q.** Well, I know that's my thing. I
 00:55 5 understand that?
 00:55 6 **A. I am do you know how many UPS trucks**
 00:55 7 **come to your office on a daily basis?**
 00:55 8 **Q.** If I got paid to do a report I sure
 00:55 9 would. (Applause).
 00:55 10 Do you know if there's -- are there lab
 00:55 11 facilities in the proposed LTACH?
 00:55 12 **A. I don't recall offhand. I don't know.**
 00:55 13 **They would be support to the LTACH or**
 00:55 14 **to the dialysis, but I don't specifically --**
 00:55 15 **Q.** Well, you're just -- I mean you're
 00:55 16 guessing at that that -- I'd probably share that
 00:55 17 guess that there might be lab facilities, there might
 00:56 18 not. Do you know?
 00:56 19 **A. I don't know.**
 00:56 20 **Q.** Do you know whether or not there would
 00:56 21 be daily pick up or delivery of materials to go to a
 00:56 22 lab, to come back?
 00:56 23 **A. I don't know.**
 00:56 24 **Q.** Do you ever bother to ask?
 00:56 25 **A. That level of detail, to worry about**
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00:56 1 **whether one vehicle came in or not, it doesn't make a**
 00:56 2 **material difference.**
 00:56 3 **Q.** I know you don't worry about one
 00:56 4 vehicle at a time, I know that?
 00:56 5 **A. See, I -- I would appreciate it if you**
 00:56 6 **would let me finish my answer because I let you**
 00:56 7 **finish your questions.**
 00:56 8 **Thank you.**
 00:56 9 **Q.** The answer was you don't know.
 00:56 10 **A. I don't know specifically. I mean if I**
 00:56 11 **look at -- at the list.**
 00:56 12 **Q.** Well, you looked at it before you put
 00:56 13 it in your report, didn't you?
 00:56 14 **A. Yes, I did, 10 or 11 months ago. I**
 00:56 15 **don't remember every page of this, you know, 200 page**
 00:56 16 **report --**
 00:56 17 **Q.** Understood.
 00:56 18 **A. -- after being here for four nights.**
 00:56 19 **Q.** Understood.
 00:56 20 **A. Thank you.**
 00:56 21 **Q.** Did you ask to see the log of truck
 00:57 22 deliveries to the facility across the street?
 00:57 23 **A. No.**
 00:57 24 **Q.** Did you ever ask to see the traffic log
 00:57 25 from any single freestanding LTACH?
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00:57 1 **A. No.**
 00:57 2 **Q.** Did you ever ask to see the traffic log
 00:57 3 from any dialysis center --
 00:57 4 **A. No.**
 00:57 5 **Q.** -- or any adult day care center?
 00:57 6 **A. No.**
 00:57 7 **And the reason -- and the reason that I**
 00:57 8 **didn't is if it's a stand alone facility, the traffic**
 00:57 9 **to that facility is going there just for that use.**
 00:57 10 **When you have multiple uses in the**
 00:57 11 **building it creates economy of scale and that then**
 00:57 12 **can get -- they can make arrangements with the**
 00:57 13 **supplier to make trip for the whole facility and not**
 00:57 14 **one trip for the LTACH, one trip for the dialysis.**
 00:57 15 **So it's not relevant to look at what**
 00:57 16 **might happen in a stand alone dialysis center.**
 00:57 17 **Q.** You don't know what's going on with
 00:58 18 deliveries and trucks and economies of scale of all
 00:58 19 of these facilities that you've never even bothered
 00:58 20 to check on --
 00:58 21 **A. From --**
 00:58 22 **Q.** -- that's your guess?
 00:58 23 **A. From a general operating perspective**
 00:58 24 **looking at businesses, you could have as many truck**
 00:58 25 **deliveries to a very small building as to a building**
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00:58 1 **that's four times as big because of the size of the**
 00:58 2 **building.**
 00:58 3 **Q.** So, in sum then, would it be fair to
 00:58 4 say your answer is that you just have no idea how
 00:58 5 many trucks are coming and going and you never took
 00:58 6 any steps to find out?
 00:58 7 **FEMALE AUDIENCE MEMBER: Right.**
 00:58 8 **A. I wouldn't say that I don't know --**
 00:58 9 **have any idea of how many trucks are coming and**
 00:58 10 **going. We reviewed --**
 00:58 11 **Q.** Well, how many do you think?
 00:58 12 **A. We have them listed in the table.**
 00:58 13 **Q.** Yes, but you don't know about labs.
 00:58 14 You don't know about what other deliveries are
 00:58 15 coming. You don't know what deliveries anybody is
 00:58 16 getting because you never checked this data
 00:58 17 objectively anywhere so that you could even make an
 00:59 18 adjustment to it. And I'm sure you would make a
 00:59 19 meaningful adjustment. You looked at no other truck
 00:59 20 delivery data at any medical facility whatsoever, did
 00:59 21 you?
 00:59 22 **A. There's not a facility like this.**
 00:59 23 **Q.** Any facility whatsoever, did you?
 00:59 24 **A. No.**
 00:59 25 **Q.** I just wanted to ask briefly a little
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00:59 **1** bit about some of your commentaries when you were
 00:59 **2** asked questions about school buses, school children,
 00:59 **3** and school traffic.
 00:59 **4** You recall you were asked a few thing
 00:59 **5** like that?
 00:59 **6** **A. Yes.**
 00:59 **7** **Q.** And you did say as with respect to
 00:59 **8** student crossings that your counters didn't see
 00:59 **9** anyone.
 00:59 **10** Do you remember that?
 00:59 **11** **A. No, I -- that's not what I said.**
 00:59 **12** **Q.** Your counter didn't see any children --
 00:59 **13** **A. That's not what I said.**
 00:59 **14** MR. MALAGIERE: Let him give a
 00:59 **15** response, Mr. Moskowitz.
 00:59 **16** **A. That's not what I said.**
 00:59 **17** **I said I don't know whether they did**
 01:00 **18** **see anybody or not, what they did not record in their**
 01:00 **19** **-- in the count forms whether any children crossed.**
 01:00 **20** **That doesn't mean that none crossed, but they did not**
 01:00 **21** **tabulate that information.**
 01:00 **22** **Q.** Fair enough.
 01:00 **23** That was during that week of, I guess,
 01:00 **24** June 6th to 13th, that's when you had your counters
 01:00 **25** out there, correct?

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01:01 **1** **Q.** And how did you research that?
 01:01 **2** **A. I reviewed the Hackensack Board of**
 01:01 **3** **Education website.**
 01:01 **4** **Q.** You didn't --
 01:01 **5** **A. And I also drove around the community.**
 01:01 **6** **Q.** Yeah. Well, you know there's other
 01:01 **7** schools, don't you?
 01:01 **8** **A. I said within the impact area of this**
 01:01 **9** **study.**
 01:01 **10** **Q.** Like within a ten block radius?
 01:01 **11** **A. No, within the impact area those four**
 01:01 **12** **-- within a block or two of those four intersections**
 01:01 **13** **that we studied.**
 01:01 **14** **Q.** Well, suppose I suggest to you that
 01:01 **15** within a ten block radius of that -- of your -- Mr.
 01:01 **16** Pineles' proposed facility, there is not just one
 01:01 **17** school, but that there are eight more child --
 01:01 **18** AUDIENCE MEMBERS: Use the mike.
 01:01 **19** **Q.** -- eight more child learning and school
 01:02 **20** centers?
 01:02 **21** Did you know there's the Hackensack
 01:02 **22** Christian school?
 01:02 **23** **A. Well, let me -- let me take a step**
 01:02 **24** **back. You're saying -- you're saying within a ten**
 01:02 **25** **block radius.**

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01:00 **1** **A. Well, they weren't my counters they**
 01:00 **2** **were done by Boswell.**
 01:00 **3** **Q.** Well, no the second -- the counts that
 01:00 **4** were done later?
 01:00 **5** **A. Oh, the --**
 01:00 **6** **Q.** The post --
 01:00 **7** **A. The later counts? Those were tube**
 01:00 **8** **counters. They don't -- they don't see anything.**
 01:00 **9** **Q.** Well, I knew that when you said your
 01:00 **10** counters didn't report they saw anything, which is
 01:00 **11** why I asked you about it.
 01:00 **12** **A. You asked me about the intersection**
 01:00 **13** **counts and that's what I assumed.**
 01:00 **14** **Q.** No. Well, the record will be what it
 01:00 **15** is.
 01:00 **16** That isn't what I asked you.
 01:00 **17** **A. That's fine.**
 01:00 **18** **Q.** I was asking about yours.
 01:00 **19** You mentioned in your report and in
 01:00 **20** some of your testimony that you've looked at the
 01:00 **21** schools and there was only the one school in the
 01:01 **22** impact area, I think it's the Nellie Parker School?
 01:01 **23** **A. That's correct.**
 01:01 **24** **Q.** And who gave you that information?
 01:01 **25** **A. I researched that myself.**

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01:02 **1** **I'm saying that the ten block radius is**
 01:02 **2** **outside the area of influence of this project.**
 01:02 **3** FEMALE AUDIENCE MEMBER: Oh, come on.
 01:02 **4** **Q.** I understand that's your testimony.
 01:02 **5** And it will be given whatever weight it deserves, but
 01:02 **6** now did you know of the Hackensack Christian school?
 01:02 **7** **A. Yes.**
 01:02 **8** **Q.** The Bergen Child Development Center?
 01:02 **9** **A. I don't recall. I don't recall the**
 01:02 **10** **name of it, I might have seen it.**
 01:02 **11** **Q.** Early Impressions Day Care?
 01:02 **12** **A. I know there's a day care center, I**
 01:02 **13** **don't know the name of it.**
 01:02 **14** **Q.** Do you know where it is?
 01:02 **15** **A. I know there's one --**
 01:02 **16** **Q.** On Passaic Street?
 01:02 **17** **A. Yeah, Passaic near Summit.**
 01:02 **18** **Q.** Hackensack Head Start?
 01:02 **19** **A. I'm not aware of that one. I don't**
 01:02 **20** **recall that one.**
 01:02 **21** **Q.** Happy Day Child Care Center?
 01:02 **22** **A. Can't say that I do.**
 01:02 **23** **Q.** Holy Trinity Elementary School?
 01:03 **24** **A. That I believe I recall.**
 01:03 **25** **Q.** Learning Place Child Care?

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01:03 1 **A. I didn't focus on the child care**
01:03 2 **centers. I focused on the elementary and secondary**
01:03 3 **schools of the city as well as the private schools,**
01:03 4 **not child care centers.**
01:03 5 **Q. Well, if you focussed on it why did you**
01:03 6 say in your report there's just one school?
01:03 7 **A. Where did I say that?**
01:03 8 **Q. I'll supply the page and reference**
01:03 9 number to your Counsel, but that's what you said.
01:03 10 There is one school the Nellie Parker School period.
01:03 11 **A. What I was implying was that there was**
01:03 12 **one elementary school. I wasn't looking at child**
01:03 13 **care centers.**
01:03 14 **I was looking at schools where children**
01:03 15 **may walk to school.**
01:03 16 **Q. Like Holy Trinity?**
01:03 17 **A. Right.**
01:03 18 **Q. And Hackensack Christian?**
01:03 19 **A. Right. But they're not within the area**
01:03 20 **where the children would likely cross the streets in**
01:04 21 **our -- with -- at the four that we studied.**
01:04 22 MR. MALAGIERE: Mr. Chairmans, has
01:04 23 indicated to me that what he'd like to do Mr.
01:04 24 Moskowitz and Mr. Basralian was conclude your cross
01:04 25 examination, to the extent we can, at 8:30, take a

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01:04 1 short break and convene with the Board's traffic
01:04 2 expert.
01:04 3 MR. MOSKOWITZ: I'll convene it subject
01:04 4 right now to a reservation so that you can go on and
01:04 5 I will then be able to provide a few of these missing
01:04 6 pieces that Mr. Basralian would like and that Mr.
01:04 7 Keller would like.
01:04 8 MR. MALAGIERE: Mr. Basralian?
01:04 9 MR. BASRALIAN: Yes, I'd like this
01:04 10 cross examination to be concluded and not interrupt
01:04 11 it so that we can finish with this aspect of it.
01:04 12 I don't have any desire to have pages
01:04 13 provided to me afterward. I will look them up
01:04 14 myself.
01:04 15 But Mr. Moskowitz is making assertions
01:04 16 and statements and asking questions based upon he
01:05 17 thinks that they are so.
01:05 18 If they are incorrect then we'll find
01:05 19 out they're incorrect.
01:05 20 I want to conclude his cross
01:05 21 examination and not have to come back for him with
01:05 22 this witness.
01:05 23 MR. MALAGIERE: What I would suggest we
01:05 24 do is that we conclude Mr. Moskowitz' cross
01:05 25 examination at 8:30, the Board take a short break and

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01:05 1 reconvene with the Board's expert. Mr. Basralian, I
01:05 2 would ask that you hold in abeyance your redirect of
01:05 3 your witness for another day.
01:05 4 MR. BASRALIAN: Well --
01:05 5 MR. MALAGIERE: Let me just get it out,
01:05 6 you can weigh in on it.
01:05 7 And the only cross examination I would
01:05 8 suggest the Chairman allow to Mr. Moskowitz is just
01:05 9 recross based on the scope of your redirect.
01:05 10 MR. MOSKOWITZ: Well, if Mr. Basralian
01:05 11 would be speaking to the -- let's precede it this
01:05 12 evening, my examination, I won't have any recross on
01:05 13 that. I do have another very long, large area on
01:06 14 traffic checks and analysis, which will take a fair
01:06 15 amount of time. And I would like not to start that
01:06 16 and stop it in the middle.
01:06 17 I would proffer to the Board, I would
01:06 18 ask the Board, that I would restrict my remaining
01:06 19 cross to that on the next occasion. I would not like
01:06 20 to start that and stop it in the middle. And it will
01:06 21 be a pretty lengthy examination because it goes to
01:06 22 the heart of that.
01:06 23 MR. MALAGIERE: Let me do this, Mr.
01:06 24 Chairman, I recommend you do the following,
01:06 25 respectfully, conclude Mr. Moskowitz at 8:30, take a

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01:06 1 short break, reconvene and reserve on Mr. Moskowitz'
01:06 2 application to carry this witness for further cross.
01:06 3 And we'll literally cross that bridge at another
01:06 4 time.
01:06 5 MR. BASRALIAN: May I make a response
01:07 6 before the Chair answers?
01:07 7 CHAIRMAN GUERRA: Yes. Go ahead, Mr.
01:07 8 Basralian.
01:07 9 MR. BASRALIAN: In all fairness to the
01:07 10 applicant, we brought the witness back who had
01:07 11 concluded his testimony and the cross by everybody
01:07 12 else because Mr. Moskowitz was unable to attend the
01:07 13 last hearing.
01:07 14 I don't want to have to bring my
01:07 15 consultant back again and again to accommodate Mr.
01:07 16 Moskowitz' cross examination.
01:07 17 CHAIRMAN GUERRA: Mr. Basralian, would
01:07 18 you agree that traffic is an important part of this
01:07 19 application?
01:07 20 MR. BASRALIAN: Of course I would.
01:07 21 CHAIRMAN GUERRA: So if we have to
01:07 22 bring him back ten more times, we're going to need to
01:07 23 that do. (Applause).
01:07 24 MR. BASRALIAN: Excuse me. There is a
01:07 25 difference between bringing him back at the Board's

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01:07 1 request and bringing him back because Mr. Moskowitz
 01:07 2 wasn't here last month and couldn't conclude it or
 01:07 3 the month before because he didn't have a transcript
 01:07 4 and didn't want to do it.
 01:07 5 There' a difference between those
 01:07 6 things, Mr. Chairman.
 01:07 7 CHAIRMAN GUERRA: I understand your
 01:07 8 point.
 01:07 9 MR. MALAGIERE: I think we should do
 01:07 10 that a conserve time for the applicant's benefit and
 01:07 11 for the public's benefit and for the Board's benefit.
 01:07 12 CHAIRMAN GUERRA: Right.
 01:07 13 MR. MALAGIERE: So, Mr. Moskowitz,
 01:08 14 please continue, we'll ask you to break at 8:30. And
 01:08 15 then we'll take a short break and reconvene with Mr.
 01:08 16 Miskovich.
 01:08 17 Thank you.
 01:08 18 MR. MOSKOWITZ: Thank you. Thank you,
 01:08 19 Mr. Chairman.
 01:08 20 Thank you, Mr. Malagiere.
 01:08 21 BY MR. MOSKOWITZ:
 01:08 22 Q. Mr. Keller, is it your understanding
 01:08 23 that the purpose of the traffic checking and analysis
 01:08 24 is to provide an impact baseline and project future
 01:08 25 traffic in the impact area given the addition or
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01:08 1 non-addition of the facility?
 01:08 2 A. That's correct.
 01:08 3 Q. And Boswell report was based on
 01:09 4 intersection and traffic counts of April 30th and
 01:09 5 May 1st, 2008, correct?
 01:09 6 A. Correct.
 01:09 7 Q. Did you recall reviewing the hearing
 01:09 8 transcript of May 14, 2009?
 01:09 9 A. I don't recall that, no.
 01:09 10 Q. Well, that was the one we were talking
 01:09 11 a bit about traffic, not with you, but we did talk a
 01:09 12 bit about traffic at that time.
 01:09 13 Are you aware now or were you aware
 01:09 14 then that during that period of time, end of May
 01:09 15 beginning of June of 2008 Hackensack especially --
 01:09 16 well throughout, but this end, was undergoing the
 01:09 17 most disruptive and distorting conditions and worse
 01:10 18 realignment of traffic in years on end in the areas
 01:10 19 affected by the closing of the Essex Street bridge?
 01:10 20 A. I was aware of the Essex Street bridge
 01:10 21 closure, yes.
 01:10 22 Q. Did you do any driving around this area
 01:10 23 then?
 01:10 24 A. At that point I can't say that I did.
 01:10 25 I don't recall.
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01:10 1 I travel a lot of parts of this state
 01:10 2 in my business.
 01:10 3 Q. You know at least it was The Bergen
 01:10 4 Record reported that 70,000 drivers a day were
 01:10 5 affected by that closure?
 01:10 6 A. I don't read The Bergen Record so I
 01:10 7 don't know that.
 01:10 8 Q. You do know that Essex Street was
 01:10 9 closed?
 01:10 10 A. The bridge was, yes.
 01:10 11 Q. Well, the -- yeah, I mean, that's the
 01:10 12 way you got over --
 01:10 13 A. Right.
 01:10 14 Q. -- the other highway.
 01:10 15 A. And that was the reason that we did the
 01:10 16 machine counts on Summit and on Prospect to -- to
 01:10 17 make sure that those counts were not affected by the
 01:10 18 closure.
 01:10 19 And, again, I go back to Mr.
 01:10 20 Miskovich's counts that he took in January of this
 01:11 21 year that again show that the numbers that were used
 01:11 22 in our study were, you know, the bridge is open now.
 01:11 23 We're not affected materially by the disruption
 01:11 24 related to Essex Street.
 01:11 25 His counts are consistent with ours
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01:11 1 and, if anything, ours are higher than the counts
 01:11 2 that he did.
 01:11 3 So I'm comfortable that the counts that
 01:11 4 were done in 2008 are representative of typical
 01:11 5 conditions that one would find at those four
 01:11 6 intersections.
 01:11 7 Q. You did not do turning counts --
 01:11 8 A. We did not, no.
 01:11 9 Q. -- in 2009?
 01:11 10 A. No, because we verified that they were
 01:11 11 appropriate and representative with no need to redo
 01:11 12 them in our opinion.
 01:11 13 Q. Well, you did the counters?
 01:11 14 A. Yes.
 01:11 15 Q. And at that time when you did the
 01:11 16 counters you had decided not to do the turning
 01:11 17 counts?
 01:11 18 A. No, I did not decide to not do the
 01:11 19 turning counts, until after we did the tube counters.
 01:12 20 Once I reviewed the tube counters, I
 01:12 21 said -- and looked at the volumes along Summit and
 01:12 22 Prospect I was comfortable that the count data that
 01:12 23 we had at those four intersections was representative
 01:12 24 and appropriate.
 01:12 25 Q. Did you read the discussion that we had
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01:12 1 concerning Bergen Town Center in any of the records
 01:12 2 that you've...
 01:12 3 **A. I'm aware of Bergen Town Center and I**
 01:12 4 **know that it was an issue that was raised.**
 01:12 5 **I reviewed the Bergen Town Center**
 01:12 6 **traffic study data. And there is -- from their study**
 01:12 7 **there is no significant, if any, traffic that comes**
 01:12 8 **down onto these -- into this study area.**
 01:12 9 **There may be a few, but there's not**
 01:12 10 **anything significant.**
 01:12 11 **Q.** Well, I don't know what data they have
 01:12 12 on it. And perhaps you can provide that to us what
 01:12 13 you reviewed.
 01:12 14 But let me ask you a more direct
 01:13 15 personal question, did you ever tried to drive up
 01:13 16 Essex Street towards Bergen Town Center between 4:30
 01:13 17 and 6:30 any night?
 01:13 18 **A. Well, I'm not sure I would take Essex**
 01:13 19 **Street to get to Bergen Town Center.**
 01:13 20 **Q.** Well, Bergen Town Center thinks it's a
 01:13 21 good way to go. But we'll get into that afterwards.
 01:13 22 **A. But I have driven --**
 01:13 23 **Q.** Or Passaic Street?
 01:13 24 **A. -- I have -- I'm sorry?**
 01:13 25 **Q.** Excuse me. Passaic Street?
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01:13 1 CHAIRMAN GUERRA: Big difference.
 01:13 2 **A. Yeah. I'm sure I've driven Passaic**
 01:13 3 **Street during the time frame, but not in any recent**
 01:13 4 **history.**
 01:13 5 FEMALE AUDIENCE MEMBER: It's not fun.
 01:13 6 **Q.** So it's your reports, looking at them
 01:13 7 alongside of the reports originally prepared for
 01:13 8 Boswell, tell you that the opening of 180,000-square
 01:13 9 foot Target store, a 15,000-square foot Nike Factory
 01:14 10 store, 35,000-foot Nordstrom Rack, 80,000 Whole Foods
 01:14 11 store and since then Saks, Bloomingdale's, Jared,
 01:14 12 Nike, on and on. I will provide you with a copy of
 01:14 13 all of the new people there.
 01:14 14 **A. That's fine.**
 01:14 15 **Q.** From your study shows that none of that
 01:14 16 has added materially to traffic on Passaic Street
 01:14 17 since May of 2008?
 01:14 18 **A. I have the traffic study that was done**
 01:14 19 **for Bergen Town Center. I looked at the data that**
 01:14 20 **was done for Bergen Town Center.**
 01:14 21 **Q.** When was that done?
 01:14 22 **A. I don't recall, it was -- the hearings**
 01:14 23 **were back in 2005 and 2006 in Paramus which we**
 01:14 24 **attended.**
 01:15 25 **But, again, I come back to --**
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01:15 1 **Q.** So you have that data, no one was aware
 01:15 2 of all the stores that were going to be there, were
 01:15 3 they? No, they didn't know.
 01:15 4 **A. Well, when -- when you do a traffic**
 01:15 5 **study for a regional shopping center it doesn't**
 01:15 6 **matter what the stores are they're looking at -- I**
 01:15 7 **mean it's based on data -- its based on data from --**
 01:15 8 **collected throughout the country. I mean there's --**
 01:15 9 **there's hundreds if not thousands of regional**
 01:15 10 **shopping centers that the Bergen Town Center is**
 01:15 11 **similar to.**
 01:15 12 **Q.** And they're not all the same?
 01:15 13 **A. No.**
 01:15 14 **Q.** If you were to look at traffic data,
 01:15 15 let's say Riverside Square --
 01:15 16 **A. That -- that may be somewhat different.**
 01:15 17 **It'd be different than what you find at Short Hills**
 01:15 18 **Mall.**
 01:15 19 **Q.** Because of the nature of the center?
 01:15 20 **A. On a -- on a broad scale, not because**
 01:15 21 **there's a Bloomingdale's there or because there's a**
 01:15 22 **Saks there.**
 01:15 23 **Q.** No, because of the nature of the
 01:16 24 center?
 01:16 25 **A. Because of the size, and the -- and the**
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01:16 1 **type of tenants that they attract.**
 01:16 2 **Q.** Are you aware of any additional major
 01:16 3 tenants coming to Bergen Town Center or alongside of
 01:16 4 it? Apparently you thought to get a look at their
 01:16 5 2005 traffic report?
 01:16 6 **A. Well, I had -- I -- I had their traffic**
 01:16 7 **study for their -- for their expansion and**
 01:16 8 **development. And as far as I know there's no further**
 01:16 9 **development beyond what they got their approvals for.**
 01:16 10 **Q.** Why did you look at them? I thought
 01:16 11 you just told me this center had no reference to the
 01:16 12 location of the LTACH?
 01:16 13 **A. I don't understand that.**
 01:16 14 **Q.** You just told us that traffic to and
 01:16 15 from Bergen Town Center wasn't a factor?
 01:16 16 **A. And I determined that by looking at the**
 01:16 17 **traffic study for Bergen Town Center. I had it**
 01:16 18 **because one -- our client had asked us to review it.**
 01:16 19 **He was an adjacent property owner. So I had,**
 01:17 20 **fortunately for me, a copy of the report in my files.**
 01:17 21 **I didn't have to go to Paramus and get it out of**
 01:17 22 **their Planning Board file.**
 01:17 23 **Q.** Because you thought it might be
 01:17 24 relevant to these proceedings?
 01:17 25 **A. No, because I knew that it was an issue**
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01:17 1 **that had been raised at one of the early meeting as**
 01:17 2 **you had stated in your question a number of moments**
 01:17 3 **ago.**
 01:17 4 **Q.** And with the additional 300,000 square
 01:17 5 feet since 2005, you have looked at an updated
 01:17 6 report?
 01:17 7 **A.** **They have not done any updated report.**
 01:17 8 **They -- they did the report as part of the Planning**
 01:17 9 **Board process like we're doing it here. They didn't**
 01:17 10 **do a study afterwards.**
 01:17 11 **Q.** So the answer to my question is no?
 01:17 12 **A.** **There is no report.**
 01:17 13 **Q.** So you don't know what they would
 01:17 14 report on traffic now after those stores are open?
 01:17 15 **A.** **Well, what I can say is Mr. Miskovich's**
 01:17 16 **counts show that there's been no substantial change**
 01:17 17 **to those streets.**
 01:17 18 **Q.** Does that -- that means no?
 01:17 19 **A.** **Take it for what you think it's worth.**
 01:18 20 **Q.** Are you aware that there's also a
 01:18 21 Lowe's Super store coming to the same location and
 01:18 22 ground has on the broken for it?
 01:18 23 **A.** **I'm not aware of that, no.**
 01:18 24 AUDIENCE MEMBERS: Lowes.
 01:18 25 MR. MOSKOWITZ: Everybody's glad or

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01:18 1 sad?
 01:18 2 THE WITNESS: Oh, I'm sorry. A Lowes?
 01:18 3 **Q.** Lowes.
 01:18 4 **A.** **That was part of the approval that was**
 01:18 5 **gained in 2006. That was part of the approval.**
 01:18 6 **Q.** But the traffic to Lowes has not been
 01:18 7 studied because Lowes isn't built. The effect of it
 01:18 8 has not been studied for Passaic Street because it
 01:18 9 hasn't been built, correct?
 01:18 10 **A.** **The -- the -- no, that's not correct.**
 01:18 11 **Q.** Did they --
 01:18 12 **A.** **The traffic study was prepared for the**
 01:18 13 **entire expansion of Bergen Town Center, for**
 01:18 14 **everything including Lowes.**
 01:18 15 **Q.** In 2005?
 01:18 16 **A.** **Correct.**
 01:18 17 **You have to do the study before you can**
 01:18 18 **get an approval.**
 01:19 19 **Q.** If you live in Hackensack and you ask
 01:19 20 Bergen Town Center, through their electronic map and
 01:19 21 website, how you get from Golf, Berry, Prospect, et
 01:19 22 cetera, to Bergen Town Center, would it surprise you
 01:19 23 to know that you get to hit a few of these
 01:19 24 intersections?
 01:19 25 So you head north on Prospect towards

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01:19 1 Berry, make the second left on to East Passaic,
 01:19 2 that's off Summit.
 01:19 3 The other way they tell you to go is to
 01:19 4 start out on Prospect go to Passaic, make a left on
 01:19 5 Passaic, make a right on Summit.
 01:19 6 So when you tell me that you might have
 01:19 7 a different way, I don't know what way you would go.
 01:19 8 **A.** **No, I think that's a reasonable way if**
 01:20 9 **you're going to the Bergen Town Center.**
 01:20 10 **But that doesn't mean that there's a**
 01:20 11 **significant impact on those intersections from**
 01:20 12 **traffic of the renovated and expanded Bergen Town**
 01:20 13 **Center.**
 01:20 14 MR. MALAGIERE: I think it's a good
 01:20 15 time to break in accordance with the Chairman's
 01:20 16 direction.
 01:20 17 The Board will take a short recess.
 01:20 18 And, Mr. Miskovich, I mispronounced
 01:20 19 your name previously I apologize.
 01:20 20 We'll get you ready to take off when we
 01:20 21 reconvene.
 01:20 22 Mr. Moskowitz, your application is
 01:20 23 pending and the Chairman will reserve.
 01:20 24 MR. MOSKOWITZ: Thank you,
 01:20 25 Mr. Malagiere.

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01:20 1 Thank you, Mr. Chair.
 01:20 2 (Whereupon, a brief recess is taken.)
 01:39 3 MR. MALAGIERE: Back on the record.
 01:40 4 Thank you.
 01:40 5 Mr. Chairman, if I may I asked
 01:40 6 Basralian if he objected to Mr. Moskowitz (sic) going
 01:40 7 forward as he is still in the middle of his case in
 01:40 8 chief, as we saw. And I would like Mr. Basralian to
 01:40 9 respond to that on the record.
 01:40 10 MR. BASRALIAN: You meant Mr.
 01:40 11 Miskovich.
 01:40 12 MR. MALAGIERE: Pardon me.
 01:40 13 MR. BASRALIAN: I do object to Mr.
 01:40 14 Moskowitz.
 01:40 15 MR. MALAGIERE: Mr. Miskovich please,
 01:40 16 the Board's traffic consultant going forward in the
 01:40 17 middle of or at the tail end of, but nonetheless, in
 01:40 18 the process of his case in chief.
 01:41 19 MR. BASRALIAN: Well, I do have an
 01:41 20 objection on the following basis.
 01:41 21 It's a little over two months since our
 01:41 22 last hearing and apparently Mr. Miskovich has a
 01:41 23 program that he developed, a visual program, which we
 01:41 24 haven't seen before.
 01:41 25 I think that just as we were entitled

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01:41 1 to have the traffic report prior to a hearing we
 01:41 2 should be entitled to whatever this display. I
 01:41 3 believe it's the synchro display, Mr. Miskovich?
 01:41 4 MR. MISKOVICH: Yes.
 01:41 5 THE WITNESS: I think we're entitled to
 01:41 6 that. We're entitled to all the back up information.
 7 We're entitled to know what he utilized before he
 8 demonstrates it so that we have an opportunity to
 9 review it.

10 MR. MALAGIERE: What I -- I'm sorry,
 11 were you done, Mr. Basralian?

01:41 12 MR. BASRALIAN: Yes.

01:41 13 MR. MALAGIERE: What I'd offer is this,
 01:41 14 in order to just be expeditious, more so than
 01:41 15 judicious, I would suggest that we allow our traffic
 01:41 16 consultant to go forward and testify and that we hold
 01:41 17 Mr. Basralian's right to cross examine him until
 01:41 18 after Mr. Basralian has been supplied with all the
 01:41 19 background information and are hard copy or a digital
 01:42 20 copy of the entire presentation so that he will have
 01:42 21 the benefit of the transcript and the documents and
 01:42 22 he can cross examination him the next time we
 01:42 23 reconvene or sometime thereafter.

01:42 24 MR. BASRALIAN: Well, it sounds fair,
 01:42 25 except that the Board would have a hard time with me

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01:42 1 coming in with my traffic consultant, plopping down a
 01:42 2 report that they've never seen before and permitting
 01:42 3 him to go forward.

01:42 4 The Board gave great latitude to Mr.
 01:42 5 Moskowitz and to the other attorneys so that they
 01:42 6 didn't have to go forward in January because they
 01:42 7 didn't have the traffic report so that they were
 01:42 8 given an opportunity -- or the transcript, they were
 01:42 9 given an opportunity to go ahead and get the report
 01:42 10 and then come back and cross examine.

01:42 11 And since the Municipal Land Use Law
 01:42 12 applies to boards as well as applicants and you have
 01:42 13 a standard for your time period for the submission of
 01:42 14 reports, so too I should have that right.

01:42 15 MR. MALAGIERE: I would just respond
 01:42 16 that for expediency sake we should go forward.

01:42 17 This is obviously a very long
 01:42 18 application. And it's burdensome on the applicant.
 01:42 19 And it's also very costly to the applicant. I
 01:43 20 understand, Mr. Basralian --

01:43 21 MR. BASRALIAN: I would offer a
 01:43 22 compromise, however, he has a written report that
 01:43 23 he's going to testify as to his written report, so be
 01:43 24 it, that I'll cross examine him on. I reserve as not
 01:43 25 show this until I've had an opportunity to look at --

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01:43 1 and my consultant has an opportunity to look at it.

01:43 2 MR. MALAGIERE: I don't see how there's
 01:43 3 any prejudice visited upon the applicant by letting
 01:43 4 the direct testimony go in, and then holding off --
 01:43 5 and as a matter of fact the applicant gets -- or the
 01:43 6 cross examiner gets an additional benefit by having
 01:43 7 all of the information and the direct testimony and
 01:43 8 then a moment of pause to compile cross examination.

01:43 9 My request or my advise, Mr. Chairman,
 01:43 10 is to allow the direct testimony to go forward, and
 01:43 11 to provide -- and then we will order Mr. Miskovich to
 01:43 12 provide all -- to Mr. Basralian, all the back up he
 01:43 13 has here and Mr. Basralian could cross examine him at
 01:43 14 the next meeting.

01:43 15 MR. BASRALIAN: Including the pass out,
 01:43 16 the handout that he had before --

01:43 17 MR. MALAGIERE: Of course, everything.

01:43 18 CHAIRMAN GUERRA: Of course.

01:43 19 MR. BASRALIAN: In all due respect, I
 01:44 20 know that everybody's very busy, but I'm entitled to
 01:44 21 get these things at least a couple of weeks ahead of
 01:44 22 time. And I would have appreciated if that could
 01:44 23 have been done.

01:44 24 We did, after all, have over two months
 01:44 25 since the last hearing.

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01:44 1 MR. MALAGIERE: Thank you, Mr.
 01:44 2 Basralian.

01:44 3 Mr. Chairman, that's my recommendation.
 01:44 4 CHAIRMAN GUERRA: Yes, we're going to
 01:44 5 go ahead and watch this.

01:44 6 MR. MALAGIERE: Do you have that?

01:44 7 CHAIRMAN GUERRA: We need to be sure
 01:44 8 that Mr. Basralian gets everything.

01:44 9 MR. MALAGIERE: Yes, he'll get it.

01:44 10 MR. BASRALIAN: Including al the
 01:44 11 support data, Frank, all the backup in your
 01:44 12 comparison.

01:44 13 MR. MISKOVICH: Yes.

01:44 14 MR. BASRALIAN: Thank you.

01:44 15 MR. MALAGIERE: I'll make sure.

01:44 16 MR. BASRALIAN: All the field data too.

01:44 17 MR. MALAGIERE: I'll take the lead on
 01:44 18 that. And I'll make sure that Mr. Basralian's
 01:44 19 supplied with everything that's supporting the
 01:44 20 testimony that's going to go into the record.

01:44 21 Thank you.

01:44 22 Mr. Miskovich, I'm going to swear you
 01:44 23 in and put you on the record, sir, if you don't mind.

01:44 24 Do you swear the testimony you're about
 01:44 25 to give before this board to be the truth, the whole

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<p style="text-align: right;">77</p> <p>1 truth and nothing but the truth?</p> <p>2 MR. MISKOVICH: I do.</p> <p>3 F R A N K M I S K O V I C H, P.E.</p> <p>4 Having been duly sworn, testifies as follows:</p> <p>5 MR. MALAGIERE: Would you please</p> <p>6 identify yourself for the record and indicate the</p> <p>01:44 7 capacity in which you will offer testimony.</p> <p>8 MR. MISKOVICH: My name is Frank</p> <p>9 Miskovich, spelled M-i-s-k-o-v-i-c-h. I'm with the</p> <p>10 firm of Birdsall Engineering.</p> <p>11 I'm a licensed professional engineer in</p> <p>12 the State of New Jersey.</p> <p>13 As far as educational background I have</p> <p>14 a bachelor of science degree in civil engineering</p> <p>01:45 15 from the Newark College of Engineering. And a</p> <p>01:45 16 masters of science and civil engineering from the New</p> <p>01:45 17 Jersey Institute of Technology.</p> <p>01:45 18 I have been licensed in the State since</p> <p>01:45 19 1976. My primary area of expertise is transportation</p> <p>01:45 20 traffic engineering, highway design. I'm also</p> <p>01:45 21 manager of the transportation department of Birdsall</p> <p>01:45 22 Engineering.</p> <p>01:45 23 My role in this application has been as</p> <p>01:45 24 a consultant to the Zoning Board of Adjustment</p> <p>01:45 25 reviewing the applicant's traffic report and site</p> <p style="text-align: center;">LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</p>	<p style="text-align: right;">79</p> <p>01:46 1 the date?</p> <p>01:46 2 MR. MISKOVICH: That's the</p> <p>01:46 3 September 28, 2009 report. The revised November 23,</p> <p>01:46 4 2009, report.</p> <p>01:46 5 MR. MALAGIERE: And did you --</p> <p>01:46 6 MR. MISKOVICH: And I --</p> <p>01:46 7 MR. MALAGIERE: I'm sorry. Go head.</p> <p>01:46 8 MR. MISKOVICH: There were also several</p> <p>01:46 9 review letters that I had prepared in the interim</p> <p>01:47 10 since I became involved. I do not had the dates</p> <p>01:47 11 offhand.</p> <p>01:47 12 MR. MALAGIERE: That's okay.</p> <p>01:47 13 MR. MISKOVICH: They're in the file and</p> <p>01:47 14 part of the record.</p> <p>01:47 15 I did prepare --</p> <p>01:47 16 MR. MALAGIERE: I just want to go into</p> <p>01:47 17 what you reviewed first, then you can -- did you also</p> <p>01:47 18 look at any site plan drawings?</p> <p>01:47 19 MR. MISKOVICH: Yes, I did.</p> <p>01:47 20 MR. MALAGIERE: And what was the</p> <p>01:47 21 revision of the site plan drawing that you reviewed</p> <p>01:47 22 or did you review several? Did you review the</p> <p>01:47 23 latest, the February 2010 -- what's the latest, Joe.</p> <p>01:47 24 MR. BASRALIAN: February 3rd, 2010.</p> <p>01:47 25 MR. MALAGIERE: You review the</p> <p style="text-align: center;">LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</p>
<p style="text-align: right;">78</p> <p>01:45 1 plans.</p> <p>01:45 2 I was then asked to prepare a separate,</p> <p>01:45 3 independent traffic report based upon our data which</p> <p>01:45 4 I have.</p> <p>01:45 5 And purposed and asked to do what was</p> <p>01:45 6 called a simulation, a traffic simulation which we</p> <p>01:46 7 call the synchro program which is part of the</p> <p>01:46 8 presentation tonight.</p> <p>01:46 9 The pamphlet that I had --</p> <p>01:46 10 MR. MALAGIERE: Let me just interrupt</p> <p>01:46 11 for one second, you've indicated that you've reviewed</p> <p>01:46 12 the application or the relevant parts of the</p> <p>01:46 13 application in connection with your opinion for</p> <p>01:46 14 LTACH, I'm going call; is that accurate?</p> <p>01:46 15 MR. MISKOVICH: That's correct.</p> <p>01:46 16 MR. MALAGIERE: Could you just</p> <p>01:46 17 identify, if you can, the date of the documents or</p> <p>01:46 18 the drawings or whatever they are that you reviewed,</p> <p>01:46 19 so that we could identify -- I don't want you to go</p> <p>01:46 20 into too much detail, but just so we understand that</p> <p>01:46 21 you looked at the most recent stuff.</p> <p>01:46 22 MR. MISKOVICH: What I can say is I --</p> <p>01:46 23 I'll start of with I did review the reports that were</p> <p>01:46 24 prepared by Omland Engineering Associates.</p> <p>01:46 25 MR. MALAGIERE: Just put in the record</p> <p style="text-align: center;">LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</p>	<p style="text-align: right;">80</p> <p>01:47 1 February 10, 2010, site plan drawings?</p> <p>01:47 2 MR. MISKOVICH: Yes, I did.</p> <p>01:47 3 MR. MALAGIERE: Okay.</p> <p>01:47 4 MR. MISKOVICH: I also reviewed what</p> <p>01:47 5 was originally submitted. It was entitled Bergen</p> <p>01:47 6 Passaic LTACH. It was prepared by MD Surbatti</p> <p>01:47 7 Associates Architectural (phonetic) and I believe</p> <p>01:47 8 that was the colored booklet of the number of pages</p> <p>01:47 9 that showed renderings and some of the site layouts.</p> <p>01:47 10 MR. MALAGIERE: Did you review any</p> <p>01:47 11 other documents whether submitted by the applicant or</p> <p>01:47 12 just documents you got on your own in connection with</p> <p>01:48 13 your opinion in this matter?</p> <p>01:48 14 MR. MISKOVICH: Well, we reviewed some</p> <p>01:48 15 of the New Jersey Administrative Code requirements as</p> <p>01:48 16 far as possible staffing for these type of facilities</p> <p>01:48 17 regarding adult day care and dialysis centers.</p> <p>01:48 18 We also conducted or tried to contact a</p> <p>01:48 19 number of similar facilities to obtain information on</p> <p>01:48 20 employment, et cetera. But it was very difficult</p> <p>01:48 21 getting some of that priority or special information</p> <p>01:48 22 from those.</p> <p>01:48 23 So we did attempt to do that. We did</p> <p>01:48 24 do some research as far as looking at the institute</p> <p>01:48 25 of transportation engineers data. We looked on</p> <p style="text-align: center;">LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</p>

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01:48 1 websites to determine if there's similar facilities
 01:48 2 or similar uses that we could rely on some research
 01:48 3 data.
 01:48 4 MR. MALAGIERE: Did you review the
 01:48 5 proposed site and/or the surrounding environment --
 01:48 6 MR. MISKOVICH: Yes.
 01:48 7 MR. MALAGIERE: -- for the proposed
 01:48 8 site?
 01:48 9 MR. MISKOVICH: Yes, I did visit the
 01:48 10 site on a number of occasions, peak hours and some
 01:49 11 off peak hours.
 01:49 12 Our firm did conduct traffic counts in
 01:49 13 the area, that was identified as our study area. The
 01:49 14 primary intersections surrounding the site.
 01:49 15 MR. MALAGIERE: Do you know of dates of
 01:49 16 the traffic counts?
 01:49 17 MR. MISKOVICH: They were done in
 01:49 18 January of 2010.
 01:49 19 They're all in the February 12, 2010
 01:49 20 report, but --
 01:49 21 MR. MALAGIERE: That's fine.
 01:49 22 MR. MISKOVICH: January 13th.
 01:49 23 MR. MALAGIERE: There were two dates?
 01:49 24 MR. MISKOVICH: I don't want to hold up
 01:49 25 your testimony for that. They're in report that's

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01:49 1 fine.
 01:49 2 Is there anything else that you
 01:49 3 reviewed, whether documentary or physical inspection,
 01:49 4 which you are going to rely upon in giving the
 01:49 5 opinion with you're going to give over the course of
 01:49 6 your testimony.
 01:49 7 MR. MISKOVICH: In attempting to obtain
 01:50 8 some of the information, let's say, from the dialysis
 01:50 9 centers, part of that process we did actually talk to
 01:50 10 some of the ambulance drivers, some of the services
 01:50 11 that are transporting people to those facilities to
 01:50 12 gain understanding from them how many they transport
 01:50 13 per day, et cetera.
 01:50 14 But that was some of our research in
 01:50 15 trying to gather some information.
 01:50 16 As indicated, I will get into the
 01:50 17 testimony that these uses really did not occur
 01:50 18 simultaneously in a stand alone facility.
 01:50 19 You will find parts of them or some of
 01:50 20 the uses in hospitals or other facilities that have a
 01:50 21 myriad of other activities.
 01:50 22 MR. MALAGIERE: And, lastly, were you
 01:50 23 present during the testimony and cross examination of
 01:50 24 the applicant's traffic expert?
 01:50 25 MR. MISKOVICH: Yes, I was.

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01:50 1 MR. MALAGIERE: For the entire
 01:50 2 testimony?
 01:50 3 MR. MISKOVICH: Yes.
 01:50 4 MR. MALAGIERE: Well, thank you, sir.
 01:50 5 If you'd like to go forward with your
 01:50 6 presentation?
 01:50 7 MR. BASRALIAN: I do have a question.
 01:50 8 MR. MALAGIERE: Of course.
 01:50 9 MR. BASRALIAN: You indicated all the
 01:50 10 reports you reviewed, the site plan you reviewed,
 01:50 11 some of the data you attempted to gather from other
 01:51 12 centers and similar types of projects.
 01:51 13 You also indicated that you prepared
 01:51 14 your report in consultation with the Board when you
 01:51 15 were retained.
 01:51 16 Did you have any meetings with anybody
 01:51 17 within the Board, the municipality, to discuss the
 01:51 18 application and its status and it impacts or lack of
 01:51 19 impacts?
 01:51 20 MR. MISKOVICH: I'm not sure what you
 01:51 21 mean. I --
 01:51 22 MR. BASRALIAN: Were you given any
 01:51 23 specific direction with respect to the application to
 01:51 24 Mr. Moskowitz question as to how you were asked to
 01:51 25 prepare your report?

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01:51 1 MR. MISKOVICH: No, the answer to that
 01:51 2 is no. I was retained by the Board. I've listened
 01:51 3 to, I believe it was one testimony before, before Mr.
 01:51 4 Keller. And I've heard his testimony.
 01:51 5 But I was not given any direction by
 01:51 6 the Board, other than to prepare a review and prepare
 01:51 7 a separate or independent traffic report.
 01:51 8 MR. BASRALIAN: Well, I wouldn't have
 01:51 9 expected any less from the Board or from you, Mr.
 01:51 10 Miskovich, but I wanted to ask the question.
 01:51 11 Thank you.
 01:51 12 MR. MALAGIERE: If you'd like to go
 01:51 13 forward with your presentation, sir?
 01:51 14 MR. MISKOVICH: Sure.
 01:52 15 The presentation that I have here, and
 01:52 16 I hope to get this to work. It's been sitting for a
 01:52 17 while.
 01:52 18 MR. BASRALIAN: Would you -- when you
 01:52 19 do refer to anything here would you please be very
 01:52 20 specific so that the transcript, so the reporter can
 01:52 21 properly reference it.
 01:52 22 MR. MISKOVICH: Sure.
 01:52 23 I have here a PowerPoint presentation
 01:52 24 that I've labeled Bergen/Passaic LTACH being
 01:52 25 presented to the Hackensack Zoning Board of

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<p style="text-align: right;">85</p> <p>01:52 1 Adjustment April 29, 2010.</p> <p>01:52 2 Basically this PowerPoint presentation</p> <p>01:52 3 takes my traffic report and takes sections of it,</p> <p>01:52 4 excerpts from certain of the text, it takes some of</p> <p>01:52 5 the tables and put's it just into a PowerPoint rather</p> <p>01:52 6 than going through display boards or trying to</p> <p>01:52 7 verbally go through the report. It also addresses</p> <p>01:52 8 some of the site issues through some of the exhibits</p> <p>01:52 9 that you will see.</p> <p>01:53 10 So this is not a separate independent</p> <p>01:53 11 report, but basically a compilation of everything</p> <p>01:53 12 that is in our 2000 -- our February 12th, 2010,</p> <p>01:53 13 traffic report.</p> <p>01:53 14 MR. MALAGIERE: So this PowerPoint</p> <p>01:53 15 presentation is a collage, if you will, of excerpts</p> <p>01:53 16 of your previously produced report?</p> <p>01:53 17 MR. MISKOVICH: That's correct.</p> <p>01:53 18 MR. MALAGIERE: So there's no new</p> <p>01:53 19 information?</p> <p>01:53 20 MR. MISKOVICH: That's correct.</p> <p>01:53 21 MR. MALAGIERE: Mr. Basralian, you</p> <p>01:53 22 received the February report.</p> <p>01:53 23 MR. BASRALIAN: But are there -- yes,</p> <p>01:53 24 let that explore, are there any pictures or future</p> <p>01:53 25 build, no build, diagrams that are contained in this</p> <p style="text-align: center;">LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</p>	<p style="text-align: right;">87</p> <p>01:54 1 slides so if there's any reference to go back to and</p> <p>01:54 2 we can refer to that.</p> <p>01:54 3 Again some of this may be redundant to</p> <p>01:54 4 the public and the Board, but I'd like to go through</p> <p>01:54 5 it anyway.</p> <p>01:54 6 What is being proposed is a 19 story</p> <p>01:54 7 medical building. It's going to house a long term</p> <p>01:54 8 acute hospital with 120 beds, a dialysis center with</p> <p>01:54 9 63 stations, adult day care center with 180 persons.</p> <p>01:54 10 And what I have here is a 400 space underground</p> <p>01:54 11 parking garage which was contained in our report.</p> <p>01:54 12 But the correction is that it's 413</p> <p>01:55 13 spaces when you include the van operating and the</p> <p>01:55 14 medical van parking areas.</p> <p>01:55 15 The site is depicted in this,</p> <p>01:55 16 highlighted in yellow (indicating). Basically it's</p> <p>01:55 17 approximately midway between Golf Place and Berry</p> <p>01:55 18 Street, between Prospect Avenue and Summit Avenue.</p> <p>01:55 19 We have identified some of the areas</p> <p>01:55 20 that we think is in critical intersections around the</p> <p>01:55 21 area, primarily coming from Central Avenue and</p> <p>01:55 22 Summit, Passaic and Summit, down to Prospect Avenue</p> <p>01:55 23 and Passaic, all the way down to Central Avenue and</p> <p>01:55 24 Prospect Avenue.</p> <p>01:55 25 The two streets Golf Place and Berry</p> <p style="text-align: center;">LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</p>
<p style="text-align: right;">86</p> <p>01:53 1 presentation that are not contained in your report.</p> <p>01:53 2 MR. MISKOVICH: I do not have the</p> <p>01:53 3 volume figures that are contained in the report, if</p> <p>01:53 4 that's your question.</p> <p>01:53 5 I basically have some of the tables and</p> <p>01:53 6 have portions of the text that -- that put together</p> <p>01:53 7 -- that I used to put together the report.</p> <p>01:53 8 I do have a figure where there's an</p> <p>01:53 9 aerial photograph of the site that's not contained in</p> <p>01:54 10 that report. I have a copy of some turning templates</p> <p>01:54 11 --</p> <p>01:54 12 MR. MALAGIERE: Why don't we do this --</p> <p>01:54 13 I'm sorry.</p> <p>01:54 14 MR. BASRALIAN: Why don't we just</p> <p>01:54 15 see --</p> <p>01:54 16 MR. MALAGIERE: Why don't we see it and</p> <p>01:54 17 as you --</p> <p>01:54 18 MR. MISKOVICH: I think that's easier</p> <p>01:54 19 to do it that way.</p> <p>01:54 20 MR. MALAGIERE: And as you put it up,</p> <p>01:54 21 maybe Mr. Basralian's objection will become moot or</p> <p>01:54 22 less intense as your presentation goes forward.</p> <p>01:54 23 MR. MISKOVICH: The PowerPoint also in</p> <p>01:54 24 the handout that I've given to the Board and Mr.</p> <p>01:54 25 Basralian also has page numbers as they go with the</p> <p style="text-align: center;">LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</p>	<p style="text-align: right;">88</p> <p>01:55 1 Street were not counted as part of our study. They</p> <p>01:55 2 were slightly lower volumes than the primary</p> <p>01:55 3 intersections, but obviously they're going have some</p> <p>01:55 4 impact and effect the ability of the traffic on those</p> <p>01:55 5 streets to get out.</p> <p>01:56 6 But by far the volumes on those streets</p> <p>01:56 7 from our observations are -- are minor compared to</p> <p>01:56 8 the four main streets.</p> <p>01:56 9 We have Prospect Avenue which has been</p> <p>01:56 10 labeled an urban collector roadway, obviously</p> <p>01:56 11 everybody knows it's one lane in each direction.</p> <p>01:56 12 There is some parking on the side -- on</p> <p>01:56 13 both sides of the street and a lot of areas that are</p> <p>01:56 14 marked no parking; 35 mile an hour posted speed limit</p> <p>01:56 15 -- I'm sorry -- 25 mile per hour posted speed limit.</p> <p>01:56 16 Summit avenue is also none as County</p> <p>01:56 17 Route 57. Again that's labeled as an urban minor</p> <p>01:56 18 arterial. It provides one lane of travel in each</p> <p>01:56 19 direction with on-street parking. And that posted</p> <p>01:56 20 speed limit, as we found, is 35 miles per hour.</p> <p>01:56 21 Intersections of Prospect with Central</p> <p>01:56 22 Avenue and Passaic Street and Central Avenue with</p> <p>01:57 23 Summit and Passaic and Summit are signalized</p> <p>01:57 24 intersections. They basically operate on a fixed</p> <p>01:57 25 time traffic signal operation, meaning one street</p> <p style="text-align: center;">LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</p>

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01:57 1 goes and then the other street goes. In essence they
 01:57 2 do provide one lane of travel, although the
 01:57 3 intersections do have some left turn lanes that
 01:57 4 Central Avenue -- I'm sorry Passaic and Summit,
 01:57 5 Passaic Street has two lanes and Prospect -- excuse
 01:57 6 me. Prospect Avenue northbound very -- two lanes
 01:57 7 northbound but there's a very short right turn lane
 01:57 8 which you'll see when we get into some of the
 01:57 9 simulation.

01:57 10 In reviewing the traffic volumes,
 01:57 11 you've heard some of the testimony earlier tonight.
 01:57 12 Omland did traffic counts, manual count that were
 01:57 13 actually done in April and May of 2008 that were
 01:57 14 included in the report. But they also went out and put
 01:57 15 out machines on Summit -- excuse me -- Summit and
 01:58 16 Prospect avenues in June of 2008. And they had those
 01:58 17 down for a one week period where they record volumes
 01:58 18 on an hourly basis.

01:58 19 We did review those to compare them to
 01:58 20 the counts that were done in 2008. And they were
 01:58 21 within what we term a reasonable percentage, probably
 01:58 22 within 10 percent of the manual counts.

01:58 23 Obviously we understand that there are
 01:58 24 daily variations in traffic, weekly variations in
 01:58 25 traffic and there's seasonal variations, but when we

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01:58 1 looked at these 10 percent to 15 percent it was
 01:58 2 somewhat reasonable.

01:58 3 We went out there January 13th, 2010
 01:58 4 and counted those intersections again.

01:58 5 Again we found that our counts were
 01:58 6 about ten percent of their volumes, though slightly
 01:58 7 lower. So it's reasonable that comparing traffic in
 01:58 8 January to traffic in April and May that variation
 01:58 9 might be reasonable.

01:58 10 But we've come to the general
 01:59 11 conclusion that since we did our counts in what's
 01:59 12 traditionally a low traffic volume period in January,
 01:59 13 and Omland did them in what might be considered a
 01:59 14 higher traffic volume period in the April, spring
 01:59 15 months, that the analysis if you look at any time
 01:59 16 throughout the year are going to be similar between
 01:59 17 those two. You're going to have the peak times and
 01:59 18 the impacts of say the June, May -- April, May
 01:59 19 traffic. And you may have other impacts when you do
 01:59 20 January, February, when things are a bit lower. So
 01:59 21 there's going to be a range throughout the year.

01:59 22 But we did the analysis going forward
 01:59 23 based upon our counts and you'll see some comparison
 01:59 24 when we compare those capacity and intersection
 01:59 25 analyses to the Omland report.

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01:59 1 You've heard some -- that there's been
 01:59 2 a number of comparisons or assumption that we were
 01:59 3 going through in preparing the report.

01:59 4 As I indicated, that our research in
 02:00 5 trying to find a similar facility where you had the
 02:00 6 long term acute care, a dialysis and an adult day
 02:00 7 care center in one building that is stand alone, we
 02:00 8 couldn't find any, at least, on record. That doesn't
 02:00 9 mean they don't exist, but we had trouble finding one
 02:00 10 that we could go out and research.

02:00 11 The LTACH facilities that we saw were
 02:00 12 always attached to a hospital, so if we were to try
 02:00 13 to get some information as far as parking or activity
 02:00 14 it would be hard to differentiate if they were there
 02:00 15 for the LTACH versus some other facilities.

02:00 16 We did have stand alone dialysis
 02:00 17 centers, but again we'll get into some of the
 02:00 18 assumptions, adult day care centers there were some
 02:00 19 independent ones.

02:00 20 But, again, putting that in all one
 02:00 21 building with the transportation as proposed by the
 02:00 22 applicant, to find something similar was -- was --
 02:00 23 was difficult.

02:00 24 When we looked at the LTACH, let's
 02:00 25 discuss the medical vans because we had some concerns

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02:00 1 as far as the activity that was there. They had one
 02:01 2 passenger per van. We took that same approach coming
 02:01 3 for the LTACH. They had vans arriving at the
 02:01 4 facility and leaving within a half hour of the
 02:01 5 designated appointment time or where we thought that
 02:01 6 might be longer because the testimony has been that
 02:01 7 they will pull in from Prospect Avenue or Summit into
 02:01 8 the garage, park, unload, take the patient up to the
 02:01 9 room and then have to leave.

02:01 10 What happens is a lot of that time with
 02:01 11 the attendees, they linger around, there's going to
 02:01 12 be paperwork. We thought that a half hour turn
 02:01 13 around was going to be too quick. So that really
 02:01 14 effects the parking demand because they'll be in the
 02:01 15 garage a little bit longer.

02:01 16 When we looked at the dialysis center,
 02:01 17 they were assuming ten passengers per van. I believe
 02:01 18 the van ranged 9 to 12 -- or 12 passenger. There was
 02:01 19 a diagram in the Omland report, but the assumption
 02:01 20 was ten passengers per van.

02:01 21 We discussed this, like I said with
 02:02 22 some of the ambulance operators that went to the
 02:02 23 dialysis centers, and asked them typically what do
 02:02 24 you transport? How many people in the ambulances
 02:02 25 that you take to those centers? They said it's

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02:02 1 typically one. They're either by appointment. They
 02:02 2 make the rounds. They're taking one person and
 02:02 3 dropping them off. They may leave to go then pick
 02:02 4 another one, take them somewhere else. But it's
 02:02 5 usually one.

02:02 6 The testimony has been, by the
 02:02 7 applicant, that he has a van operation that will be
 02:02 8 part of his facility that they will be going around
 02:02 9 transporting them. That's why they had the ten
 02:02 10 passengers per van.

02:02 11 But based upon what we thought to be
 02:02 12 conservative, instead of using the one, we thought
 02:02 13 there might be two because they're might be some
 02:02 14 economy of -- if you're operating you're own
 02:02 15 transportation system, to try and pick up more than
 02:02 16 one.

02:02 17 Again, we're looking at vans arriving a
 02:02 18 half hour to an hour before the facility or before
 02:03 19 the scheduled treatment center. We think they may
 02:03 20 arrive one to two hours depending on when they're
 02:03 21 going to drop off.

02:03 22 In our discussions, we -- what we were
 02:03 23 told is a lot of times they'll get there and they'll
 02:03 24 drop off for the appointment time, but on the return
 02:03 25 they may be an hour to two hours sometimes before,

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02:03 1 depending on if they had to make another trip, pick
 02:03 2 up another patient, or if they dropped off a second
 02:03 3 patient somewhere and they come back to the facility
 02:03 4 they would just wait.

02:03 5 So there might be a longer time for
 02:03 6 these medical vans at the dialysis centers to stay in
 02:03 7 the parking lot a little bit longer.

02:03 8 So that would, again, affect some of
 02:03 9 the parking calculations.

02:03 10 And, again, this is the same thing that
 02:03 11 the -- when they start, all vans starting within a
 02:03 12 half hour of the start of the next dialysis session,
 02:03 13 we expanded that to may be a half hour to an hour
 02:03 14 based upon what we thought might be reasonable.

02:03 15 And then, in essence, the final van of
 02:03 16 the day, they had arriving 5:30 to 6:30, we thought
 02:03 17 it might be a little bit earlier. Again, they're
 02:04 18 assuming that a hundred percent of the patients come
 02:04 19 via their medical vans, if they're not dropped off by
 02:04 20 a -- the -- the family member or someone else which
 02:04 21 may work, but on the other hand you're going probably
 02:04 22 get some percentage that would opt to have their own
 02:04 23 private transport, either because it's more
 02:04 24 convenient for them time-wise or the routing doesn't
 02:04 25 work out. So there's going to be some variation in

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02:04 1 there.

02:04 2 **Q.** Again, adult day care, they've assumed
 02:04 3 nine passengers per van, we took six passengers per
 02:04 4 van, based upon some other facilities that we had
 02:04 5 discussions with.

02:04 6 And you will find a little bit more in
 02:04 7 the adult day care, especially if hey have -- they're
 02:04 8 operating their own vans and going around to pick up,
 02:04 9 so there's going to be some number, but we thought
 02:04 10 nine is really filling that van. The six might be a
 02:04 11 little more reasonable.

02:04 12 Again, when we looked at the number of
 02:05 13 cars, again, all traffic -- they went through the
 02:05 14 report and said that for LTACH that all traffic will
 02:05 15 be vans dropping patients off from hospitals. We
 02:05 16 don't necessarily disagree with that because if
 02:05 17 they're in the hospital, they're being transported to
 02:05 18 this type of facility. It's not something they're at
 02:05 19 home and transported to this because it's emergency
 02:05 20 care.

02:05 21 So there's some reasonableness to that,
 02:05 22 that they're going to be transported from another
 02:05 23 facility here by some type of medical transport.

02:05 24 Again, if you go through our chart the
 02:05 25 dialysis and the adult day care follows very similar

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02:05 1 to what we have for the LTACH, that the arrival times
 02:05 2 were -- we thought were a little bit short or how
 02:05 3 long they stay, we thought there might be a little
 02:05 4 bit longer stay coming into the center.

02:05 5 And if that is the case, then obviously
 02:05 6 the parking becomes a little bit more impacted
 02:05 7 because they're staying in the parking garage longer.

02:06 8 Now, when we looked at the staffing,
 02:06 9 Omland had used 84 percent of employees drive
 02:06 10 themselves to work. That was based on a study that
 02:06 11 he had done across at Prospect care center.

02:06 12 And there's been testimony about the
 02:06 13 census data.

02:06 14 We did look at the census data. And if
 02:06 15 you look at the census data it's actually about not
 02:06 16 16 percent, but about 13 percent that possibly use
 02:06 17 some type of transportation to travel to work. So
 02:06 18 that was not unreasonable.

02:06 19 However the census data also is based
 02:06 20 upon these residents that live in the area or the
 02:06 21 census check that we looked at.

02:06 22 So the question is whether that journey
 02:06 23 to work is going to be the same.

02:06 24 It could be a higher percentage
 02:06 25 actually drive to the facility.

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02:06 1 But as far as the assumption goes,
 02:06 2 that's no out of line with the census data.
 02:07 3 Again, visitors, they had visitor stay
 02:07 4 for half hour, we thought they were longer. In our
 02:07 5 analysis we had more visitors arriving to visit
 02:07 6 patients in the evening then there is in the Omland
 02:07 7 report, but that was -- that's all calculated into
 02:07 8 our -- our traffic for our parking study.
 02:07 9 We heard testimony at one of the prior
 02:07 10 hearings about our distribution. We have looked at
 02:07 11 what Omland had submitted and thought that although
 02:07 12 reasonable based upon looking the traffic volumes on
 02:07 13 the streets that really we -- we went with a
 02:07 14 different approach. We looked at a gravity model
 02:07 15 looking at populations of the neighboring towns
 02:07 16 within a certain radius, and trying to come up with
 02:07 17 what might be a reasonable arrival route.
 02:07 18 All right. And I will point out two
 02:07 19 things, in the first part where we have Passaic
 02:08 20 Avenue east and west actually it should be Passaic
 02:08 21 Street. Our report had this listed as Prospect
 02:08 22 Street or Prospect Avenue. And where we have
 02:08 23 Prospect Avenue, we had Passaic Avenue/Street
 02:08 24 (indicating).
 02:08 25 Mr. Keller pointed that out to me so in
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02:08 1 preparing this slide I made that change, and just
 02:08 2 would explain it to the Board.
 02:08 3 We also have a slight difference in the
 02:08 4 percentage that we thought was arriving on Prospect
 02:08 5 Avenue from the south or the report has 5 percent
 02:08 6 this is 10 percent. And we had from Summit Avenue
 02:08 7 from the south 5 percent here, we had 10 percent
 02:08 8 (indicating).
 02:08 9 Part of that is because when we looked
 02:08 10 at the trip percentage figures in our report at
 02:08 11 Prospect Avenue and Passaic northbound and Central --
 02:08 12 I mean Summit and Passaic northbound, those were the
 02:08 13 numbers, so they got transposed into the report
 02:08 14 accidentally.
 02:08 15 Having said that, it really is some
 02:08 16 minor differences, the biggest difference being that
 02:09 17 we think the Summit Avenue access is going to have a
 02:09 18 little bit more traffic than was in the Omland
 02:09 19 report. A, traffic coming from the west was higher
 02:09 20 in their percentage, traffic coming down Passaic
 02:09 21 Avenue from the west rather than traveling across
 02:09 22 Summit Avenue to Prospect and making the right to
 02:09 23 come into this site, we thought we'd just make the --
 02:09 24 take the Summit Avenue access to First Street, come
 02:09 25 down and pull into this site.
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02:09 1 So it was really a matter of how we
 02:09 2 distributed and assigned the traffic. So there is
 02:09 3 some minor difference in that.
 02:09 4 MR. MALAGIERE: Let's just, on the next
 02:09 5 one you have, just for the benefit of the record just
 02:09 6 indicate its a new slide and read the title.
 02:09 7 MR. MISKOVICH: Okay.
 02:09 8 MR. MALAGIERE: It's obviously "parking
 02:09 9 analysis."
 02:09 10 MR. MISKOVICH: For the -- right. We
 02:09 11 have a new section it's parking analysis actually
 02:09 12 Sheet 9 on he the handout and part of the PowerPoint
 02:09 13 presentation. My report had --
 02:10 14 MR. MALAGIERE: Yes, just indicate that
 02:10 15 you have a new sheet up.
 02:10 16 MR. MISKOVICH: Okay.
 02:10 17 MR. MALAGIERE: It's just hard for us
 02:10 18 when we --
 02:10 19 MR. MISKOVICH: I'm sorry.
 02:10 20 MR. MALAGIERE: -- and apologize for
 02:10 21 this, I just want to explain why we do it. When we
 02:10 22 read the transcript as attorneys, anybody looking at
 02:10 23 it and you try to follow along as the evidence is
 02:10 24 presented it's very help to have these benchmarks.
 02:10 25 Thank you.
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02:10 1 MR. MISKOVICH: Okay. Sure.
 02:10 2 We're on slight number ten, "parking
 02:10 3 requirements".
 02:10 4 MR. MALAGIERE: Thank you.
 02:10 5 MR. MISKOVICH: This is also contained
 02:10 6 in our traffic impact report.
 02:10 7 But I can give you the reference, page
 02:10 8 number. This is on page 11 of our report.
 02:10 9 Since there doesn't -- there is not a
 02:10 10 parking requirement for this type of facility, the
 02:10 11 question is what is the appropriate parking
 02:10 12 requirement by ordinance.
 02:11 13 As Neglia Engineering had also pointed
 02:11 14 out that the LTACH use seems to be more equivalent to
 02:11 15 a hospital type of use.
 02:11 16 So using the -- applying the hospital
 02:11 17 rate to the 120 beds that are proposed requires 468
 02:11 18 spaces.
 02:11 19 Again, there's nothing for a dialysis
 02:11 20 center, so the question is what is an appropriate
 02:11 21 rate for that. Again they used the office rate,
 02:11 22 which we think is reasonable, 100 spaces required for
 02:11 23 that.
 02:11 24 And then allowed adult day care, the
 02:11 25 closest thing in your ordinance that really is kind
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02:11 1 of a social hall/community center. And if you apply
 02:11 2 the calculations there, that's 85 spaces.
 02:11 3 So using some land uses that are in
 02:11 4 your ordinance and looking at the parking
 02:11 5 requirement, we would calculate 653 spaces being
 02:11 6 required, whereas 407 or the 413 concerning the
 02:11 7 medical van and delivery spaces, is what's being
 02:12 8 proposed.
 02:12 9 Sheet 11 was actually -- is a parking
 02:12 10 utilization for all of the programs that was handed
 02:12 11 out at one of the public hearings presented by Omland
 02:12 12 Engineering by Eric Keller. He had presented that
 02:12 13 slide or that exhibit which is kind of indicated in
 02:12 14 the red. It's hard to see this slide, but the lower
 02:12 15 ones, for lack of a better description in red are
 02:12 16 what was presented in, A, from his report, but an
 02:12 17 exhibit that was provided.
 02:12 18 We had taken our distribution of
 02:12 19 parking based upon our assumptions as far as number
 02:12 20 of visitors, number of people per van, et cetera, and
 02:12 21 went through the same hourly distribution, following
 02:12 22 the procedure or analysis that Mr. Keller took in his
 02:12 23 report. And that is represented in the blue or the
 02:13 24 higher numbers.
 02:13 25 In essence what it shows is that,
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02:13 1 obviously, we have peaking times in the morning and
 02:13 2 in the evening when you have shift changes and a lot
 02:13 3 of the employees are coming to work in the morning
 02:13 4 and then obviously the overlap in the evening where
 02:13 5 it pushes a little bit higher occupancy rate inside
 02:13 6 the parking garage.
 02:13 7 The next slide, which is slide number
 02:13 8 12, is really reflected on page 12 of my report. In
 02:13 9 essence, taking the graph that you just saw on slide
 02:13 10 11 and looking at particular times, 9:30 to 10:30
 02:13 11 slot, 10 to 2 a.m. the average during the middle of
 02:13 12 the day. And, again, in the afternoon and comparing
 02:13 13 them, we looked at number of cars parked estimated by
 02:13 14 Omland and estimated by us and looked at the
 02:14 15 occupancy as far as number of spaces that would be
 02:14 16 occupied. And you can see that, in essence, our's
 02:14 17 wind up being slightly higher. Order of magnitude
 02:14 18 may be ten to 20 percent higher in certain instances.
 02:14 19 I was told, and then corrected if I apply that BEI
 02:14 20 rate based on 413 spaces, those percentages on the
 02:14 21 right adjust a little bit.
 02:14 22 For an example the 98.8 percent number
 02:14 23 drops down to 97.4 percent. From the top of the
 02:14 24 Table 9:30 to 10:30 the 92.6 actually drops to 91.3
 02:14 25 percent.
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02:14 1 So order of magnitude, we're not
 02:15 2 drastically different as far as those numbers there,
 02:15 3 may be within a percentage point or so.
 02:15 4 But saying at certain times that a
 02:15 5 garage may be experiencing, or close to capacity of
 02:15 6 the facility.
 02:15 7 We just took it one step further, even
 02:15 8 though it was noted that the percentage that was
 02:15 9 arriving are using some type of public transportation
 02:15 10 or shared parking, I mean you know riding with
 02:15 11 somebody else, that that didn't happen. That
 02:15 12 everybody drove to the facility. We redid the chart
 02:15 13 and that is what is shown under the BEI column in the
 02:15 14 right on slide number 13. That if everybody drove
 02:15 15 and really didn't get dropped off or didn't take mass
 02:15 16 transit or walk, that the capacity of that facility
 02:15 17 would be exceeded. All that supplies is the fact
 02:15 18 that may be the garage doesn't quite have enough
 02:15 19 parking if that were the case. We wanted to show
 02:15 20 that here's a possibility of giving that -- that
 02:15 21 range that if it were pushing 90 percent occupancy
 02:16 22 we're getting close to really practical capacity of
 02:16 23 the parking garage. All right?
 02:16 24 The next section is "site design" which
 02:16 25 is -- begins a slide 14 continues on number 15.
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02:16 1 The Summit Avenue drop-off, the
 02:16 2 applicant has indicated, at least Mr. Keller has,
 02:16 3 that it's been infrequently used for emergency
 02:16 4 services and drop-offs. The traffic activity may
 02:16 5 actually be higher because that entrance into the
 02:16 6 adult day care over to the dialysis is really, I
 02:16 7 think, more convenient to the -- to the main entrance
 02:16 8 versus the garbage.
 02:16 9 Deliveries, again, this becomes more
 02:16 10 important, we've heard some testimony, parcel
 02:16 11 deliveries, UPS, FedEx, those type of vehicles that
 02:16 12 may not decide to go into the garage and park,
 02:16 13 deliver, they may just decide to pull into the drop
 02:16 14 off area park and run in.
 02:17 15 The same thing as office building. You
 02:17 16 might have a space designated. They're just going to
 02:17 17 pull up to the front door.
 02:17 18 So there's that to potential that
 02:17 19 you're going to have more activity at that facility
 02:17 20 than really has been estimated either by Mr. Keller
 02:17 21 or even what we might anticipate.
 02:17 22 But then we have this potential for
 02:17 23 illegal maneuvers. Slide 12 is a portion of the site
 02:17 24 plan that was submitted by Omland Engineering. I'm
 02:17 25 not sure of the exact sheet number.
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<p style="text-align: right;">105</p> <p>02:17 1 MR. NIX: Sixteen.</p> <p>02:17 2 MR. MISKOVICH: I'm sorry.</p> <p>02:17 3 MR. NIX: Slide 16.</p> <p>02:17 4 MR. MALAGIERE: No, it's not really --</p> <p>02:17 5 it may be your slide 12 but it's page 16.</p> <p>02:17 6 MR. MISKOVICH: I'm sorry. Slide 16,</p> <p>02:17 7 but this is a portion of the site plan that is</p> <p>02:17 8 contained and submitted by Omland Engineering that</p> <p>02:17 9 shows the drop-off area, shows the access to the</p> <p>02:17 10 garage.</p> <p>02:17 11 I'll do it that way, let me use this.</p> <p>02:18 12 We have the drop-off area where it's</p> <p>02:18 13 one way in, one driveway, drop-off area here where</p> <p>02:18 14 you come and exit. And this that I'm pointing to now</p> <p>02:18 15 just to the south of the exit drive and drop-off area</p> <p>02:18 16 is the garage entrance and exit (indicating).</p> <p>02:18 17 The plan indicates that we have</p> <p>02:18 18 prohibiting left turns out of the facility, both from</p> <p>02:18 19 the drop-off and the garage area. This somewhat</p> <p>02:18 20 might be a -- it's a reasonable design to have signs</p> <p>02:18 21 and posted as no -- no left turns, but I think the</p> <p>02:18 22 practicality is it becomes an enforcement issue</p> <p>02:18 23 because Summit Avenue at this point is fairly wide</p> <p>02:18 24 enough to not to allow these cars to really make the</p> <p>02:18 25 left out of there.</p> <p style="text-align: center;">LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</p>	<p style="text-align: right;">107</p> <p>02:20 1 as part of that package. It's in the corner</p> <p>02:20 2 (indicating) there is showing some movement and we've</p> <p>02:20 3 raised some concern as far as the ability of that to</p> <p>02:20 4 really function adequately. I believe that is also</p> <p>02:20 5 in the Neglia Engineering report.</p> <p>02:20 6 Again, we have the truck loading,</p> <p>02:20 7 emergency vehicle parking, medical van, all of that</p> <p>02:20 8 kind of in the same general area. So there's a mix</p> <p>02:20 9 in that one corner of the parking garage.</p> <p>02:20 10 Again, I think the key that we see in</p> <p>02:20 11 this, from a safety aspect, is the Prospect Avenue</p> <p>02:20 12 service driveway. In essence, you have a 10 foot</p> <p>02:20 13 wide driveway where trucks must either -- I</p> <p>02:20 14 apologize. I don't know what's going on. Bear with</p> <p>02:21 15 me a moment. Seems to be in a loop.</p> <p>02:21 16 I guess it's getting tired.</p> <p>02:21 17 CHAIRMAN GUERRA: Me too.</p> <p>02:22 18 MR. MISKOVICH: Slide 19 which is one</p> <p>02:22 19 of the exhibits that was submitted by Omland</p> <p>02:22 20 Engineering shows maneuvering into that driveway</p> <p>02:22 21 heading northbound on Prospect Avenue. The one on</p> <p>02:22 22 the left is a WB40 which is a small tractor trailer</p> <p>02:22 23 that's backing into the facility. The one on -- the</p> <p>02:22 24 exhibit on the right is a single unit truck backing</p> <p>02:22 25 maneuver into that driveway.</p> <p style="text-align: center;">LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</p>
<p style="text-align: right;">106</p> <p>02:18 1 Now, there during peak hours that may</p> <p>02:18 2 not be something desirable, if they're in off peak</p> <p>02:18 3 horse there may be someone dropping off that just</p> <p>02:18 4 might be an attractive -- something that's a</p> <p>02:19 5 attractive nuisance, if you will, to both be making</p> <p>02:19 6 illegal turn.</p> <p>02:19 7 The other issue that was raised by a</p> <p>02:19 8 Neglia Engineering report is that with both car</p> <p>02:19 9 turning out of here, I believe there's a wall, sight</p> <p>02:19 10 distance issues may be there, which precludes good</p> <p>02:19 11 visibility for either movement.</p> <p>02:19 12 But I would defer to Mr. Neglia's</p> <p>02:19 13 representative to may be discuss those site issues</p> <p>02:19 14 when he gets into specifics of it.</p> <p>02:19 15 Again, although, this is a reasonable</p> <p>02:19 16 treatment, really the thing the Board should consider</p> <p>02:19 17 is, is that really practical? Are people really</p> <p>02:19 18 going to be doing that or does it become an</p> <p>02:19 19 enforcement issue?</p> <p>02:19 20 Again when we looked at the parking</p> <p>02:19 21 garage, slide 17, in the area of the garage loading</p> <p>02:19 22 where they have the medical vans and they have the</p> <p>02:19 23 emergency -- not emergency vehicles, but the truck</p> <p>02:19 24 deliveries, it's fairly tight as we can see looking</p> <p>02:20 25 at the turning movement diagrams that were submitted</p> <p style="text-align: center;">LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</p>	<p style="text-align: right;">108</p> <p>02:22 1 I think from this exhibit it easily</p> <p>02:22 2 shows that they have to stop and -- not only stop</p> <p>02:22 3 oncoming traffic which is southbound maneuver, but</p> <p>02:23 4 they're going to be backing up into traffic coming up</p> <p>02:23 5 from the south. So that's really a maneuver on a</p> <p>02:23 6 fairly heavy traveled roadway that probably is not</p> <p>02:23 7 desirable.</p> <p>02:23 8 Again if they're coming down from</p> <p>02:23 9 Passaic and coming to the site they're going to have</p> <p>02:23 10 to back up and block the entire street again to pull</p> <p>02:23 11 into this. That maneuver comes into pulling into a</p> <p>02:23 12 10 foot wide driveway and then travelling some</p> <p>02:23 13 distance back into the loading areas.</p> <p>02:23 14 So either they're going to have to do</p> <p>02:23 15 that backing into the site where if they're in there,</p> <p>02:23 16 pulling out.</p> <p>02:23 17 The real issue that I see there is the</p> <p>02:23 18 fact that even though it may happen once or twice a</p> <p>02:23 19 day or even a week, I'm not -- don't recall exactly</p> <p>02:23 20 the testimony as far as the numbers, but you got to</p> <p>02:23 21 stop traffic. Someone has to get out there, stop</p> <p>02:23 22 traffic to make that maneuver and it's always</p> <p>02:23 23 difficult sometimes to really get people to really</p> <p>02:23 24 come at certain times.</p> <p>02:23 25 As a matter of fact when I was out</p> <p style="text-align: center;">LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</p>

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02:23 1 there we were looking at the counts at 5:00 there was
 02:23 2 an oil delivery at one of the apartments close to
 02:24 3 Passaic. It took 3 or 4 maneuvers to get into the
 02:24 4 driveway so -- and that was just a small oil truck.
 02:24 5 So that can be an issue you may see
 02:24 6 here. The fact that we have a clear virgin site, or
 02:24 7 going to be demolished, it is a possibility that may
 02:24 8 be something could be corrected. So this is not --
 02:24 9 that this is avoided.

02:24 10 We're going -- traffic analysis
 02:24 11 section, looking at slide number 21, we had done a
 02:24 12 comparison of the capacities and vehicle delay
 02:24 13 between no-build and build looking at strictly the
 02:24 14 a.m. and the p.m. peak hours.

02:24 15 The first slide shows that here is
 02:24 16 Prospect Avenue and Passaic Street, which is also
 02:24 17 contained in our traffic report. And these would be
 02:24 18 found on page 7 of the report. The report has
 02:25 19 everything in one table. We've broken it up into
 02:25 20 three tables to actually be able to fit on the
 02:25 21 slides.

02:25 22 But you see that, in essence, between
 02:25 23 the no-build and the build with the facility there's
 02:25 24 not much difference in levels of service between
 02:25 25 those, between no-build and build.

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02:25 1 Some increases in vehicle delay. And I
 02:25 2 would point out that we have for the westbound
 02:25 3 Passaic Street, in the build condition, that really
 02:25 4 should be a C, we're at 26.4 seconds average delay
 02:25 5 versus the 25.1. It really is a C.

02:25 6 We get into the Summit and Passaic
 02:25 7 Street where we actually have more traffic arriving
 02:25 8 on the Summit Avenue approach. You start seeing some
 02:25 9 differences between the no-build and build. You look
 02:25 10 at the Summit Avenue, especially the northbound left,
 02:25 11 you start getting significant increases in delay.

02:25 12 Here (indicating) almost 60 seconds in
 02:26 13 the a.m. and an increase of nearly 90 or 80 in p.m.

02:26 14 The northbound through sees some
 02:26 15 increase. Especially, in the evening when traffic is
 02:26 16 exiting, there's a significant increase in the
 02:26 17 vehicle delays from 88.2 under no-build up to 94.3 --

02:26 18 MR. BASRALIAN: Excuse me, Frank, you
 02:26 19 ought to look at that because it's a typo.

02:26 20 MR. MISKOVICH: What I was looking at
 02:26 21 it, it did seem high.

02:26 22 MR. BASRALIAN: Look at -- look at your
 02:26 23 data back up you'll find it's supposed to be 94.8.

02:26 24 MR. MISKOVICH: So 94.8.

02:26 25 MR. BASRALIAN: Yes?

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02:26 1 MR. MISKOVICH: Okay. Then I would
 02:26 2 take that back.

02:26 3 MR. BASRALIAN: That's off by 10 -- you
 02:26 4 know, by 10 times.

02:26 5 MR. MISKOVICH: Probably working on a
 02:26 6 day like this evening.

02:26 7 But, again, Summit Avenue, you'll see
 02:26 8 again, southbound you get some increases in delay
 02:26 9 between no-build and build and that increase
 02:26 10 southbound really do have -- we have increased
 02:26 11 traffic northbound. It's now fighting more opposing
 02:26 12 traffic being able to pass through the intersection.

02:27 13 At Summit and Central Avenue, you'll
 02:27 14 see some similar ones. There will be some changes in
 02:27 15 vehicle delay, actually some go down, for example,
 02:27 16 Central Avenue left or a right go down slightly
 02:27 17 between no-build and build. And that was because of
 02:27 18 how we route some of the traffic to the site. While
 02:27 19 you'll see others have some increases in delay.

02:27 20 We have Summit Avenue, the southbound
 02:27 21 left increases probably about 40 vehicles -- 40
 02:27 22 seconds of delay.

02:27 23 And the Summit Avenue through right,
 02:27 24 again, another 13 seconds or thereabouts.

02:27 25 The side driveways as we -- as the

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02:27 1 analysis found to be really levels of service Bs and
 02:27 2 Cs and a D at the exit driveway during the p.m. peak
 02:27 3 hour onto Prospect Avenue.

02:27 4 I'm going to talk about the highway
 02:27 5 capacity software in a moment, but I want to go
 02:28 6 forward though --

02:28 7 MR. BASRALIAN: Just reference please
 02:28 8 the --

02:28 9 MR. MISKOVICH: I'm going to.

02:28 10 MR. BASRALIAN: The charts. All right?

02:28 11 MR. MISKOVICH: We're talking about
 02:28 12 slide number 26. I want to go through -- let me back
 02:28 13 up a minute and talk about the HCS. A highway
 02:28 14 capacity software looks at intersection capacity
 02:28 15 analyses. And what we're showing in this table is
 02:28 16 they're looking at the individual intersections and
 02:28 17 how the actually operate. Basically separate from
 02:28 18 being in a network or a system of intersections.

02:28 19 So, you know, some of the numbers
 02:28 20 you'll see some of the delays. When we get into some
 02:28 21 of the simulations, some of the other portions of the
 02:28 22 study there'll be some slight difference from what
 02:28 23 you're depicting in those charts, primarily due to
 02:28 24 the analysis of a network, rather than an isolated
 02:28 25 intersection.

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02:28 1 On slide number 26, there are some
 02:28 2 difference in the trip generation that we looked at.
 02:28 3 Again, studies are typically based on
 02:29 4 the national basis using the Institute of
 02:29 5 Transportation Engineers Trip Generation Manual.
 02:29 6 And those are based upon the particular
 02:29 7 land uses.
 02:29 8 We cannot find any data available by
 02:29 9 the ITE or the New Jersey Department of
 02:29 10 Transportation for separate LTACH facilities or
 02:29 11 separate dialysis centers or separate health day care
 02:29 12 centers. So it's reasonable that you'd have to find
 02:29 13 some other stand alone facilities.
 02:29 14 Omland's research and ours we really
 02:29 15 couldn't find any as of this date. So we have to go
 02:29 16 under certain reasonable assumptions.
 02:29 17 Omland based a lot of these discussions
 02:29 18 with the applicant and some of those assumptions may
 02:29 19 be an overestimate of the operation, which results in
 02:29 20 some underestimated site traffic generation. That
 02:29 21 may be the staffing could actually be may be higher
 02:29 22 than might be estimated over time. Some of the
 02:29 23 ridership, as we indicated, rather than 60 percent
 02:29 24 using some other forms of transportation, some of
 02:30 25 those may actually wind up arriving to the facility.

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02:30 1 But obviously differences in the
 02:30 2 assumptions based on the trip generation and some are
 02:30 3 in the distribution that are going to result in some
 02:30 4 differences.
 02:30 5 On slide number 27, which is an
 02:30 6 estimated trip generation for the site, this is also
 02:30 7 contained in th report. We did a comparison between
 02:30 8 a morning peak hour, midday, evening peak hour.
 02:30 9 And then what daily traffic we would
 02:30 10 anticipate from the permitted uses. What Omland had
 02:30 11 projected, what we are projecting.
 02:30 12 Now the permitted uses allowed in the
 02:30 13 zone that is on the Passaic Avenue side, which is
 02:30 14 allowed for residential, high density residential was
 02:30 15 estimated as 63 residential units could be built in a
 02:30 16 structure. Again, on the Summit Avenue side which is
 02:31 17 zoned single family which would allow some of those
 02:31 18 to be converted to medical office, we had a trip
 02:31 19 generation based upon those being converted. That's
 02:31 20 the same numbers that was in the Omland report as far
 02:31 21 as the type of activity that could be at this
 02:31 22 facility.
 02:31 23 If you look at the charts and you see
 02:31 24 that there's substantial differences between what is
 02:31 25 being projected for this proposed facility compared

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02:31 1 to the permitted uses.
 02:31 2 Where Omland and I are somewhere at 175
 02:31 3 in the morning and 202 in that morning, permitted
 02:31 4 uses are about 36 trips. You're talking about five
 02:31 5 to six times higher with the proposed use compared to
 02:31 6 what it could be built there under the permitted
 02:31 7 uses.
 02:31 8 Again in the midafternoon, those
 02:31 9 numbers are about four times higher than the
 02:31 10 permitted uses.
 02:31 11 And if you go to the chart for the p.m.
 02:31 12 peak hour again, 57 permitted versus 198 or 204.
 02:31 13 Again about four times higher than permitted traffic.
 02:32 14 And over on a daily basis, again, the
 02:32 15 proposed use will generate more traffic on a daily
 02:32 16 basis and that's about two, two-and-a-half times
 02:32 17 higher than the permitted uses.
 02:32 18 I thin that's critical since the use
 02:32 19 variance -- cause there are differences between this
 02:32 20 use and what could be on -- on that particular site.
 02:32 21 Slide 28 was really, that went to what
 02:32 22 we did in the traffic analysis. We studied the
 02:32 23 intersections and analyzed them for capacity and
 02:32 24 resulting levels of service. We looked at the
 02:32 25 weekday morning and evening peak hours. We didn't

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02:32 1 necessarily look at the midafternoon, the midday peak
 02:32 2 for our analysis because we're at similar volumes
 02:32 3 that we had in the morning. A little bit less, but
 02:32 4 we're really similar. And we're looking at the peak
 02:32 5 hours when we had the higher volume of traffic and
 02:32 6 from the site and higher volume of traffic on the
 02:32 7 roadway.
 02:32 8 So even though there might -- there's
 02:32 9 going to be an impact midday, an impact throughout
 02:32 10 the day, the two peak times that we really analyzed
 02:33 11 are kind of the morning rush hour and the evening
 02:33 12 rush hour, if you will.
 02:33 13 We analyzed three conditions. We did a
 02:33 14 2013 no-build, where there's no traffic from either
 02:33 15 permitted uses or proposed. We looked at trip
 02:33 16 generation for the permitted uses. And then we did
 02:33 17 an analysis for trip generation from the proposed
 02:33 18 facility.
 02:33 19 Again, we analyzed the intersections
 02:33 20 and found that when we compare no-build to what we
 02:33 21 call permitted build, which is the permitted uses,
 02:33 22 and proposed build, which is the proposed facility,
 02:33 23 that there again at the Passaic and Prospect Street
 02:33 24 we find very little difference in vehicle delay or
 02:33 25 levels of service at that particular intersection

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<p style="text-align: right;">117</p> <p>02:33 1 based on the highway capacity analysis.</p> <p>02:33 2 As we move along and look at Summit</p> <p>02:33 3 Avenue and Central Avenue we begin to see some</p> <p>02:33 4 significant differences in -- in the delays.</p> <p>02:34 5 You see where we have the northbound</p> <p>02:34 6 Summit Avenue approach really increases close to</p> <p>02:34 7 40 second of vehicle delay compared from permitted to</p> <p>02:34 8 proposed. Where the permitted and the no-build are</p> <p>02:34 9 relatively the same. So there is an increase in</p> <p>02:34 10 delay for that northbound left turn on Summit. You</p> <p>02:34 11 see an increase for the through right on Summit</p> <p>02:34 12 Avenue. We're at 222.9 seconds delay we've increased</p> <p>02:34 13 by about a second with the permitted use, but just</p> <p>02:34 14 jumped up another 12 seconds, thereabout to 235.4</p> <p>02:34 15 under the proposed condition.</p> <p>02:34 16 Again, Summit Avenue southbound, you</p> <p>02:34 17 will see, again, those similar increases, primarily</p> <p>02:34 18 between the permitted and the proposed, which I don't</p> <p>02:34 19 think is a surprise when we're adding more traffic</p> <p>02:35 20 than is generated by the permitted uses.</p> <p>02:35 21 You'll see some differences, I will</p> <p>02:35 22 point out that -- and we go to comparing the</p> <p>02:35 23 permitted to the proposed in the p.m. peak hour, for</p> <p>02:35 24 an example, the northbound Summit Avenue through</p> <p>02:35 25 right, there's very little difference. But when we</p> <p style="text-align: right;">LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</p>	<p style="text-align: right;">119</p> <p>02:36 1 that the police had given me which I did fax out to</p> <p>02:36 2 the Board and to Mr. Basralian and Mr. Keller. It</p> <p>02:37 3 just kind of summarizes the number of accidents at</p> <p>02:37 4 those critical intersections in the area over the</p> <p>02:37 5 last two years.</p> <p>02:37 6 For Prospect Avenue and Passaic Avenue</p> <p>02:37 7 they recorded 48 accidents. At Prospect and Berry</p> <p>02:37 8 one. Prospect and Golf Street only two accidents.</p> <p>02:37 9 Again, you pick up at Prospect and Central we're up</p> <p>02:37 10 to 43. As Summit/Passaic 56 accidents. Summit and</p> <p>02:37 11 Berry, 13. Summit and Golf seven. Summit and</p> <p>02:37 12 Central Avenue 40.</p> <p>02:37 13 So you really look at the key ones of</p> <p>02:37 14 Prospect Avenue and Passaic, and Summit and -- and</p> <p>02:37 15 Summit Avenue and Central and Passaic Avenue, you're</p> <p>02:37 16 averaging just over one a month over that last three</p> <p>02:37 17 year period.</p> <p>02:37 18 It's just a point of reference for the</p> <p>02:37 19 Board.</p> <p>02:37 20 Before I get into the summary, and I</p> <p>02:37 21 guess this is the point here, we have run the synchro</p> <p>02:37 22 simulation, what I saw, that's exactly the capacity</p> <p>02:38 23 analyses we would go through some of the simulation</p> <p>02:38 24 now taking that information that is provided in the</p> <p>02:38 25 report. And we run the simulation program.</p> <p style="text-align: right;">LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</p>
<p style="text-align: right;">118</p> <p>02:35 1 look at the southbound left turns there is a</p> <p>02:35 2 difference, where there's actually a decrease with</p> <p>02:35 3 the proposed. And that is because of how we assign</p> <p>02:35 4 traffic onto the area roadway network. But the</p> <p>02:35 5 permitted uses, the medical offices that could be</p> <p>02:35 6 built on a property on -- on Summit Avenue really</p> <p>02:35 7 don't have access directly to Passaic. And the vice</p> <p>02:35 8 versa, the residential on Passaic doesn't have direct</p> <p>02:35 9 access to Summit. Whereas the proposed uses have an</p> <p>02:35 10 internal connection, so it's able to split some of</p> <p>02:35 11 that traffic.</p> <p>02:35 12 So there is some slight differences as</p> <p>02:35 13 we go through with this comparison.</p> <p>02:35 14 Next slide, again, here's Summit and</p> <p>02:36 15 Passaic Street. We're on sheet -- slide number 31.</p> <p>02:36 16 Again, you see the -- the Summit Avenue southbound</p> <p>02:36 17 left turn really increasing with the permitted --</p> <p>02:36 18 proposed use from 122.7 seconds of delay to 253.6 in</p> <p>02:36 19 the proposed condition.</p> <p>02:36 20 So you will see that as you go through</p> <p>02:36 21 the chart, there are some increases obviously from</p> <p>02:36 22 permitted to, proposed which is fairly consistent</p> <p>02:36 23 throughout all of the intersections.</p> <p>02:36 24 This was not in our report, I'm talking</p> <p>02:36 25 about slide 32, but this was some of the information</p> <p style="text-align: right;">LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</p>	<p style="text-align: right;">120</p> <p>02:38 1 Where we start at, I think I'm going to</p> <p>02:38 2 look at the evening p.m. given the evening hour.</p> <p>02:38 3 We'll start with the p.m. looking at the no-build</p> <p>02:38 4 analysis.</p> <p>02:38 5 Well, what the synchro program does is</p> <p>02:38 6 take the information that we've input, peak hour</p> <p>02:38 7 volumes, the signal timings, turning movements, et</p> <p>02:38 8 cetera. And starts doing an analysis based upon a</p> <p>02:38 9 network.</p> <p>02:38 10 As I indicated before if you looked at</p> <p>02:38 11 the HCS print-outs that were all in the capacity</p> <p>02:38 12 table it really looks as at isolated intersections</p> <p>02:39 13 and the highway capacity software basically deals</p> <p>02:39 14 with that type of operation using vehicle delay as</p> <p>02:39 15 one of the variables. The synchro software, through</p> <p>02:39 16 th sim traffic program really takes those numbers and</p> <p>02:39 17 basically looks at a network so that one intersection</p> <p>02:39 18 could impact another intersection. And that is</p> <p>02:39 19 basically volume capacity based rather than delay</p> <p>02:39 20 based. So there's some slight difference in the two</p> <p>02:39 21 programs.</p> <p>02:39 22 But the synchro program has been</p> <p>02:39 23 accepted by Federal Highway Administration and</p> <p>02:39 24 accepted by the New Jersey Department of</p> <p>02:39 25 Transportation as a means to evaluate traffic</p> <p style="text-align: right;">LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. 201-641-1812</p>

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02:39 1 operations on networks.
 02:39 2 Right now it's just loading and going
 02:39 3 through.
 02:40 4 I will try to position this.
 02:40 5 Right now we're showing if I come to
 02:40 6 Passaic Street is on the north part of the picture,
 02:40 7 to my left is Summit, to the right is Passaic Avenue.
 02:40 8 The first cross street --
 02:40 9 AUDIENCE MEMBERS: Prospect.
 02:40 10 MR. MISKOVICH: I'm sorry. Prospect.
 02:40 11 And the street that we're showing here
 02:40 12 that is kind of east/west is Berry Street.
 02:40 13 MR. MALAGIERE: Is that real time or is
 02:40 14 that on some kind of --
 02:40 15 MR. MISKOVICH: It's really working on
 02:40 16 the one hour basis. The timing in here, it takes the
 02:40 17 one hour volumes, ut the critical part at the top is
 02:40 18 not so much the hours. It's that peak hour and it's
 02:40 19 looking at a one hour period.
 02:40 20 MR. MALAGIERE: It's an accelerated
 02:40 21 physical view of what's going on --
 02:40 22 MR. MISKOVICH: Correct.
 02:40 23 MR. MALAGIERE: -- at the intersection?
 02:40 24 MR. MISKOVICH: Correct.
 02:40 25 MR. MALAGIERE: In some multiple.

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02:40 1 MR. MISKOVICH: Correct.
 02:40 2 MR. MALAGIERE: Is that queuing that
 02:40 3 I'm seeing all the way down?
 02:41 4 MR. MISKOVICH: What we're seeing --
 02:41 5 right, based on the simulation we're seeing vehicle
 02:41 6 queuing so it takes -- for an example your arrivals,
 02:41 7 and we're looking at Summit Avenue northbound, is
 02:41 8 that it loads up the intersection and runs it through
 02:41 9 using peak hour factors in the volumes and the timing
 02:41 10 and runs through in time what the conditions would
 02:41 11 be.
 02:41 12 MR. MALAGIERE: Am I --
 02:41 13 MR. MISKOVICH: We have -- I'm sorry.
 02:41 14 MR. MALAGIERE: Am I seeing a queue
 02:41 15 that looks like it's going from Passaic to Berry on
 02:41 16 Summit?
 02:41 17 MR. MISKOVICH: Correct.
 02:41 18 MR. MALAGIERE: The whole distance is
 02:41 19 queuing?
 02:41 20 MR. MISKOVICH: Yes.
 02:41 21 MR. MALAGIERE: Going -- I don't know
 02:41 22 what that is.
 02:41 23 MR. MISKOVICH: That's going
 02:41 24 northbound. South to the bottom. North is to the
 02:41 25 top.

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02:41 1 MR. MALAGIERE: And that's the no-build
 02:41 2 condition.
 02:41 3 MR. MISKOVICH: That's in the no-build,
 02:41 4 under current conditions.
 02:41 5 CHAIRMAN GUERRA: Could we stop, for
 02:41 6 example, could we stop it right now where that queue
 02:41 7 -- we kind of passed it. I just -- could we get a
 02:41 8 count how many cars are sitting there at one point?
 02:41 9 Is that too difficult to do?
 02:42 10 MR. MISKOVICH: Well, this is --
 02:42 11 CHAIRMAN GUERRA: It's hard to see.
 02:42 12 MR. MISKOVICH: Yeah.
 02:42 13 I can -- well, I can try enlarging it a
 02:42 14 little bit, but this is about 500 feet, give or take,
 02:42 15 of the distance on the blocks (indicating) so if you
 02:42 16 take just --
 02:42 17 CHAIRMAN GUERRA: So that's Summit
 02:42 18 heading north approaching Passaic Street.
 02:42 19 MR. MISKOVICH: Correct.
 02:42 20 CHAIRMAN GUERRA: Yes, this is real. I
 02:42 21 mean this is what I experience.
 02:42 22 MR. MISKOVICH: Well, I've been out
 02:42 23 there and watching it both times and you go through
 02:42 24 the simulation, we have to calibrate it to kind of
 02:42 25 reflect what is actually happening out there.

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02:42 1 CHAIRMAN GUERRA: Okay.
 02:42 2 MR. MISKOVICH: And part of the things
 02:42 3 that go into the calibration is watching and
 02:42 4 observing the traffic.
 02:42 5 Rush hour we know that Passaic
 02:42 6 Avenue -- Prospect Avenue does back up an gets quite
 02:42 7 far and tends to back up a little bit before Summit
 02:42 8 Avenue does, as far as time-wise.
 02:42 9 So you look at peak hours. So it does
 02:42 10 show a back up.
 02:42 11 CHAIRMAN GUERRA: The number of cars
 02:42 12 there is --
 02:42 13 MR. MISKOVICH: Part of your problems
 02:43 14 that you run into at these intersection is, we'll do
 02:43 15 the Summit Avenue approach, we have a left turn lane
 02:43 16 to go west onto Passaic Street and a three-way, but
 02:43 17 we also have parking that goes very close up to that
 02:43 18 intersection.
 02:43 19 CHAIRMAN GUERRA: Right.
 02:43 20 MR. MISKOVICH: The problem you have
 02:43 21 once you get cars queuing up past the point where
 02:43 22 through traffic can't get in there you get some of
 02:43 23 that queuing. That model takes that into effect.
 02:43 24 CHAIRMAN GUERRA: Is that backing up
 02:43 25 past Berry? Is it showing heading down Summit like

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02:43 1 past Berry?

02:43 2 MR. MISKOVICH: Well, I'll pan it down.

02:43 3 Here's the site access that I'm -- kind of in the

02:43 4 lower right-hand corner (indicating) --

02:43 5 CHAIRMAN GUERRA: Right.

02:43 6 MR. MISKOVICH: -- of the demonstration

02:43 7 showing that that is -- that is going past the site.

02:43 8 A lot of times up to Golf. Now, this

02:43 9 is -- it's going to vary throughout that hour.

02:43 10 You're going to have ebb and flow, but you do get

02:43 11 queues at different times (indicating).

02:44 12 We have the issues at Passaic and

02:44 13 Prospect, where similar northbound, we'll go up there

02:44 14 in a minute, where this is just striped (indicating)

02:44 15 two lanes northbound. It comes to "receiving" lanes,

02:44 16 but the traffic and parking is up fairly close to he

02:44 17 intersection so the minute you get one car or cars

02:44 18 backing up you can't get into this right lane. It's

02:44 19 starts the backing up. Secondly, if you do get the

02:44 20 two, the receiving lane on the far side is very

02:44 21 short. You have to come over very quickly. So that

02:44 22 has some effect on the capacity being able to move

02:44 23 through the intersection.

02:44 24 I'm trying to center it (indicating)

02:44 25 but I guess it's the side of it.

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02:44 1 And then we also have the associated --

02:44 2 as part of that, because of the timing and volumes

02:44 3 you wind up seeing Passaic Street backing up or

02:44 4 queuing both in the eastbound direction and the

02:45 5 westbound direction (indicating).

02:45 6 And the operation of the intersections

02:45 7 really are dependent on one another, when you look at

02:45 8 vehicle queues because backups from Summit Avenue on

02:45 9 Passaic Street westbound from Summit backs up towards

02:45 10 the Passaic Streets intersection it effects that

02:45 11 ability to operate so that an interaction between the

02:45 12 two intersections.

02:45 13 So, again, we're showing some of that

02:45 14 queuing. I think we might have missed that in the

02:45 15 earlier part of the hour really, Prospect Avenue had

02:45 16 a -- queued up earlier. And you'll get some more of

02:45 17 that.

02:45 18 But Summit Avenue does tend to back up

02:45 19 a little bit more later in that period (indicating).

02:45 20 Again, I'm trying to look at this over

02:45 21 that period. It just takes a little while to go

02:45 22 back.

02:46 23 Now, we see on the earlier part of the

02:46 24 hour, the peak hour, that Passaic Avenue is starting

02:46 25 to back up from Berry. We see it coming down to the

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02:46 1 site access.

02:46 2 And at times beyond what would be the

02:46 3 site access.

02:46 4 Traffic then moves and clears up, but

02:46 5 then it gets filled up again. And over the time

02:46 6 period it will dissipate. If you travel that way

02:46 7 you'll be stuck in a queue, you will move up a little

02:46 8 and you'll get through whatever number of cycles you

02:46 9 have to, to get to the traffic light. But it does

02:46 10 move eventually.

02:46 11 AUDIENCE MEMBERS: Eventually.

02:46 12 MR. MALAGIERE: Mr. Chairman, it's five

02:46 13 of ten.

02:46 14 I would suggest that since you've

02:46 15 indicated to me that you're going to adjourn at ten

02:47 16 that we continue Mr. Miskovich's testimony at the May

02:47 17 -- anticipating the May special meeting, Mr.

02:47 18 Basralian?

02:47 19 CHAIRMAN GUERRA: Rich, we have --

02:47 20 MR. MALAGIERE: Would you please come

02:47 21 up so we can discuss a date?

02:47 22 We circulated some dates with Mr.

02:47 23 Basralian and I have Mr. Polyniak's availability. I

02:47 24 don't know that we're going to be able to accommodate

02:47 25 that. And I circulated it threw Marcella to Mr.

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02:47 1 Chairman.

02:47 2 Mr. Chairman, you indicated a day, I

02:47 3 think I provided you with Mr. Basralian's

02:47 4 availability?

02:47 5 CHAIRMAN GUERRA: Right. Kind of

02:47 6 polled the Board here, it looks like May 27th

02:47 7 Thursday, does that work?

02:47 8 MR. BASRALIAN: Yes, that works.

02:47 9 MR. MALAGIERE: The hearing is going to

02:47 10 be carried to May 27, 7 p.m. in these chambers but

02:47 11 without further notice.

02:47 12 And you have problem with that?

02:47 13 MR. MISKOVICH: No, just checking.

02:47 14 MR. MALAGIERE: Mr. Miskovich, you're

02:47 15 going to be available, correct?

02:48 16 MR. MISKOVICH: Yes.

02:48 17 MR. MALAGIERE: We'll continue with the

02:48 18 traffic testimony.

02:48 19 MR. BASRALIAN: We're going to continue

02:48 20 this and not interrupt for cross examination of my

02:48 21 witness or we're going to finish up the night with

02:48 22 cross of Mr. Miskovich rather than having Mr.

02:48 23 Moskowitz back. I want the finish this and not

02:48 24 interrupt.

02:48 25 MR. MALAGIERE: I would anticipate that

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02:48 1 the Chairman would allow this witness to finish his
02:48 2 direct and allow you to cross examine him.
02:48 3 But I would also anticipate that your
02:48 4 traffic expert will be here.
02:48 5 MR. BASRALIAN: Yes.
02:48 6 MR. MALAGIERE: So may be we'll get
02:48 7 that cross in at the end, who knows. We'll see what
02:48 8 the Chairman decides to do.
02:48 9 Mr. Chairman, do you have any further
02:48 10 business?
02:48 11 CHAIRMAN GUERRA: No, that's it.
02:48 12 MR. MALAGIERE: We're going to open
02:48 13 this witness to the public at the next hearing after
02:48 14 his direct testimony is finished and Mr. Basralian
02:48 15 and any other attorney has had a chance to cross
02:48 16 examine him.
02:48 17 So I just want to make that clear.
02:48 18 Thank you, Mr. Chairman.
02:48 19 CHAIRMAN GUERRA: That's it.
02:48 20 Motion to adjourn.
02:48 21 MR. MALAGIERE: Is there a motion to
02:48 22 adjourn?
02:48 23 CHAIRMAN GUERRA: Yes.
02:48 24 MR. MALAGIERE: Is there a second?
02:48 25 MR. DIANA: I'll second.

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02:48 1 MR. MALAGIERE: All in favor?
02:48 2 (Whereupon, all present Members respond
02:48 3 in the affirmative.)
02:49 4 MR. MALAGIERE: Opposed?
02:49 5 (Whereupon, this matter will be
02:49 6 continuing at a future date. Time noted 10
02:49 7 p.m.)
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12 referee, board, commission or other body created by
13 statute of the State of New Jersey.
14 I am not related to the parties
15 involved in this action; I have no financial
16 interest, nor am I related to an agent of or employed
17 by anyone with a financial interest in the outcome of
18 this action.
19 This transcript complies with
20 regulation 13:43-5.9 of the New Jersey Administrative
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