

1 CITY OF HACKENSACK
 2 ZONING BOARD OF ADJUSTMENT
 3 THURSDAY, APRIL 29, 2010
 4 COMMENCING AT 7:15 P.M.

5 : TRANSCRIPT
 6 IN THE MATTER OF: :
 7 Application V#23-08 SP# 21-08 : OF
 8 Address 320 Summit Avenue/ : PROCEEDINGS
 9 329 Prospect Avenue :
 10 Block 344, Lots: 3,4,5,14 :
 11 Zone R-75 & R-3 :
 12 Applicant requests to demolish :
 13 the existing structures and :
 14 Construct a 19 story medical :
 15 office building. :
 16

17 B E F O R E :

18 CITY OF HACKENSACK ZONING BOARD
 19 THERE BEING PRESENT:

- 20 MICHAEL GUERRA, CHAIRMAN
- 21 GEORGE DIANA, MEMBER
- 22 FRANK RODRIGUEZ, MEMBER
- 23 HUMBERTO GOEZ, MEMBER
- 24 DAN GILMORE, ALTERNATE MEMBER

25 LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C.
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3 ERIC L. KELLER, P.E., P.P.
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 6 Questions by the Board

01:00
 01:00

8 EXHIBITS

9 NO. DESCRIPTION ID EVID

10 (NO EXHIBITS MARKED)

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1 ALSO PRESENT:

- 2 MARCELLA SBARBARO, LAND USE SECRETARY
- 3 GREGORY POLYNYAK, P.E., NEGLIA ENGINEERING
- 4 FRANK MISKOVICH, P.E., BIRDSALL ENGINEERING

7 APPEARANCES:

- 8
- 9 THE LAW OFFICES OF RICHARD MALAGIERE, P.C.
 10 RICHARD MALAGIERE ESQUIRE
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 14 201-261-1414
- 15 WINNE, BANTA, HETHERINGTON, BASRALIAN & KAHN, P.C.
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- DIKTAS, SCHANDLER GILLEN, ESQS.
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 201-943-8020

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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

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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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00:09 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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00:08 1 2010.
 00:08 2 Is that the date you have?
 00:08 3 MR. POLYNIK: 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. POLYNIK: 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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00:10 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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00:49 **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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00:48 **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** 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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00:53 **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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00:51 **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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00:54 **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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00:57 **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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00:56 **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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00:58 **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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01:05 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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01:04 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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01:06 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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01:15 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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01:13 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 AUDIENE 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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01:16 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.
 01:41 7 We're entitled to know what he utilized before he
 01:41 8 demonstrates it so that we have an opportunity to
 01:41 9 review it.
 01:41 10 MR. MALAGIERE: What I -- I'm sorry,
 01:41 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 all 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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1 truth and nothing but the truth?

2 MR. MISKOVICH: I do.

3 F R A N K M I S K O V I C H, P.E.

4 Having been duly sworn, testifies as follows:

5 MR. MALAGIERE: Would you please

01:44 6 identify yourself for the record and indicate the
7 capacity in which you will offer testimony.

8 MR. MISKOVICH: My name is Frank

9 Miskovich, spelled M-i-s-k-o-v-i-c-h. I'm with the
10 firm of Birdsall Engineering.

11 I'm a licensed professional engineer in
12 the State of New Jersey.

13 As far as educational background I have
14 a bachelor of science degree in civil engineering

01:45 15 from the Newark College of Engineering. And a
01:45 16 masters of science and civil engineering from the New
01:45 17 Jersey Institute of Technology.

01:45 18 I have been licensed in the State since
01:45 19 1976. My primary area of expertise is transportation
01:45 20 traffic engineering, highway design. I'm also
01:45 21 manager of the transportation department of Birdsall
01:45 22 Engineering.

01:45 23 My role in this application has been as
01:45 24 a consultant to the Zoning Board of Adjustment
01:45 25 reviewing the applicant's traffic report and site

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01:46 1 the date?

01:46 2 MR. MISKOVICH: That's the

01:46 3 September 28, 2009 report. The revised November 23,
01:46 4 2009, report.

01:46 5 MR. MALAGIERE: And did you --

01:46 6 MR. MISKOVICH: And I --

01:46 7 MR. MALAGIERE: I'm sorry. Go head.

01:46 8 MR. MISKOVICH: There were also several

01:46 9 review letters that I had prepared in the interim
01:47 10 since I became involved. I do not had the dates

01:47 11 offhand.

01:47 12 MR. MALAGIERE: That's okay.

01:47 13 MR. MISKOVICH: They're in the file and
01:47 14 part of the record.

01:47 15 I did prepare --

01:47 16 MR. MALAGIERE: I just want to go into
01:47 17 what you reviewed first, then you can -- did you also
01:47 18 look at any site plan drawings?

01:47 19 MR. MISKOVICH: Yes, I did.

01:47 20 MR. MALAGIERE: And what was the
01:47 21 revision of the site plan drawing that you reviewed
01:47 22 or did you review several? Did you review the
01:47 23 latest, the February 2010 -- what's the latest, Joe.

01:47 24 MR. BASRALIAN: February 3rd, 2010.

01:47 25 MR. MALAGIERE: You review the

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01:45 1 plans.

01:45 2 I was then asked to prepare a separate,
01:45 3 independent traffic report based upon our data which
01:45 4 I have.

01:45 5 And purposed and asked to do what was
01:45 6 called a simulation, a traffic simulation which we
01:46 7 call the synchro program which is part of the
01:46 8 presentation tonight.

01:46 9 The pamphlet that I had --

01:46 10 MR. MALAGIERE: Let me just interrupt
01:46 11 for one second, you've indicated that you've reviewed
01:46 12 the application or the relevant parts of the
01:46 13 application in connection with your opinion for
01:46 14 LTACH, I'm going call; is that accurate?

01:46 15 MR. MISKOVICH: That's correct.

01:46 16 MR. MALAGIERE: Could you just
01:46 17 identify, if you can, the date of the documents or
01:46 18 the drawings or whatever they are that you reviewed,
01:46 19 so that we could identify -- I don't want you to go
01:46 20 into too much detail, but just so we understand that
01:46 21 you looked at the most recent stuff.

01:46 22 MR. MISKOVICH: What I can say is I --
01:46 23 I'll start of with I did review the reports that were
01:46 24 prepared by Omland Engineering Associates.

01:46 25 MR. MALAGIERE: Just put in the record

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01:47 1 February 10, 2010, site plan drawings?

01:47 2 MR. MISKOVICH: Yes, I did.

01:47 3 MR. MALAGIERE: Okay.

01:47 4 MR. MISKOVICH: I also reviewed what

01:47 5 was originally submitted. It was entitled Bergen
01:47 6 Passaic LTACH. It was prepared by MD Surbatti
01:47 7 Associates Architectural (phonetic) and I believe
01:47 8 that was the colored booklet of the number of pages
01:47 9 that showed renderings and some of the site layouts.

01:47 10 MR. MALAGIERE: Did you review any
01:47 11 other documents whether submitted by the applicant or
01:47 12 just documents you got on your own in connection with
01:48 13 your opinion in this matter?

01:48 14 MR. MISKOVICH: Well, we reviewed some
01:48 15 of the New Jersey Administrative Code requirements as
01:48 16 far as possible staffing for these type of facilities
01:48 17 regarding adult day care and dialysis centers.

01:48 18 We also conducted or tried to contact a
01:48 19 number of similar facilities to obtain information on
01:48 20 employment, et cetera. But it was very difficult
01:48 21 getting some of that priority or special information
01:48 22 from those.

01:48 23 So we did attempt to do that. We did
01:48 24 do some research as far as looking at the institute
01:48 25 of transportation engineers data. We looked on

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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 its 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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01:52 1 Adjustment April 29, 2010.
 01:52 2 Basically this PowerPoint presentation
 01:52 3 takes my traffic report and takes sections of it,
 01:52 4 excerpts from certain of the text, it takes some of
 01:52 5 the tables and put's it just into a PowerPoint rather
 01:52 6 than going through display boards or trying to
 01:52 7 verbally go through the report. It also addresses
 01:52 8 some of the site issues through some of the exhibits
 01:52 9 that you will see.

01:53 10 So this is not a separate independent
 01:53 11 report, but basically a compilation of everything
 01:53 12 that is in our 2000 -- our February 12th, 2010,
 01:53 13 traffic report.

01:53 14 MR. MALAGIERE: So this PowerPoint
 01:53 15 presentation is a collage, if you will, of excerpts
 01:53 16 of your previously produced report?

01:53 17 MR. MISKOVICH: That's correct.

01:53 18 MR. MALAGIERE: So there's no new
 01:53 19 information?

01:53 20 MR. MISKOVICH: That's correct.

01:53 21 MR. MALAGIERE: Mr. Basralian, you
 01:53 22 received the February report.

01:53 23 MR. BASRALIAN: But are there -- yes,
 01:53 24 let that explore, are there any pictures or future
 01:53 25 build, no build, diagrams that are contained in this

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01:53 1 presentation that are not contained in your report.
 01:53 2 MR. MISKOVICH: I do not have the
 01:53 3 volume figures that are contained in the report, if
 01:53 4 that's your question.

01:53 5 I basically have some of the tables and
 01:53 6 have portions of the text that -- that put together
 01:53 7 -- that I used to put together the report.

01:53 8 I do have a figure where there's an
 01:53 9 aerial photograph of the site that's not contained in
 01:54 10 that report. I have a copy of some turning templates
 01:54 11 --

01:54 12 MR. MALAGIERE: Why don't we do this --
 01:54 13 I'm sorry.

01:54 14 MR. BASRALIAN: Why don't we just
 01:54 15 see --

01:54 16 MR. MALAGIERE: Why don't we see it and
 01:54 17 as you --

01:54 18 MR. MISKOVICH: I think that's easier
 01:54 19 to do it that way.

01:54 20 MR. MALAGIERE: And as you put it up,
 01:54 21 maybe Mr. Basralian's objection will become moot or
 01:54 22 less intense as your presentation goes forward.

01:54 23 MR. MISKOVICH: The PowerPoint also in
 01:54 24 the handout that I've given to the Board and Mr.
 01:54 25 Basralian also has page numbers as they go with the

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01:54 1 slides so if there's any reference to go back to and
 01:54 2 we can refer to that.

01:54 3 Again some of this may be redundant to
 01:54 4 the public and the Board, but I'd like to go through
 01:54 5 it anyway.

01:54 6 What is being proposed is a 19 story
 01:54 7 medical building. It's going to house a long term
 01:54 8 acute hospital with 120 beds, a dialysis center with
 01:54 9 63 stations, adult day care center with 180 persons.
 01:54 10 And what I have here is a 400 space underground
 01:54 11 parking garage which was contained in our report.

01:54 12 But the correction is that it's 413
 01:55 13 spaces when you include the van operating and the
 01:55 14 medical van parking areas.

01:55 15 The site is depicted in this,
 01:55 16 highlighted in yellow (indicating). Basically it's
 01:55 17 approximately midway between Golf Place and Berry
 01:55 18 Street, between Prospect Avenue and Summit Avenue.

01:55 19 We have identified some of the areas
 01:55 20 that we think is in critical intersections around the
 01:55 21 area, primarily coming from Central Avenue and
 01:55 22 Summit, Passaic and Summit, down to Prospect Avenue
 01:55 23 and Passaic, all the way down to Central Avenue and
 01:55 24 Prospect Avenue.

01:55 25 The two streets Golf Place and Berry
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01:55 1 Street were not counted as part of our study. They
 01:55 2 were slightly lower volumes than the primary
 01:55 3 intersections, but obviously they're going have some
 01:55 4 impact and effect the ability of the traffic on those
 01:55 5 streets to get out.

01:56 6 But by far the volumes on those streets
 01:56 7 from our observations are -- are minor compared to
 01:56 8 the four main streets.

01:56 9 We have Prospect Avenue which has been
 01:56 10 labeled an urban collector roadway, obviously
 01:56 11 everybody knows it's one lane in each direction.

01:56 12 There is some parking on the side -- on
 01:56 13 both sides of the street and a lot of areas that are
 01:56 14 marked no parking; 35 mile an hour posted speed limit
 01:56 15 -- I'm sorry -- 25 mile per hour posted speed limit.

01:56 16 Summit avenue is also none as County
 01:56 17 Route 57. Again that's labeled as an urban minor
 01:56 18 arterial. It provides one lane of travel in each
 01:56 19 direction with on-street parking. And that posted
 01:56 20 speed limit, as we found, is 35 miles per hour.

01:56 21 Intersections of Prospect with Central
 01:56 22 Avenue and Passaic Street and Central Avenue with
 01:57 23 Summit and Passaic and Summit are signalized
 01:57 24 intersections. They basically operate on a fixed
 01:57 25 time traffic signal operation, meaning one street

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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 wen out an 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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01:59 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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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 by 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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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 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 they 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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02:09 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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02:08 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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02:10 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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02:14 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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02:13 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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02:16 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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02:17 1 MR. NIX: Sixteen.
 02:17 2 MR. MISKOVICH: I'm sorry.
 02:17 3 MR. NIX: Slide 16.
 02:17 4 MR. MALAGIERE: No, it's not really --
 02:17 5 it may be your slide 12 but it's page 16.
 02:17 6 MR. MISKOVICH: I'm sorry. Slide 16,
 02:17 7 but this is a portion of the site plan that is
 02:17 8 contained and submitted by Omland Engineering that
 02:17 9 shows the drop-off area, shows the access to the
 02:17 10 garage.
 02:17 11 I'll do it that way, let me use this.
 02:18 12 We have the drop-off area where it's
 02:18 13 one way in, one driveway, drop-off area here where
 02:18 14 you come and exit. And this that I'm pointing to now
 02:18 15 just to the south of the exit drive and drop-off area
 02:18 16 is the garage entrance and exit (indicating).
 02:18 17 The plan indicates that we have
 02:18 18 prohibiting left turns out of the facility, both from
 02:18 19 the drop-off and the garage area. This somewhat
 02:18 20 might be a -- it's a reasonable design to have signs
 02:18 21 and posted as no -- no left turns, but I think the
 02:18 22 practicality is it becomes an enforcement issue
 02:18 23 because Summit Avenue at this point is fairly wide
 02:18 24 enough to not to allow these cars to really make the
 02:18 25 left out of there.

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02:20 1 as part of that package. It's in the corner
 02:20 2 (indicating) there is showing some movement and we've
 02:20 3 raised some concern as far as the ability of that to
 02:20 4 really function adequately. I believe that is also
 02:20 5 in the Neglia Engineering report.
 02:20 6 Again, we have the truck loading,
 02:20 7 emergency vehicle parking, medical van, all of that
 02:20 8 kind of in the same general area. So there's a mix
 02:20 9 in that one corner of the parking garage.
 02:20 10 Again, I think the key that we see in
 02:20 11 this, from a safety aspect, is the Prospect Avenue
 02:20 12 service driveway. In essence, you have a 10 foot
 02:20 13 wide driveway where trucks must either -- I
 02:20 14 apologize. I don't know what's going on. Bear with
 02:21 15 me a moment. Seems to be in a loop.
 02:21 16 I guess it's getting tired.
 02:21 17 CHAIRMAN GUERRA: Me too.
 02:22 18 MR. MISKOVICH: Slide 19 which is one
 02:22 19 of the exhibits that was submitted by Omland
 02:22 20 Engineering shows maneuvering into that driveway
 02:22 21 heading northbound on Prospect Avenue. The one on
 02:22 22 the left is a WB40 which is a small tractor trailer
 02:22 23 that's backing into the facility. The one on -- the
 02:22 24 exhibit on the right is a single unit truck backing
 02:22 25 maneuver into that driveway.

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02:18 1 Now, there during peak hours that may
 02:18 2 not be something desirable, if they're in off peak
 02:18 3 horse there may be someone dropping off that just
 02:18 4 might be an attractive -- something that's a
 02:19 5 attractive nuisance, if you will, to both be making
 02:19 6 illegal turn.
 02:19 7 The other issue that was raised by a
 02:19 8 Neglia Engineering report is that with both car
 02:19 9 turning out of here, I believe there's a wall, sight
 02:19 10 distance issues may be there, which precludes good
 02:19 11 visibility for either movement.
 02:19 12 But I would defer to Mr. Neglia's
 02:19 13 representative to may be discuss those site issues
 02:19 14 when he gets into specifics of it.
 02:19 15 Again, although, this is a reasonable
 02:19 16 treatment, really the thing the Board should consider
 02:19 17 is, is that really practical? Are people really
 02:19 18 going to be doing that or does it become an
 02:19 19 enforcement issue?
 02:19 20 Again when we looked at the parking
 02:19 21 garage, slide 17, in the area of the garage loading
 02:19 22 where they have the medical vans and they have the
 02:19 23 emergency -- not emergency vehicles, but the truck
 02:19 24 deliveries, it's fairly tight as we can see looking
 02:20 25 at the turning movement diagrams that were submitted

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02:22 1 I think from this exhibit it easily
 02:22 2 shows that they have to stop and -- not only stop
 02:22 3 oncoming traffic which is southbound maneuver, but
 02:23 4 they're going to be backing up into traffic coming up
 02:23 5 from the south. So that's really a maneuver on a
 02:23 6 fairly heavy traveled roadway that probably is not
 02:23 7 desirable.
 02:23 8 Again if they're coming down from
 02:23 9 Passaic and coming to the site they're going to have
 02:23 10 to back up and block the entire street again to pull
 02:23 11 into this. That maneuver comes into pulling into a
 02:23 12 10 foot wide driveway and then travelling some
 02:23 13 distance back into the loading areas.
 02:23 14 So either they're going to have to do
 02:23 15 that backing into the site where if they're in there,
 02:23 16 pulling out.
 02:23 17 The real issue that I see there is the
 02:23 18 fact that even though it may happen once or twice a
 02:23 19 day or even a week, I'm not -- don't recall exactly
 02:23 20 the testimony as far as the numbers, but you got to
 02:23 21 stop traffic. Someone has to get out there, stop
 02:23 22 traffic to make that maneuver and it's always
 02:23 23 difficult sometimes to really get people to really
 02:23 24 come at certain times.

As a matter of fact when I was out
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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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02:26 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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02:25 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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02:27 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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02:31 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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02:30 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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02:32 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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02:33 1 based on the highway capacity analysis.
 02:33 2 As we move along and look at Summit
 02:33 3 Avenue and Central Avenue we begin to see some
 02:33 4 significant differences in -- in the delays.
 02:34 5 You see where we have the northbound
 02:34 6 Summit Avenue approach really increases close to
 02:34 7 40 second of vehicle delay compared from permitted to
 02:34 8 proposed. Where the permitted and the no-build are
 02:34 9 relatively the same. So there is an increase in
 02:34 10 delay for that northbound left turn on Summit. You
 02:34 11 see an increase for the through right on Summit
 02:34 12 Avenue. We're at 222.9 seconds delay we've increased
 02:34 13 by about a second with the permitted use, but just
 02:34 14 jumped up another 12 seconds, thereabout to 235.4
 02:34 15 under the proposed condition.
 02:34 16 Again, Summit Avenue southbound, you
 02:34 17 will see, again, those similar increases, primarily
 02:34 18 between the permitted and the proposed, which I don't
 02:34 19 think is a surprise when we're adding more traffic
 02:35 20 than is generated by the permitted uses.
 02:35 21 You'll see some differences, I will
 02:35 22 point out that -- and we go to comparing the
 02:35 23 permitted to the proposed in the p.m. peak hour, for
 02:35 24 an example, the northbound Summit Avenue through
 02:35 25 right, there's very little difference. But when we

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02:35 1 look at the southbound left turns there is a
 02:35 2 difference, where there's actually a decrease with
 02:35 3 the proposed. And that is because of how we assign
 02:35 4 traffic onto the area roadway network. But the
 02:35 5 permitted uses, the medical offices that could be
 02:35 6 built on a property on -- on Summit Avenue really
 02:35 7 don't have access directly to Passaic. And the vice
 02:35 8 versa, the residential on Passaic doesn't have direct
 02:35 9 access to Summit. Whereas the proposed uses have an
 02:35 10 internal connection, so it's able to split some of
 02:35 11 that traffic.
 02:35 12 So there is some slight differences as
 02:35 13 we go through with this comparison.
 02:35 14 Next slide, again, here's Summit and
 02:36 15 Passaic Street. We're on sheet -- slide number 31.
 02:36 16 Again, you see the -- the Summit Avenue southbound
 02:36 17 left turn really increasing with the permitted --
 02:36 18 proposed use from 122.7 seconds of delay to 253.6 in
 02:36 19 the proposed condition.
 02:36 20 So you will see that as you go through
 02:36 21 the chart, there are some increases obviously from
 02:36 22 permitted to, proposed which is fairly consistent
 02:36 23 throughout all of the intersections.
 02:36 24 This was not in our report, I'm talking
 02:36 25 about slide 32, but this was some of the information

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02:36 1 that the police had given me which I did fax out to
 02:36 2 the Board and to Mr. Basralian and Mr. Keller. It
 02:37 3 just kind of summarizes the number of accidents at
 02:37 4 those critical intersections in the area over the
 02:37 5 last two years.
 02:37 6 For Prospect Avenue and Passaic Avenue
 02:37 7 they recorded 48 accidents. At Prospect and Berry
 02:37 8 one. Prospect and Golf Street only two accidents.
 02:37 9 Again, you pick up at Prospect and Central we're up
 02:37 10 to 43. As Summit/Passaic 56 accidents. Summit and
 02:37 11 Berry, 13. Summit and Golf seven. Summit and
 02:37 12 Central Avenue 40.
 02:37 13 So you really look at the key ones of
 02:37 14 Prospect Avenue and Passaic, and Summit and -- and
 02:37 15 Summit Avenue and Central and Passaic Avenue, you're
 02:37 16 averaging just over one a month over that last three
 02:37 17 year period.
 02:37 18 It's just a point of reference for the
 02:37 19 Board.
 02:37 20 Before I get into the summary, and I
 02:37 21 guess this is the point here, we have run the synchro
 02:37 22 simulation, what I saw, that's exactly the capacity
 02:38 23 analyses we would go through some of the simulation
 02:38 24 now taking that information that is provided in the
 02:38 25 report. And we run the simulation program.

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02:38 1 Where we start at, I think I'm going to
 02:38 2 look at the evening p.m. given the evening hour.
 02:38 3 We'll start with the p.m. looking at the no-build
 02:38 4 analysis.
 02:38 5 Well, what the synchro program does is
 02:38 6 take the information that we've input, peak hour
 02:38 7 volumes, the signal timings, turning movements, et
 02:38 8 cetera. And starts doing an analysis based upon a
 02:38 9 network.
 02:38 10 As I indicated before if you looked at
 02:38 11 the HCS print-outs that were all in the capacity
 02:38 12 table it really looks as at isolated intersections
 02:39 13 and the highway capacity software basically deals
 02:39 14 with that type of operation using vehicle delay as
 02:39 15 one of the variables. The synchro software, through
 02:39 16 th sim traffic program really takes those numbers and
 02:39 17 basically looks at a network so that one intersection
 02:39 18 could impact another intersection. And that is
 02:39 19 basically volume capacity based rather than delay
 02:39 20 based. So there's some slight difference in the two
 02:39 21 programs.
 02:39 22 But the synchro program has been
 02:39 23 accepted by Federal Highway Administration and
 02:39 24 accepted by the New Jersey Department of
 02:39 25 Transportation as a means to evaluate traffic

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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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02:41 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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02:40 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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02:42 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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02:46 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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02:44 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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02:47 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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CERTIFICATE

I, LAURA A. CARUCCI, C.C.R., R.P.R., a Notary Public of the State of New Jersey, Notary ID. #15855, Certified Court Reporter of the State of New Jersey, and a Registered Professional Reporter, hereby certify that the foregoing is a verbatim record of the testimony provided under oath before any court, referee, board, commission or other body created by statute of the State of New Jersey.

I am not related to the parties involved in this action; I have no financial interest, nor am I related to an agent of or employed by anyone with a financial interest in the outcome of this action.

This transcript complies with regulation 13:43-5.9 of the New Jersey Administrative Code.

LAURA A. CARUCCI, C.C.R., R.P.R.
 License #XI02050, and Notary Public
 of New Jersey #15855, Notary
 Expiration Date March 1, 2009

Dated: _____

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