

November 30, 2006

Mr. Scott called the regular meeting of the Union Township Planning Board/Board of Adjustment to order at 7:00 p.m. The Sunshine Statement was read.

Members Present: Mr. Martin, Mr. Brandt, Mr. Lukasik, Mr. Bischoff, Mr. Rosol,
Mr. Roth, Mr. Grossi, Mr. Scott

Members Absent: Mr. Rossi, Mr. Mulhall

Others Present: Atty. William Sutphen, Robert Bogart, Carl Hintz, Stephen Souza,
Vincent Uhl, Kenneth Newman, Atty. Michael Gross, Joseph Staigar,
Brad Alsup, Tom Ricker, Michelle McBride, Aleta Lambert,
Julie Campbell, Carol Montgomery, Boyd Smith, Gary Piner,
Tom Apostolik, Kathleen Corcoran, Atty. Douglas Janacek

Fleck: Block 15, Lot 33, 471 County Route 579: Memorialization of Resolution #2006-006: Mr. Bischoff made a motion to memorialize the Resolution. It was seconded by Mr. Rosol.

Vote: Ayes: Mr. Bischoff, Mr. Rosol, Mr. Martin, Mr. Brandt, Mr. Lukasik, Mr. Grossi

Milligan Farms: Block 22, Lot 20, 80 Route 513: Memorialization of Resolution

#2006-009: Mr. Bischoff made a motion to memorialize the Resolution that granted Preliminary and Final Major Subdivision approval. It was seconded by Mr. Brandt.

Vote: Ayes: Mr. Bischoff, Mr. Brandt, Mr. Martin, Mr. Lukasik, Mr. Rosol, Mr. Grossi

Mr. Brandt made a motion to memorialize the Resolution that granted Preliminary and Final Site Plan approval. It was seconded by Mr. Rosol.

Vote: Ayes: Mr. Brandt, Mr. Rosol, Mr. Martin, Mr. Lukasik, Mr. Bischoff, Mr. Grossi

Pilot Travel Centers, LLC: Block 11, Lot 24.03, 68 Route 173: Public Hearing

cont'd. Mr. Scott addressed two housekeeping matters. The issue of a special meeting was briefly discussed and it was determined that the Hearing would continue at the Board's regular meeting, December 21, 2006. Mr. Scott also clarified the matter relating to meetings between applicant and Board professionals and a Pilot report that referenced recommendations made by the Board. Mr. Scott emphasized that the Board does not make recommendations. Atty. Gross understood Mr. Scott was referring to information from Pilot's Traffic expert about Exit 13. He also said most other Boards resolve technical issues between the applicant and Board professionals. Mr. Gross said Pilot would abide by Union Township's Planning Board procedure.

Atty. Gross recalled Traffic expert Joseph Staigar. Mr. Staigar remained under oath. He addressed issues raised at the October 26, 2006 meeting. A report dated November 15, 2006 had been submitted. Mr. Staigar presented information on routing trucks to Exit 13 versus Exit 12. He referred to Exhibit A-9. Mr. Staigar believes that Exit 13 would provide safer access to the Pilot site.

NJDOT prefers that Exit 13 be utilized to direct trucks to Pilot's site. Pilot is not adverse or a proponent of using one exit over another. Operations would be essentially the same. Mr. Staigar had taken traffic counts at the INO driveway. INO has voiced objections to the proposal. Mr. Staigar had also researched the impact of Foster Wheeler (FW) development. He said there was a list of improvements FW would be required to do as the project proceeded. In response to Atty. Gross's question, Mr. Staigar said any impact of the FW development on roadways would be mitigated by the required improvements.

Mr. Staigar had evaluated Exit 15 improvements. He said there is a proposal to continue Frontage Road from Exit 15 to Exit 12. Mr. Staigar said it was beyond his capabilities to analyze the impact of that proposal on Exit 12. He said it should be part of the NJDOT approval process. Mr. Staigar had been told by a NJDOT representative that the project is on hold because of concern about potential impacts. The State has told the County to seek endorsement by municipalities.

Mr. Staigar addressed impacts of Port Newark dredging on Union Township. That work is being done to allow super container ships in the Port. Mr. Staigar said there are no traffic studies other than projections of the increase in the number of containers. He said the Port of Authority is implementing mitigation measures including trucking of containers to the Kearny rail yards. The containers will be shipped by rail from that site out west. Mr. Staigar said that although mitigation measures are proposed, truck traffic on Route 78 would increase in the future.

Mr. Staigar had analyzed the advantages of Pilot's proposal versus existing conditions. He reiterated his understanding that Pilot had purchased the property. Mr. Staigar said the site is deteriorated, crummy and scary looking and Pilot will improve the site. That would draw more traffic. He said, however, that price is the most influential aspect of a fuel facility. Referencing Exhibit A-8, Existing Conditions, Mr. Staigar said no substantial differences are proposed. Presently there are seven diesel fueling positions, eight gasoline fueling positions, a restaurant, convenience store and bathrooms. Pilot proposes nine diesel fueling positions, eight gasoline fueling positions, a restaurant, convenience store and bathrooms. The difference is that Pilot will have a good looking site. Pilot's proposal would provide a much safer and better circulation pattern. The Board could place conditions upon an approval mandating off-site improvements.

Mr. Scott apprised the public of the procedure to be followed. He would take questions from the Board, its Professionals and then the public. Mr. Scott reminded the public this would not be a time to make statements or offer testimony. They could question Mr. Staigar about his testimony. Mr. Roth asked if he understood that Pilot could direct contract customers to Bloomsbury or the Union Township site and provide exact directions to the site. Atty. Gross said that question had been asked of Mr. Mulligan and he said contract drivers could be requested to access either via Exit 13 or 12.

Most contract drivers would adhere to Pilot's directions. Mr. Gross thought that at the end of the testimony, Mr. Mulligan said Pilot couldn't prevent a driver from exiting at Exit 12, even if they had been asked to use Exit 13. Mr. Staigar thought that drivers would generally follow the directions given them. Mr. Lukasik asked how the proposed site could be compared with Bloomsbury since it is four to five times the size. Mr. Staigar said the trip generation comparison was made of the two sites since they will operate similarly. The Union Township site has more parking spaces and allows 29 trucks to stack before getting into the throat of the driveway. Mr. Lukasik asked about the traffic counts. Mr. Staigar said the number of cars and trucks are counted in 15 minute increments. The volume of traffic is determined in various ways and a model is produced using that data. It also establishes the average delay at the intersection. Mr. Lukasik asked Mr. Staigar if he was present for the traffic counts. Mr. Staigar said he did the counts himself. Mr. Lukasik was concerned because trucks take much longer to get through the traffic signal. He was not as concerned about cars. Atty. Gross said Mr. Staigar never testified that there would be a drastic increase in truck traffic. Mr. Lukasik said the volume percentage had been provided. Mr. Staigar thought the increase would be 67%. Mr. Gross said he thought the question was do you consider that a drastic increase? Mr. Staigar said the question might be "can the roadway handle it"? The average peak hour traffic for trucks is projected to increase 33%. Mr. Lukasik indicated he thought the traffic increase would be somewhat greater. Mr. Staigar said car traffic volume would probably increase more than 200%.

Mr. Scott noted a difference from what Mr. Staigar had said in his April 19, 2005 Traffic Report (60% truck volume increase) versus his statement tonight about a truck volume increase of 30%. Mr. Staigar attempted to explain. He said his analysis was conservative. Mr. Staigar said there would be some overlapping of traffic between the Bloomsbury and Union Township sites. Mr. Scott asked for questions from Messrs. Lukasik, Brandt and Rosol. Mr. Rosol had a concern about internal traffic. Mr. Staigar said the direction of traffic would be determined by the location of the truck, i.e., middle aisle versus outer fuel position. Mr. Rosol noted that Mr. Staigar made a point that Pilot would provide improved management and customer service. He wanted to know where that information fit in with the traffic report. Mr. Staigar said when doing traffic studies, he has observed that more people come to sites where improvements have been made. Mr. Rosol asked Atty. Sutphen if the Board was responsible for safety on the site as well as for traffic flow. Mr. Sutphen said "Yes".

Mr. Bischoff pointed out some errors in the November 15, 2006 letter from Mr. Staigar. Mr. Staigar clarified the matter. He also explained some abbreviated terms. Mr. Roth referenced an issue Mr. Rosol had raised about the internal traffic flow. Mr. Staigar said there may be situations when trucks would criss-cross. One truck would have to wait for the other one. Mr. Grossi asked Mr. Staigar if when traffic counts were taken the cost of fuel was taken into consideration, since it had been stated that consumers seek out the lowest price. Mr. Staigar said "No".

Mr. Scott asked Mr. Staigar if the fueling station could be moved further west if the home fuel business wasn't there. Mr. Staigar indicated that could be done. Mr. Scott asked the distance between the setback and the western-most fueling station. Mr. Staigar said the distance was 113 feet. Mr. Scott said if the fuel station was moved 113 feet then all trucks could exit to the east. Messrs. Scott and Staigar agreed that it would be simpler if all traffic moved in the same direction. In response to Mr. Scott's questions, Mr. Staigar said one-way traffic would not be more efficient nor would it minimize congestion. It would, however, minimize criss crossing.

Mr. Scott asked for questions from Board professionals. Mr. Bogart asked Mr. Staigar if the internal traffic layout was his design or Mr. Stout's, or a design imposed on both of them by Pilot. Mr. Staigar said he obtained the information from Mr. Stout; however, he didn't know where Mr. Stout got the information. Mr. Staigar said he made recommendations that were implemented in changing the turning patterns. Mr. Bogart had concerns about internal circulation and the backup of traffic coming off the ramps.

Mr. Staigar said if the application is approved, the Board could impose a condition that improvements are made to the intersection. Mr. Bogart said he would be interested in NJDOT's response to Pilot's proposal. He also understood the frustration Mr. Staigar was experiencing with obtaining answers from NJDOT.

Dr. Souza had a question about air pollution. Mr. Staigar said because Pilot proposes fewer parking spaces there would be less possibility of trucks idling on the site which should lessen air pollution. Mr. Staigar acknowledged, however, that there may not be any statistical improvement in air quality. He does not have an analysis that points out concentrations of pollutants. Dr. Souza said Mr. Staigar had pointed out at the last Hearing that there were no significant or sensitive receptors in close proximity to the site. Dr. Souza asked Mr. Staigar if he considered the School and Spruce Run (SR) to be in close proximity. He was not sure if he referred to receptors in terms of air pollution or noise. Dr. Souza said it was his interpretation that Mr. Staigar referred to air pollution. Mr. Staigar said he thought the School and SR would be outside the realm of a sensitive receptor. Dr. Souza said his question had to do with determining close proximity. He would like Mr. Staigar to provide more information about safe distances from a pollutant generator to a sensitive receptor. Mr. Staigar said he doubted a source exists that would provide the information. He also said that if a truck stop had a negative impact on health it would be a regulated activity that would require a permit from NJDEP. Dr. Souza voiced a concern about particulates and pollutants potentially traveling towards the Reservoir.

Mr. Scott asked for questions from other Professionals and the Public. Tom Ricker, Baptist Church Road, pointed out that Mr. Staigar had not taken into account the Foster Wheeler (FW) approvals and their potential impact. Mr. Staigar had not. He said that neither did he take into account the mitigation required of FW if the development proceeded.

Mr. Ricker said Mr. Staigar had not taken into account the fact that NJDOT has approved a project that would shift volume from Exit 15 to Exit 12. Mr. Staigar said he had talked to the project manager and it has not been approved. Mr. Ricker disagreed. Mr. Ricker asked Mr. Staigar if his Impact Statement had taken into account that NJDOT is considering a 400 to 500 car parking garage on Route 173 that would ingress and egress from Exit 12. Mr. Staigar said he had not heard of the proposal. Mr. Ricker asked if the age-restricted development "Renaissance" that would impact Exit 12 had been taken into account. Mr. Staigar said that had been addressed in his November 15, 2005 report. It was determined there would not be a significant impact. Mr. Ricker asked about the proposed 300 to 500 unit complex along Frontage Road. Mr. Staigar said the project was not approved and, therefore, would not be taken into account. Mr. Ricker said a Tri-State Transportation Campaign study indicated traffic on Interstate 78 would increase by 70 percent between 1998 and 2020 due to a distribution project in Hellertown, Pa. He also mentioned the Hunterdon Hills Playhouse expansion. Mr. Staigar said neither project had been taken into account.

Mr. Ricker questioned Mr. Staigar about the 5,000 containers per day dropped off at Port Elizabeth during high tide. Mr. Staigar said that had not been taken into account. Mr. Ricker mentioned the weigh stations in Bloomsbury and the fact they would only be open from 10 to 12 hours a day. He said it is a common practice for trucks to stockpile along Exit 12 and Route 173 to avoid weigh stations. Mr. Staigar said he did not know the hours of operation of the stations. Mr. Ricker asked Mr. Staigar if he was aware of the de-icing mechanism along Route 78 and the impact it could have on stockpiling of trucks near Exit 12. Mr. Staigar was not aware of the mechanism.

Michelle McBride, Olde Forge Lane, asked if there would be a break. She had 30 questions. After a discussion, a recess was taken from 8:40 to 8:50 p.m. Atty. Gross stated a great deal of time had been spent on traffic concerns. While he agreed with Mr. Rosol that the Board has jurisdiction over internal circulation, he questioned the jurisdiction over access in terms of safety because the roadways are predominantly State and County. He wanted the Board to understand Pilot's position in the matter. Mr. Scott said "Okay, Understood".

Atty. Douglas Janacek, on behalf of INO Therapeutics, said the application includes a use variance. The Board has to determine that there is no substantial detriment to the surrounding neighborhood and he said that includes state roadways. Mr. Janacek said that just because the State or County has jurisdiction over the roadway doesn't mean the Board would not have input. He wanted that on the record. Mr. Scott said "Your position's on the record".

Julie Campbell, 11 County Road 635, asked Mr. Staigar if he testified on behalf of Pilot when they applied to the Bloomsbury Board and if he was familiar with the traffic engineer's testimony. Mr. Staigar said "No". He also said he did not know if there was a traffic engineer involved. Ms. Campbell continued. She was uncertain if Mr. Staigar or Mr. Mulligan had indicated that there would be no increase in business and how that could be possible with the anticipated increase in truck and car traffic. Mr. Staigar said he did not recall that testimony. Ms. Campbell questioned Mr. Staigar about the NJDOT study projecting a 70% increase in truck traffic between 1998 and 2020 and his statement that business in Bloomsbury would decrease if Pilot comes to Union Township. Mr. Staigar said because of cross marketing. Trucks go to the only Pilot Center in the area. Mr. Staigar said he was not familiar with the study.

Carol Montgomery, 15 Midvale Drive, asked Mr. Staigar if the traffic studies considered the school buses that are now routed to Exit 13 versus Exit 15. Mr. Staigar said the buses had been taken into consideration. Ms. Montgomery asked if the count was taken when the buses were present. Mr. Staigar said counts were done in the morning and coincided with arrival times at school. Counts were not done at dismissal time unless there were late buses. Mr. Staigar was not aware of an accident a few years ago that involved a tractor trailer rear ending a school bus. Ms. Montgomery wanted to make sure that problem doesn't come up again. Mr. Staigar said that if improvements proposed by Pilot are implemented it will be a safer site.

Boyd Smith asked the existing pumping capacity of Johnny's versus that proposed by Pilot and whether ten years out if pumping capacity at Johnny's might limit the volume of Johnny's? Mr. Staigar said he did not know the pumping capacity. Atty. Gross said he didn't know what Mr. Smith meant by pumping capacity. Mr. Scott said he thought Mr. Smith meant there was a relationship between the numbers of trucks that could be serviced at the site, depending upon volume that Pilot can pump, as compared to Johnny's. Mr. Smith said there are constraints now that won't be there with Pilot. Mr. Staigar said there are no existing constraints because a lot of volume could be handled. Mr. Smith asked about projections and facts. Mr. Staigar said he did not have that information.

Aleta Lambert, 10 Grove Farm Road, asked if the traffic that utilizes Exit 12 goes straight to the facility. Mr. Staigar said it does. He believes that it would be more efficient for trucks to use Exit 13. Ms. Lambert asked how trucks would be routed to different accesses, other than signage. Mr. Staigar said Pilot provides truckers with that information and most of the drivers will follow the directions. Ms. Lambert was confused because Mr. Mulligan had testified that he had no authority to make a truck move even though it had idled for a long time. She wondered how if trucks could not be controlled on site, how would that be done on the open road. Mr. Staigar said Pilot would do the best it could to get truckers to use Exit 13. However, if that doesn't happen, the level of service will remain the same.

Ms. Lambert asked if eastbound traffic exiting Exit 12 had been addressed. Mr. Staigar said "No". He believes the majority of traffic comes from westbound lanes. John Corcoran, 17 Midvale Drive, asked about the proposed sign. Mr. Staigar said the sign will bear the Pilot logo. It will be a small blue sign with the Pilot emblem. Mr. Corcoran said there is no advertisement for Johnny's on I-78. He wanted to know if consideration had been given to the impact of traffic as a result of Pilot's advertising. Mr. Staigar said the sign would be directional, not advertising. He said Pilot would not put the logo sign there if the Board does not want it. Mr. Corcoran asked if a study had been made as to whether the westbound ramp from I-78 at Exit 13 could handle the traffic. Mr. Staigar said a traffic count revealed the ramp handles about 400 vehicles an hour and, in theory, it could handle 1,900 vehicles. Mr. Corcoran noted that trucks tend to stop even when there is no stop sign. Mr. Staigar said he saw trucks go through without stopping. Mr. Corcoran said the speed limit is posted at 45 miles per hour (mph). Would that speed be valid when trucks were doing only 25 to 30 mph? Mr. Staigar said he did not know the speed limit. He said Route 173 has signs posting the speed limit at 45 mph.

A resident asked Mr. Staigar about the influence of price and the volume of traffic. Mr. Staigar said volume of sales is directly related to price. He did not think the Bloomsbury and Union Township sites would compete against each other. The resident asked the price difference in gasoline and diesel between Johnny's and Bloomsbury. Mr. Staigar did not know. The resident thought that could make big a difference in traffic volume.

Gary Piner, 34 Grove Farm Road, asked Mr. Staigar how many times he had done traffic projections for Pilot. Mr. Staigar said he had done that three or four times in New Jersey. He had not done any out-of-state projections. Mr. Piner was concerned that the models projected were only as good as the models that would be built. He felt that nobody has the ability to predict the future outcome. Mr. Staigar said the best projections are based on past experience. Mr. Piner asked that the Township be provided with projections made for previous Pilot truck stops versus reality. Mr. Staigar said taking traffic counts at the Bloomsbury site provided as close a projection as could be obtained. Mr. Scott said Mr. Piner was asking what the projection was when Pilot applied at Bloomsbury versus today's conditions. Mr. Staigar said he had not done that projection. Atty. Gross said Pilot purchased an approved site. Mr. Scott thought Mr. Piner wanted to know the projections for traffic flow in Bloomsbury versus existing conditions. Mr. Piner asked if Pilot could provide projections for other sites. Mr. Staigar said projections were made in Mt. Arlington. That site was not built. Pilot currently has an application before the Mahwah Board. The Bordentown site is very dissimilar. Mr. Staigar said there is no data.

Tom Apostolik, 104 Perryville Road, asked if Mr. Staigar had done traffic studies at Bloomsbury. Mr. Staigar said he had. Mr. Apostolik said he had witnessed events at Bloomsbury and it seemed realistic that truckers would communicate via cell phone or radio with other truckers and advise them against stopping at that site and tell them to go to Union Township. Mr. Staigar said he did not know if truckers talk on radios and cell phones.

Mr. Apostolik voiced concern about eastbound traffic and the problems arising as they got off at Exit 12. Mr. Staigar has stated there will be no increase in eastbound traffic. He actually believes traffic in that direction will decrease. Mr. Staigar had not done a study of the eastbound off-ramp of I-78. He studied the driveway of the existing site and knew how many people made a left turn into the site as opposed to through movement or making a right turn. Fifteen percent of traffic came from the west in an eastbound movement. Mr. Apostolik asked Mr. Staigar what recommendation he would make to people leaving the site to go eastbound. Mr. Staigar said Pilot does not plan to direct traffic. If the Board, as a condition of approval, asked Pilot to do that they would be happy to comply. Mr. Apostolik asked if any discussion had been held about the Bloomsbury site closing and all traffic coming to the Township. Mr. Staigar said that scenario had not been discussed.

Kathleen Corcoran, 17 Midvale Drive, asked Mr. Staigar if tandem trucks had been analyzed for maneuverability off Exit 12 and 13 and through the site. Mr. Staigar said he had not analyzed maneuverability off the Exits; however, he had analyzed the site itself as to how trucks would maneuver. He does not foresee a problem. Mr. Staigar said the proposed site will be better able to handle those trucks. Ms. Corcoran asked the number of persons in Mr. Staigar's firm. He said there are four.

Michelle McBride, 10 Olde Forge Lane, asked Mr. Staigar questions about his traffic report dated April 19, 2005 and a letter dated November 15, 2006. Ms. McBride asked Mr. Staigar if he was familiar with the North Jersey Transportation Planning Authority reported entitled Access and Mobility 2030 Regional update that was published in April 2005 and the Appendix E entitled Freight System Performance Assessment. Mr. Staigar said he was not. Atty. Gross objected to Ms. McBride's questions since Mr. Staigar had not read the report. Mr. Scott told Mr. Gross he couldn't direct Ms. McBride what to do. Atty. Gross said "I'm objecting". Mr. Scott gave directions to Atty. Gross and Ms. McBride. Ms. McBride asked Mr. Staigar if he was aware that an annual growth in container truck traffic daily of 3% per year is forecasted until the year 2030. Mr. Gross objected. Mr. Scott said he wanted the record complete so there would be no appellate issue. He told Mr. Staigar to say he didn't know if, in fact, he didn't. Ms. McBride asked Mr. Staigar if he had read a study entitled Traffic Trucks Are Coming, What Growing Truck Traffic will mean for New Jersey Quality of Life, published by Tri-State Transportation Campaign in 2005. Mr. Staigar said he was not familiar with that study either.

Ms. McBride continued. She understood that Mr. Staigar was aware of the fact that the NJDOT projects an annual growth rate of 2.25% for all traffic on I-78 in Hunterdon County. Mr. Staigar said he was aware of that projected growth rate. Ms. McBride noted that Mr. Staigar's Impact Study stated that the majority of Pilot traffic would be drawn from Route I-78 as pass-by traffic because that is the nature of fueling facilities, restaurants and convenience stores. Mr. Staigar said that was correct.

Ms. McBride said Mr. Staigar's report regarding Future Traffic Conditions projected an annual growth rate for the proposed site of 1.4%. That figure was based upon the NJDOT rate for rural collector roads. Ms. McBride thought the 2.25% growth rate would be more accurate for the Pilot site. Mr. Staigar said NJDOT has varying growth rates for different classifications of roads. Ms. McBride asked if the I-78 growth rate would make more sense since most of the traffic at the Pilot site would likely be pass-by traffic. Mr. Staigar said "No", because he analyzed traffic counts were on Charlestown Road and Route 173, not the Interstate. Ms. McBride asked Mr. Staigar if he could provide an estimate of the total number of cars and trucks expected at the site in the first year Pilot takes over. Mr. Staigar said he could not make that projection. Ms. McBride asked Mr. Staigar where the figure in the E.I.S. projecting 1,500 to 1,600 patrons per day at the Center came from. Mr. Staigar did not know. He didn't prepare the E.I.S. Ms. McBride asked Mr. Staigar about the discrepancy between the hours the traffic counts were done at the Bloomsbury site versus the hours studied at the proposed Union Township site. Mr. Staigar indicated there is a difference in the peak hours at those locations. Ms. McBride asked if Mr. Staigar had data specific to I-78. Mr. Staigar said Pilot's driveway is not on I-78.

Ms. McBride asked Mr. Staigar how he came up with the peak hours. Mr. Staigar said the hours were typical rush hours. Ms. McBride asked if truck drivers generally drive between the hours of 9:00 a.m. to 5:00 p.m. Mr. Staigar said truckers drive at all hours. He did not know if they drive a certain number of hours and take a certain number of hours off. He said truckers generally stop to take a rest around meal time. That information had been provided by Pilot. Ms. McBride noted big jam-ups at Bloomsbury at times other than 4:00 to 6:00 p.m. She asked if there could potentially be more cars or trucks at other times than those hours. Mr. Staigar said that was possible. Ms. McBride noted there were no school bus counts. Mr. Staigar said they counted school buses. They were so incidental they were not included in the data. He contacted the Board of Education Transportation Director and was told there were three buses. Mr. Scott asked if that referred to Union Township or North Hunterdon/Voorhees. Mr. Staigar said Union Township. He also said a bus was counted as a vehicle since, operationally, there is no substantial difference. Ms. McBride asked was the bus counted as a car or truck. Mr. Staigar said a car. It was included in the capacity analysis as a car.

Ms. McBride asked Mr. Staigar if he was aware of a document called the N.J.T.P.A. Air Quality Determination. He said "No". She asked if Mr. Staigar was aware of the documented differences in the daily summer and winter growth rate and did he think the traffic counts would have been higher in July, as opposed to December and March. Mr. Staigar said he didn't think so since there wouldn't be school traffic and people would be on vacation. Ms. McBride asked about the traffic study of existing heavy truck traffic. Mr. Staigar said there are errors in the numbers in his report. Mr. Staigar said he had made the count. It was done at the intersection of Charlestown Road and Route 173.

Ms. McBride asked if it was correct that Mr. Staigar stated that 30% of truck traffic is coming into Johnny's from the eastbound direction. Mr. Staigar said it's actually 26% in the morning and 30% in the evening. Ms. McBride asked Mr. Staigar the route trucks follow to get into Johnny's from the eastbound direction. Mr. Staigar said he didn't track them through the route. Ms. McBride asked if it would have been a good idea to count cars and trucks at the Perryville intersection. Mr. Staigar said "No". Ms. McBride mentioned several different traffic count numbers, queue lengths and levels of service. Ms. McBride asked Mr. Staigar if he had data confirming his theory that future eastbound traffic will stop at Bloomsbury while westbound will come to Union Township. Mr. Staigar said "No". Ms. McBride had questions concerning the issue of easy on and easy off ramps and interchanges. Mr. Staigar offered opinions.

Ms. McBride had questions about testimony given by Mr. Staigar at the October 25, 2006 Hearing. One concerned the number of parking spaces. Revised plans have been submitted showing 77 trucks and 52 cars. Ms. McBride deferred further questions until she had reviewed the revised plans. She asked if Mr. Staigar did not feel it necessary to utilize NJDOT trip generation data developed by Pilot in his traffic impact study statement. Mr. Staigar said that was correct because the data was to be used for making a major permit application. The NJDOT data shows 3,300 trips per day which is about double the number of trips that has been talked about for the proposed Pilot site.

Ms. McBride had a question about the development of trip generation based upon an increase in sales volume. She asked who provided the marketing forecast. Mr. Staigar said it was Mr. Mulligan. Ms. McBride asked if sales volumes could be manipulated to fit the scenario chosen to present to Union Township. Mr. Staigar said he could not answer that question. Ms. McBride said Atty. Gross made a statement at the October Hearing that the front yard setback had been altered to eliminate car and truck parking in front of the building. She asked if that change included the new parking numbers she had not yet seen. Mr. Staigar said "Yes".

Mr. Scott asked Ms. McBride if she was near an end. She said she had three more questions. Ms. McBride asked Mr. Staigar if he remembered saying that NJDEP does not regulate air pollution at truck stops since they are not considered to be a major generator of pollutants. He answered in the affirmative. She asked if he was aware of the NJDEP website regarding fine particulate matter in connection to clean air. Mr. Staigar said he was somewhat familiar. Ms. McBride said she would like to present that information. Mr. Staigar had also mentioned improvements to engines, through regulations, that would result in less pollution generation. Mr. Staigar said he had presented testimony to that effect. Ms. McBride asked Mr. Staigar if he was aware that many trucking firms planned to buy as many new trucks as they could handle before the regulations take effect in 2007. Mr. Staigar said he did not know what the truck industry was buying. She asked Mr. Staigar if he had read the recent Journal of Commerce article which says it is expected that purchases would be stepped up 30 to 50% in advance of the new rules.

Mr. Staigar said "No". Ms. McBride asked if Mr. Staigar was aware of the EPA National Clean Diesel Campaign. He said "No". She said it would take at least 20 years before there would be a significant impact to the diesel particulates level. Ms. McBride asked "You're unaware of that, too, sir?" Mr. Staigar said it wouldn't happen overnight. Ms. McBride asked Mr. Staigar to provide a copy of the proposed legislation to eliminate idling altogether or greatly reduce it. She also asked if he knew who was sponsoring the legislation so that she could send an e-mail. Mr. Staigar said it was up to the Chairman as to whether he wants it provided to the Board. Mr. Scott said it was up to the applicant.

Ms. McBride mentioned an Administrative Code on control and prohibition of air pollution from diesel powered motor vehicles that states that a motor vehicle with a sleeper being used for resting can idle all day and night and that it is perfectly legal. She asked Mr. Staigar if that was correct. He said he didn't know if it was correct. Mr. Staigar was familiar with the regulation.

Mr. Scott asked Atty. Janacek if he would finish his questions in 15 minutes. Mr. Janacek said "No". Mr. Scott said Mr. Janacek would be coming back. Frank Taibi, 209 Main Street, Jutland, addressed the Board. He mentioned the inconsistencies in the testimony tonight and asked if the Board would be requesting new documents. Mr. Taibi said he couldn't imagine how the Board would sort out all of the mistakes. He wanted to know the Board's thoughts. Mr. Scott said fortunately there are transcripts and the Board has the ability to assess whether each witness is credible or not credible and reliable or not reliable. The Board is charged with and allowed to either accept some portion of the testimony, all of the testimony, or none of the testimony if they find it to be unreliable. Mr. Taibi asked if it was the Board's intent to have a document that is complete and correct. Mr. Scott explained. He said the applicant is charged with meeting their burden of proof and if their proofs are insufficient because they are incomplete or unreliable, then the Board would make a judgment. The applicant is in charge of putting what is required into the record. The Board will not tell the applicant what is or is not required. During the course of public deliberations the Board will make the assessment as to whether the testimony was or was not sufficient. Mr. Bischoff said "Well spoken". Mr. Scott asked Mr. Taibi if that answered his question. Mr. Taibi said "Yes".

Mr. Staigar said he would check his calendar tomorrow to see if he would be available on December 21, 2006. Mr. Scott asked Atty. Gross to let him know. Mr. Scott asked Atty. Janacek to provide any documents ahead of time regarding questions he might ask applicant's witness/witnesses to comment upon. He was asked to provide them to Atty. Gross. Atty. Janacek said that would be done. The issue of revised plans was discussed. Plans, with the Board's authorization, had been sent directly to Board Professionals. However, no revised plans have been received at the Board office. That matter will be checked into.

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Atty. Gross asked about a special meeting in January. Mr. Scott said the Board may change in January and he didn't know how many members would or would not be here. Mr. Scott said Pilot has had three hours or more at each Hearing. Mr. Scott asked Atty. Gross if Pilot would be back on December 21, 2006. Mr. Gross said "Yes".

A motion to adjourn was made by Mr. Rosol and seconded by Mr. Bischoff.
(10:25 p.m.)
Vote: All Ayes

Grace A. Kocher