

CN - Orgo Farms v. Twp of Cotts Neck

8/23/80

Transcript of proceedings: Robert Nelson (witness)

+ exhibits marked for identification

P 124

CN 000 017 S

ZONING BOARD OF ADJUSTMENT
COLTS NECK
NEW JERSEY

x-----x
IN THE MATTER OF:
THE APPLICATION OF ORGO : TRANSCRIPT
FARMS AND GREENHOUSES, INC., OF
and RICHARD J. BRUNELLI, : PROCEEDINGS
For a Variance.
x-----x

Thursday, August 14, 1980, 7:00 p.m.
Town Hall, Colts Neck, New Jersey

B E F O R E:

- J. SCHRUMPF, Chairman
- C. DAHLBOM, Member
- G. BRENNEN, Member
- J. TISCHENDORF, Member
- L. LARKIN, Member
- F. NIEMANN, Member

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

SAMUEL S. SAGOTSKY, ESQ.,
For the Board.

FRIZELL, POZYKI & WILEY, ESQS.,
BY: DAVID J. FRIZELL, ESQ.,
For the Applicant.

MARKS, HOLLAND & LaROSA, ESQS.,
BY: GERALD A. MARKS, ESQ.,
For the Planning Board of Colts Neck.

CARTON, NARY, WITT & ARVANITIS, ESQS.,
BY: JAY R. HERMAN, ESQ.,
For the Colts Neck Board of Education.

BY: KATHLEEN M. SHAPIRO, RPR, CP
Registered Professional Reporter

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I N D E X

WITNESS DIRECT CROSS REDIRECT RECROSS

ROBERT A. NELSON

By Mr. Marks 30

By Mr. Frizell 67

EXHIBITS MARKED FOR IDENTIFICATION

| <u>Number</u> | <u>Description</u> | <u>Page</u> |
|---------------|---|-------------|
| A-51 | Letter dated 8/11/80 | 21 |
| A-52 Id. | Attachment to Letter dated 8/11/80 | 21 |
| A-53 Id. | Letter dated 8/7/80 | 22 |
| A-54 Id. | Colts Neck Master Plan | 30 |
| PB-9 | Signalized Intersection Capacity Analysis | 35 |

1
2 MR. SAGOTSKY: I have here a
3 Certification of the reading of the minutes of July
4 29, 1980 by John Schrupf.

5 (The hearing is called to order
6 at 7:10 p.m.)

7 (Compliance with the Open Public
8 Meetings Act is noted.)

9 THE CHAIRMAN: I would like to
10 call this meeting to order as Chairman and presiding
11 officer of this special meeting.

12 Roll call, please.

13 THE CHAIRMAN: Here.

14 MR. DAHLBOM: Here.

15 MR. LARKIN: Here.

16 MR. BRENNAN: Here.

17 THE CHAIRMAN: Tonight's meeting
18 is confined to some additional witnesses that were
19 planned but we do have something to be read into the
20 record. Mr. Sagotsky, would you present that, please?

21 MR. SAGOTSKY: In the matter of
22 Orgo Farms and Greenhouses, Inc. versus the Board of
23 Adjustment of the Township of Colts Neck, I herein
24 read into the record a certification of the reading
25 of transcript of the special meeting of the Board

1 Adjustment held on July 29, 1980: I, John L.
2 Schrumpf, a member of the Board of Adjustment of the
3 Township of Colts Neck was not present at the special
4 meeting in the above matter held at the Colts Neck
5 Township Hall on July 29, 1980. I do hereby certify
6 to the Colts Neck Township Board of Adjustment that
7 on the 14th day of August, 1980, I have read a
8 typewritten transcript of the meeting held on July 29,
9 1980, as furnished by the State Shorthand Reporting
10 Service. Signed, John L. Schrumpf, August 14, 1980.

11 MR. DAHLBOM: I have a very
12 unusual set of circumstances. My dog ate the four
13 things you sent me to sign. Could you send me four
14 more for the meetings I missed?

15 MR. SAGOTSKY: I'm going to
16 prepare certification to be signed by all the members
17 that they have attended all the meetings and those
18 which they have not attended they read the
19 certification or the transcripts and that's to be an
20 overall coverage of everything that has occurred to
21 date.

22 MR. LARKIN: Then I don't have to
23 sign the individual ones?

24 MR. SAGOTSKY: I will send
25 duplicates of the individual ones so that you will

1 have those as well as the overall coverage
2 certificates.

3 THE CHAIRMAN: I think before we
4 start, maybe we can try to get everything into
5 perspective here to see if we're going to finish up;
6 and, indeed, if we're going to need a special meeting
7 for summation or deliberations and how the attorneys
8 feel about that.

9 Do you feel you'll be done with
10 your presentation tonight?

11 MR. FRIZELL: I have no witnesses
12 tonight.

13 THE CHAIRMAN: You have none at
14 all?

15 MR. FRIZELL: That's right. I
16 would like to have about 45 minutes or an hour on the
17 21st just out of a general rebuttal to everything
18 that's been presented.

19 THE CHAIRMAN: Would you call
20 that a summation?

21 MR. FRIZELL: Well, no. I'm
22 considering more the possibility of recalling a
23 witness or two. Summation I would prefer to submit
24 in writing. I don't have any objection to an oral
25 one in addition to that or an oral one which would

1 summarize the summation. But I intend to produce a
2 writing for next week to be considered by the Board
3 in its deliberations, in any event. So if you have
4 an oral summation, I'll be glad to give it.

5 THE CHAIRMAN: You feel the
6 written one will encompass everything? That will be
7 fine.

8 MR. SAGOTSKY: I would like to
9 have enough time to read it or hopefully it wouldn't
10 be of such great length that we wouldn't have time to
11 read it at the meeting and then I think we ought to
12 hear from what other witness or witnesses may be
13 presented by the Planning Board, shall we say, on the
14 21st so that we can plan what is going to transpire
15 on the 21st and try to allot time to complete all the
16 input on that night. And that's very soon to come,
17 next week.

18 THE CHAIRMAN: Next Thursday
19 night, yes.

20 MR. SAGOTSKY: The summations,
21 the considerations, the report of the Board and if
22 Mr. Frizell wants some rebuttal time after that and
23 if the Planning Board is going to present another
24 witness so that we may complete matters on the 21st.

25 MR. DAHLBOM: Is that going to

1 include the public meeting, too, Sam?

2 MR. SAGOTSKY: You have also that
3 to consider. You have one matter coming up for a man
4 who wants a right-of-way on his own land to open up
5 an adjacent tract that is landlocked. If you find
6 that is going to take too much time and is not going
7 to fit in with the other allotted time, the other
8 gentleman may have to have his matter postponed for
9 further hearing because you are going to have a full
10 schedule. And if you just allot your time and stick
11 to it, you can work it out on the 21st.

12 MR. LARKING: Is there any way
13 that we can contact the Applicant and see if he would
14 be able postpone his application for a month?

15 MR. SAGOTSKY: There must be a
16 telephone number and the name of an attorney. If you
17 will call him and tell him what the situation is and
18 tell him the Board of Adjustment advises that, under
19 the circumstances, it would be best if he could
20 postpone that application for one more month.

21 MR. LARKIN: We don't want to
22 inconvenience him. I mean, if he wants to have the
23 matter heard, we would, obviously -- I guess we have
24 to do it within some set time frame or something.

25 THE CHAIRMAN: Check that out, if

1 you will. If they can postpone it a month without
2 bothering them in any manner, no constraints, perhaps
3 we can do that. We also have probably Stockton Farms
4 coming up.

5 MR. SAGOTSKY: Snow Stockton
6 Farms I you have a postponement for Stockton Farms as
7 late as the September date. I had hoped that perhaps
8 we could work it in at the August 21st meeting. But
9 the Resolution is approximately 20 some pages and the
10 Stockton Farms attorney today has asked for some
11 minutes, a copy of the minutes, which goes back to
12 April of '79. And I have asked the Stockton Farms
13 attorney to give me a report on the outcome of the
14 decision pertaining to the Department of
15 Environmental Protection Committee.

16 I tell you why I wanted to know
17 that. The rough draft of the Resolution that was
18 presented to you was conditioned upon the DEP coming
19 through with the approval of those ponds. If there
20 is a problem with those ponds, I could draft the
21 Resolution making it subject to the DEP the coming
22 through. So if nothing happens with the DEP, the
23 Resolution will not be affected. That would be for
24 the September meeting and that will also come up the
25 same night the Resolution will come up on this matter.

1 the Orgo Farms matter, because after your
2 deliberations, we need time to draw it and then it
3 will be coming up for final reading on that date.
4 We'll have those two matters. That's to give you an
5 idea for allotment and what presents itself between
6 now and the next meeting in September.

7 THE CHAIRMAN: Planning Board,
8 what time do you feel that you need allocated?

9 MR. MARKS: We'll have one
10 witness. I don't think that we'll need more than an
11 hour and a half considering direct and
12 cross-examination.

13 MR. SAGOTSKY: Who is that,
14 please?

15 MR. MARKS: General William
16 Whipple.

17 MR. DAHLBOM: How do you think
18 you are allocating --

19 MR. MARKS: Ninety minutes. I'll
20 say that the direct will probably be 30 minutes, but
21 judging from the past experience, I think the cross
22 would be one hour.

23 MR. SAGOTSKY: I would just say
24 that everybody, I hope, will accept the ruling of the
25 Board that this is your time limit and try to work

1 within it and perhaps accept a little bit of
2 abruptness, if necessary, as to concluding time in
3 order to close the entire matter.

4 MR. FRIZELL: I know General
5 Whipple and I'm quite sure cross-examination of
6 General Whipple will not take an hour.

7 THE CHAIRMAN: Could we expect
8 anyone else then? Mr. Frizell, who estimated
9 approximately five minutes, you estimate about 90.
10 Is there any other witness?

11 MR. MARKS: Forty-five minutes
12 for your rebuttal witness.

13 MR. FRIZELL: About an hour, I
14 think. We may bring back either some combination of
15 real estate, planner, traffic; the same people who
16 were here before.

17 MR. SAGOTSKY: How much time will
18 you estimate?

19 MR. FRIZELL: I'm saying an hour,
20 I think. I'm asking them each one or two questions.

21 MR. SAGOTSKY: That's rebuttal.
22 So you have two hours and a half. You start at seven,
23 you are up to 9:30.

24 MR. MARKS: I would like to add
25 one other thing. I certainly have no objection to

1 waiving of the summation. I don't really find the
2 summation that necessary. So --

3 MR. SAGOTSKY: If the Board will
4 submit a report, I will read it.

5 MR. MARKS: Well, the Planning
6 Board will submit a report. That's why I feel there
7 is no necessity for me to engage in summation.

8 THE CHAIRMAN: All right.

9 MR. HERMAN: Mr. Chairman, the
10 Board of Education would like to reserve about an
11 hour. I'm not positive we're going to use it. I can
12 tell you for sure we wouldn't need more than that at
13 the next meeting.

14 MR. SAGOTSKY: That's three and a
15 half hours there on the allotted basis.

16 MR. DAHLBOM: That would leave a
17 half hour for Stockton if it came and the new
18 application on the right-of-way.

19 MR. FRIZELL: There may be other
20 public comment, I don't know. People have been
21 coming.

22 THE CHAIRMAN: That's entirely
23 possible.

24 MR. SAGOTSKY: That's right.

25 MR. FRIZELL: We have to leave it

1 open for them.

2 MR. SAGOTSKY: That's four hours
3 right there. Well then, and the public for comment.
4 If I allot another half hour, that's four and a half
5 hours, assuming we start -- I sound like I'm shouting.
6 I hope I'm not. If we start at seven o'clock or near
7 thereafter as we can, that takes us up to 11 o'clock
8 or 11:30. So I would think that we could make it if
9 all try to keep within this time period.

10 MR. DAHLBOM: And assuming we can
11 defer the other things.

12 MR. SAGOTSKY: I would like to
13 present to the Applicant that in the way that it is a
14 very strong preference on your part and see if he
15 can't go along with that, so that would save some
16 time there.

17 THE CHAIRMAN: I think we're at
18 the point now where we should try and reach a
19 mutually acceptable date for the deliberation meeting
20 if we can call it such. I'm open to suggestions
21 convenient to all members of the Board and also to
22 the Applicant and the Planning Board and Board of
23 Education. Also, it will be a public meeting.

24 MR. LARKIN: Do we have to notify?
25 How long in advance do we have to notify people of

1 that deliberation meeting?

2 MR. DAHLBOM: Ten days.

3 THE CHAIRMAN: That's why I would
4 like to arrive at a date tonight, so it can be posted.
5 Would you -- does the 28th of August sound -- that is
6 also a Thursday night.

7 MR. MARKS: I would not be
8 available that week.

9 MR. DAHLBOM: I won't be here
10 next Thursday.

11 THE CHAIRMAN: Any other
12 suggestions?

13 MR. SAGOTSKY: Well, the more
14 time -- is it possible before the 28th? The 21st is
15 your last meeting because the farther ahead of the
16 28th you can give me, the more time I will have to
17 draft the Resolution pursuant to your wishes.

18 MR. DAHLBOM: How's the Tuesday
19 of that week, Sam?

20 MR. FRIZELL: I don't think you
21 have time to take testimony. What's the earliest?

22 MR. SAGOTSKY: The special
23 meeting may be called on two days notice, 48 hours
24 notice, and may be posted at Towship Hall for a
25 special meeting. And so long as the notice is given

1 to the two newspapers and posted in the Clerk's
2 office and the Resolution is passed, this would be
3 another special meeting.

4 MR. LARKIN: You don't need the
5 ten days for that?

6 MR. SAGOTSKY: No.

7 THE CHAIRMAN: That clarifies
8 that point. Any other suggestions within the
9 constraints of the members of the Board?

10 MR. DAHLBOM: How about the 26th,
11 which is a Tuesday?

12 MR. FRIZELL: I won't be
13 available, but this is a deliberation session. The
14 schedules satisfied me throughout the hearings, so
15 I'm not going -- I was satisfied with the schedule
16 throughout the hearings. I'm not available, also,
17 that week.

18 MR. MARKS: The same thing with
19 me. I would assume we're not going to be permitted
20 to comment on your deliberations?

21 MR. SAGOTSKY: That is correct.

22 MR. MARKS: With that in mind, I
23 could send someone from my office.

24 MR. SAGOTSKY: It's really not
25 necessary. It's your privilege and option to do so.

1 Basically, the Board may fix the time that is
2 agreeable to all and hopefully it will be
3 satisfactory. So far it should be from what we've
4 just heard. If it's satisfactory to enough members
5 here to appear, meaning there must be at least five
6 and preferably all, if they can come here.

7 THE CHAIRMAN: How does the 25th
8 sound? It's a Monday night. Does that conflict with
9 anything for the Township? If necessary, we will
10 meet downstairs.

11 MR. LARKIN: Is there anything in
12 the law that says we have to meet in a building
13 that's not air conditioned?

14 MR. SAGOTSKY: What night is the
15 25th, the Monday night? That is agreeable to me,
16 also.

17 THE CHAIRMAN: John, Fred? It's
18 a Monday night. Greg?

19 MS. THOMAS: Mr. Schrupf, Monday
20 night is the Environmental Commission meeting. Can
21 you meet downstairs?

22 THE CHAIRMAN: No, as I say,
23 we'll have to meet in whatever room is available.

24 Let's set August 25th. So long
25 as we're getting here early, we might as well make it

1 seven o'clock again.

2 MR. SAGOTSKY: And I have a
3 Resolution for you to be passed on that. I have one
4 that kind of needs a little help but it's ready to go.
5 May I suggest that we have a roll call because Mr.
6 Niemann has come in since the first roll call.

7 THE CHAIRMAN: Put it on the
8 record that Mr. Tischendorf arrived at 7:20, Mr.
9 Niemann at 7:25 and they didn't miss any part of
10 tonight's testimony.

11 THE CHAIRMAN: Here.

12 MR. DAHLBOM: Here

13 MR. LARKIN: Here.

14 MR. NIEMANN: Here.

15 MR. BRENNAN: Here.

16 MR. TISCHENDORF: Here.

17 THE CHAIRMAN: All right.

18 MR. SAGOTSKY: I have a
19 Resolution.

20 MR. BRENNAN: Resolution
21 concerning calling of special meeting: Under the
22 Sunshine Law, the following Resolution was offered by --
23 and second by: Whereas, a hearing was held on the
24 Application of Orgo Farms, et al, notice is hereby
25 given of a special meeting of this Board shall be

1 held August 25th, 1980 at seven p.m. at Colts Neck
2 Towhship Hall. The purpose of said meeting is
3 consider deliberate and vote upon an Application
4 concerning Orgo Farms and hearings according to the
5 Order of Honorable Judge McGann. Formal action will
6 be taken at the meeting of August 25th, 1980, at the
7 time and place aforesaid. Be it further resolved
8 that 48 hour notice of said meeting has been posted
9 on the Towhship Hall in the place reserved for such
10 announcements. Notice will be transmitted to two
11 newspapers, the Asbury Park Press and Daily Register
12 and a copy of same shall be filed with the Clerk and
13 further copies of same shall be mailed to any person
14 who shall request the same.

15 MR. SAGOTSKY: If the Resolution
16 didn't say seven o'clock, would you please add it?

17 MR. BRENNAN: It said seven, also.

18 THE CHAIRMAN: Roll call on that
19 Resolution.

20 MR. BRENNAN: I'll offer it.

21 MR. LARKIN: Second.

22 THE CHAIRMAN: Yes

23 MR. DAHLBOM: Yes

24 MR. NIEMANN: Yes

25 MR. BRENNAN: Yes.

1 MR. LARKIN: Yes

2 MR. TISCHENDORF: Yes.

3 THE CHAIRMAN: Thank you.

4 MR. TISCHENDORF: Are we assuming
5 that one meeting for deliberation will be sufficient?

6 THE CHAIRMAN: Yes, John. As a
7 matter of fact, that's why we made it seven o'clock
8 instead of eight, in the event that the deliberations
9 took a little longer that might be usual.

10 MR. BRENNAN: One long smoke-filled
11 room, John; and, had to have a special meeting for 48
12 hours notice.

13 THE CHAIRMAN: Planning Board
14 have someone to present tonight?

15 MR. MARKS: Yes.

16 THE CHAIRMAN: I think you're
17 front and center.

18 MR. MARKS: Okay.

19 MR. FRIZELL: I don't have any
20 witnesses, Mr. Schrupf, but I do have a few items we
21 can wait till the Planning Board is finished.

22 THE CHAIRMAN: Why don't you --

23 MR. FRIZELL: One was to
24 reference the letter I sent to the Board this week
25 and the submissions there. I think, Mr. Sagotsky,

1 would you like to mark those?

2 MR. SAGOTSKY: If you wish to
3 introduce it on some basis, state your basis.

4 MR. FRIZELL: Well, I think the
5 basis, I think, is pretty self-explanatory. I mean
6 that's what it is. It explains what it is.

7 MR. SAGOTSKY: What I'm saying is,
8 for the record, you are saying that you submitted a
9 letter dated a certain date in response to a question
10 or questions asked by the Board of Adjustment?

11 MR. FRIZELL: Yes, Mr. Sagotsky.

12 MR. SAGOTSKY: And that is in
13 response?

14 MR. FRIZELL: Yes. Obviously,
15 the August 7, 1980 letter is part argument and part
16 fact and part offer on our part to accept conditions
17 which would assure the construction of least cost
18 housing at this location; and, also an offer on our
19 part to make further proofs concerning the
20 availability of subsidies as to whether or not
21 they're available or not at the time of final
22 approval. The rest of it is really an analysis of
23 the concept of least cost and also the presentation
24 of the development pro forma. I could read the
25 document into the record I don't think it's necessary.

1 I would recommend it to the Board. There were
2 numerous questions about what is least cost and how
3 do the numbers relate to the concept of the least
4 cost. I've attempted in this letter to explain what
5 I believe least cost is and how the economic data
6 that we supplied relates to it.

7 MR. SAGOTSKY: Mr. Frizell offers
8 certain letters, which I will identify for you in a
9 moment. It would be A-51 -- and may I borrow your
10 set, Mr. Frizell? A letter of August 11, 1980, on
11 the letterhead of Frizell, Posycki, Wiley, signed by
12 Mr. Frizell. It's entitled, "Submission of Economic
13 Data". It is marked A-51 for ID. Attached thereto
14 is a schedule entitled, "Table Two", stating housing
15 type, hard and soft construction costs and profit per
16 square foot, total unit average estate sales price;
17 see table one, aggregate sales per section. That
18 will be marked A-52. Attached to A-52 is a sheet
19 that starts by saying, "25 percent of aggregate sales
20 of for-sale housing from table two", further attached
21 thereto and made a part of A-52 is a sheet estimate,
22 "note five" starting out with lighting of public
23 streets and another sheet entitled, "note six"
24 further entitled, "Estimate, Colts Neck Village
25 underground electric improvements".

1 MR. FRIZELL: I think those all
2 can be considered part of A-52. They are intended to
3 be one document.

4 MR. SAGOTSKY: Shall be part of
5 A-52, with the exception of the letter which has been
6 marked A-51.

7 (Whereupon a letter dated 8/11/80
8 is marked A-51 for identification.)

9 (Whereupon a group of documents
10 (pro forma) is marked A-52 for identification.)

11 MR. FRIZELL: I refer to A-52 as
12 pro forma.

13 MR. SAGOTSKY: There is also
14 offered a letter entitled -- dated August 7, 1980 on
15 the letterhead of Frizell, Pozycki and Wiley
16 addressed to the Zoning Board of Adjustment entitled,
17 "re: least cost concept". Do you offer that, Mr.
18 Frizell?

19 MR. FRIZELL: Yes, Mr. Sagotsky.

20 MR. SAGOTSKY: That will be A-53,
21 marked for identification. It consists of a
22 statement of the view of the facts and the law by Mr.
23 Frizell, consisting of four pages and a fifth page
24 therein entitled, "2A", from which there is a four
25 line quote: The argument advanced that cheaper land

1 will produce cheaper quote least coast end quote is
2 fallacious. If the developer can buy cheaper land he
3 will build the same unit for the same price and reap
4 additional profit.

5 All these documents just
6 mentioned are offered as A-53 and so marked for
7 identification

8 (Whereupon a letter dated 8/7/80
9 and documents attached thereto are marked A-53 for
10 identification.)

11 MR. SAGOTSKY: And for the
12 consideration of the Board, I also understand that
13 copies of A-51, A-52 and A-53 have been made,
14 photocopies have been made and submitted to each
15 member of the Board, so each member of the Board has
16 a copy in his possession. I also, as attorney for
17 the Board, I received this day a copy in my
18 possession. That concludes, I think, what I have to
19 say

20 MR. FESSLER: Mr. Chairman, does
21 the Planning Board have a copy of those?

22 MR. SAGOTSKY: That appears to be
23 an oversight which I regret.

24 MR. HERMAN: Mr. Sagotsky,
25 regarding taking these letters and other submissions,

1 A-51 through A-53, I heard Mr. Frizell say that
2 they're -- forgive me if I'm misquoting you -- I
3 think you said they're partially argument in nature
4 and partially factual. Not having had a chance to
5 look at them, I'm curious as to what is factual and
6 who it is being submitted by and who we can
7 cross-examine with regard to those facts before the
8 Board accepts any of it on any basis. So I would
9 suggest -- they seem to be fairly voluminous, they
10 seem not to be the kind of thing that we can read now --
11 that perhaps those of us who didn't receive it,
12 namely the Planning Board and the Board of Adjustment
13 has an opportunity to review them and not include as
14 A-51 through A-53 until next week when we have a
15 chance to comment on them I'm not suggesting that
16 after reviewing with the Applicant that they should
17 not be accepted.

18 MR. SAGOTSKY: Number one, please,
19 we'll ask Mr. Fessler to make a copy for you so that
20 you should have one; secondly, before making a
21 recommendation along those lines to the Adjustment
22 Board, if Mr. Frizell wishes to be heard I think he
23 should be.

24 MR. FRIZELL: Well, the factual
25 part of it, Mr. Herman, are primarily for improvement

1 costs which come from two sources, one of which was
2 the the firm of Killam Associates which were here and
3 testified to the improvement costs in the proceedings
4 already. The second were prepared by Abbington-Ney,
5 the engineers. That's basically the factual part of
6 it. The rest of the arithmetic, the hard part, was
7 the estimate given by Gilvary, as far as the prices
8 of the house as to what they would sell for.

9 MR. HERMAN: But I presume by
10 that you wouldn't be submitting them if they were the
11 same things that have already been testified to. I
12 would assume that it contains new information albeit
13 from the same witness. And that being the case, we
14 ought to have an opportunity to speak to those
15 witnesses about this information. I'm at a
16 disadvantage.

17 MR. FRIZELL: I think you should
18 look at it and you'll find that the arithmetic is
19 there. It's mostly arithmetic. The only new
20 information in that document is the estimates of the
21 improvement costs.

22 MR. HERMAN: Well, again, all I'm
23 asking that we be afforded the time to review before
24 they accept as A-51 to 53. It may be after next
25 week's meeting I may agree with Mr. Frizell.

1 MR. FRIZELL: I suggest Mr.
2 Herman let me know if you want the engineer to come
3 in and testify.

4 MR. SAGOTSKY: I, therefore,
5 advise the Board that A-51, 52 and 53 be accepted for
6 whatever purpose they have been submitted upon
7 condition that it meets with the approval of the
8 attorney for the Board of Education. I might say
9 that the reason I have not raised the technical
10 objection and by the way Mr. Herman you are, in my
11 opinion, just absolutely right as far as the law is
12 concerned. But I have not raised it, because the
13 material contained therein, while it may exceed the
14 technicalities of the law of evidence, the -- the
15 Zoning Board has wide latitude. And I feel the Board
16 is capable of digesting and reading and if they would
17 want any further right of cross-examination, they
18 would ask me and I would ask Mr. Frizell to produce
19 the proof, which would be some witness or witnesses
20 who could be subjected to cross-examination.

21 MR. FRIZELL: Let me say --

22 MR. SAGOTSKY: In the interests
23 of time and the allotment we have, I have taken this
24 position.

25 MR. FRIZELL: I did say in the

1 August 11 letter, in submitting it, that I would be
2 willing to bring in somebody from Abbington-Ney I'll
3 stand by that.

4 MR. HERMAN: Let's not construe
5 this to be a problem. I may very well agree with you
6 after reading it; but, I would like to have that
7 opportunity.

8 MR. SAGOTSKY: Very well. I'll
9 recommend that to the Board.

10 MR. HERMAN: If you would like, I
11 can contact you before a day or two before the hearing.

12 THE CHAIRMAN: I think the same
13 privilege should be afforded to the Planning Board
14 and the members of the Board of Adjustment. I don't
15 think any of us have had a chance to digest it. I
16 got mine today, so --

17 MR. SAGOTSKY: Well, rather than
18 take the position, as the attorney for the Board, on
19 the ground that it wasn't presented on time that it
20 may exceed certain bounds and it's not evidential, my
21 own position for your consideration is, read it, see
22 how it sounds to you. If you want to elaborate upon
23 it further, you may do so. I thought that in the
24 interest of time and being expeditious about it and
25 getting it for your consideration, I thought you

1 might consider it on that basis.

2 MR. FRIZELL: I have one other
3 thing, Mr. Schrupf, for the moment and that is, can
4 we of a colored copy of the master plan marked in
5 here, in the record? I have a black and white. I
6 only have one colored copy of the master plan when
7 Mr. Queale was here and I brought it out and asked
8 him some questions about it. If we can get a color
9 one, I would rather mark that. I only have black and
10 white. Could we mark in A-54 then, Mr. Sagotsky?

11 MR. SAGOTSKY: My question is
12 wouldn't it be repetitious of what was marked in
13 black and white?

14 MR. FRIZELL: It wasn't marked at
15 all. The master plan was not marked at all when Mr.
16 Queale was here.

17 MR. SAGOTSKY: Planning Board
18 attorney and Board of Education, you want to take a
19 look at it please and give me your thoughts?

20 MR. MARKS: Did I understand that
21 it was marked when Queale was here?

22 MR. FRIZELL: What I said at the
23 time, when I opened it and asked him questions about
24 the master plan, I indicated at that time that
25 certainly the Board of Adjustment could take notice

1 of the Township master plan. So the only thing I
2 would like to I have plat 10 of the Township master
3 plan, a black and white copy with the Orgo property
4 outlined in red on the map, and I would like to have
5 that marked in unless we can get a full copy of the
6 master plan. I have no objection to using that.

7 MR. MARKS: I have no problem
8 with putting in a colored one.

9 MR. HERMAN: Is the colored copy
10 one produced by the Township?

11 MR. FRIZELL: Yes. I don't have
12 any -- I have one. I don't want to leave it here.

13 MR. SAGOTSKY: Physically, where
14 will the object -- will you present an object to be
15 marked physically this evening? Whatever is marked I
16 give to the secretary to keep as the permanent record
17 to be marked later, if needed. I do recall you
18 mentioned "judicial notice".

19 MR. FRIZELL: Let's mark my copy.
20 It's underlined by different people at different
21 times but it's basically the Township master plan.
22 Mark that one in, Mr. Sagotsky.

23 MR. SAGOTSKY: There is offered
24 to be marked into evidence a soft-covered volume
25 entitled, "Master Plan and Summary of Proposals,

1 Colts Neck Township, Monmouth County, New Jersey".
2 The first page of the the outer page is dated April,
3 1971, further entitled, "Master Plan and Summary of
4 Proposals, Colts Neck Township, Monmouth County, New
5 Jersey". The next page, therefore, is entitled
6 "Planning Board of the Township of Colts Neck". In
7 this volume there are several maps and it is alleged
8 by Mr. Frizell that included therein is a master plan.

9 MR. FRIZELL: Plate ten is the
10 land use plan of the Township. What I would like to
11 do, Mr. Sagotsky, is to take this map -- I was going
12 to put it in. All I want to do is mark the Orgo Farm
13 on it, on plate ten, in red.

14 MR. SAGOTSKY: Say, approximately,
15 by Mr. Frizell, not done by a surveyor.

16 MR. FRIZELL: Well, the property
17 lines are shown.

18 MR. SAGOTSKY: Mr. Frizell will
19 have to be cross-examined on that.

20 MR. FRIZELL: Do you have any
21 problem?

22 MR. MARKS: Mr. Frizell, as an
23 expert on so many matters that I'm sure that he knows
24 where the boundary lines of the farm are.

25 MR. SAGOTSKY: To further

1 complete the matters just described by the Zoning
2 Board attorney, there is located in this soft-covered
3 volume entitled, "Master Plan" a colored map entitled,
4 "Plate Ten, Land Use Plan", upon which the
5 approximate location in red ink has been marked by
6 Mr. Frizell. It is the last colored map between the
7 two soft folders. It will be marked also as A-54 for
8 identification.

9 (Whereupon a copy of the Colts
10 Neck Township Master Plan is marked A-54 for
11 identification.)

12
13 R O B E R T A. N E L S O N, a witness called on
14 behalf of the Planning Board, having been duly sworn
15 according to law, testified as follows:

16
17 THE WITNESS: Robert A. Nelson;
18 business address is the Traffic Engineering Group,
19 1700 F Street, Belmar, New Jersey 07719.

20
21 DIRECT EXAMINATION BY MR. MARKS:

22
23 Q. Mr. Nelson, could you state your
24 professional qualifications for the record?

25 A. Yes. I'm a licensed professional engineer

1 professional planner in the State of New Jersey. I
2 received engineering training in the United States
3 Naval Academy, Northwestern University Traffic
4 Institute, highway capacity at Brooklyn Polytechnic
5 Institute; member of the Institute of Transportation
6 Engineers and hold a membership, grade Fellow. I
7 began practicing traffic engineering in 1961 with the
8 Garden State Parkway as assistant traffic engineer
9 and in 1965 I became chief traffic engineer and held
10 that position through 1972. At that time, I went out
11 into the private sector and as a consulting engineer
12 and formed the Traffic Engineering Group in 1977.

13 Q. Mr. Nelson, you are familiar with the
14 Orgo site, are you not?

15 A. Yes, I am.

16 Q. Did you, in fact, examine the
17 intersection on various occasions at 537 and Route 34?

18 A. Yes, I have.

19 Q. And are you familiar with the Route 18
20 entrance near the southern part of this parcel?

21 A. Yes, I am.

22 Q. Are you aware of the number of roadways
23 which pass by or touch the Orgo parcel?

24 A. Well, there's Route 34, Route 537, Route 18.

25 Q. I'm talking about the major ones.

1 A. That's it.

2 Q. Do you have an opinion regarding the
3 desirability of those three roads with respect to the
4 carrying of traffic to and from the Orgo site.

5 MR. FRIZELL: Can I object?
6 There's two reasons for objecting. One is I'm not
7 sure exactly what desirability means; but more
8 importantly, I think that soliciting the opinion
9 might be putting the cart before the horse at this
10 point.

11 MR. MARKS: In what respect?

12 MR. FRIZELL: Well if he would
13 render an opinion now without any foundation --

14 MR. MARKS: Well --

15 THE CHAIRMAN: That objection is
16 sustained purely on what Mr. Frizell has said.
17 Perhaps you could rephrase the question and elicit
18 the information in another manner.

19 MR. MARKS: Okay. I'll do that.

20 BY MR. MARKS:

21 Q. Are you familiar with the condition of
22 the intersection of Route 537 and 34?

23 A. Yes, I am. From a traffic standpoint, I assume?

24 Q. Yes. And have you not examined the
25 testimony of Mr. Henry Ney who appeared before this

1 Board several weeks --

2 A. Yes, as well as his traffic volume count

3 Q. And do you recall the level of service
4 that he attributed to county Route 537?

5 A. I believe it was level of service either A or B.

6 Q. Did you in the course of your
7 examination review this figures and in fact conduct
8 your own traffic analysis?

9 A. Yes, I did.

10 Q. Did your traffic analysis differ from
11 Mr. Ney's traffic count? In other words, is it a
12 different type of study, queueing study?

13 A. Well, I did a capacity calculation of the
14 intersection using Mr. Ney's traffic volume figures
15 that he had submitted before the Board and I also did
16 a loading or queueing analysis of the intersection
17 which was done a week ago Wednesday.

18 Q. Now, could you explain to the Board what
19 the queueing analysis consists of?

20 A. Basically it was taking the numbers of cycles
21 on the critical approaches, which were critical, in
22 my opinion, in the morning. It would be the
23 westbound movement on Route 537 and for each of the
24 cycles determining how many vehicles were left
25 waiting and not able to get through the cycle even

1 though they had begun waiting at the beginning cycle;
2 which is different from a loading which is matter of
3 demand of an approaching vehicle and as soon as the
4 cycle changes there is a car to take the place of the
5 last vehicle. This is basically the analysis that I
6 did.

7 Q. Now, turning away from your queueing
8 examination, did you utilize the figures developed by
9 Mr. Ney to form your own calculations regarding the
10 level of service on county Route 537?

11 A. Yes, the actual counted figures.

12 Q. And did your analysis differ from Mr.
13 Ney's?

14 A. Yes, it did.

15 Q. Could you explain to the Board in what
16 vein it differed and what level of service you found
17 and if necessary -- I know you prepared a table which
18 we can mark for identification

19 MR. BRENNAN: We're talking about
20 the present level of service?

21 MR. MARKS: Yes, we're talking
22 about the present level of service. Sam, PB-7, eight?

23 MR. SAGOTSKY: I'll have to pick
24 that up. My calculations, it would be PB-9.

25 MR. MARKS: I would like to mark

1 this.

2 MR. SAGOTSKY: There is offered
3 one sheet entitled, "Signalized Intersection Capacity
4 Analysis Project, Colts Neck versus Orgo Farms,
5 Intersection Route 34 and 537", and is offered as
6 PB-9 and is so marked PB-9.

7 (Whereupon a document, Signalized
8 Intersection Capacity Analysis is marked PB-9 for
9 identification.)

10 MR. DAHLBOM: Read that title
11 again.

12 MR. SAGOTSKY: Signalized
13 Intersection Capacity Analysis, Project, Colts Neck
14 versus Orgo Farms, Intersection Route 34 and 537

15 Do you wish that back?

16 MR. MARKS: We can work from our
17 own copy.

18 BY MR. MARKS:

19 Q. Again, let me return to that last
20 question. You did use Mr. Ney's raw traffic counting
21 data; is that correct?

22 A. Yes.

23 Q. You used that to assess the present
24 level of service on county Route 537?

25 A. That's correct.

1 Q. The first two bars of data that you
2 compiled.

3 MR. LARKIN: Is it possible that
4 we could get that copied?

5 MR. MARKS: Yeah, if we just take
6 a two minute recess.

7 (Whereupon a recess is taken at
8 8:00 p.m.)

9 (Whereupon the hearing reconvenes
10 at 8:10 p.m.)

11 THE CHAIRMAN: Recess is over.

12 Mr. Marks, if you will continue.

13 MR. MARKS: Yes.

14 BY MR. MARKS:

15 Q. Mr. Nelson, calling your attention to
16 PB-9, could you describe what you have indicated on
17 this chart and what the purpose of the first two bars
18 are?

19 A. Well, the first two sections which say, phase
20 one and phase two, which I didn't fill in the two, it
21 gives the authorized signal timing for the
22 intersection which then gives my green time to cycle
23 time ratio.

24 Q. What does that mean? Could you explain
25 that?

1 A. Basically what it is says is how much green
2 time in an hourly period I have to make all my
3 traffic movements in one direction.

4 MR. LARKIN: Which one of these
5 numbers below? Is that 0.5?

6 THE WITNESS: Yes. That's 50
7 percent of the total cycle length of 160 seconds.
8 You see the "AC" on the upper right hand corner right
9 below the square? That says "A" over "C" equals 15
10 divided by 160, 0.01, 15 is the total amber and all
11 red. 160 is the cycle length.

12 MR. DAHLBOM: That the green?

13 THE WITNESS: No, the 160 is the
14 total length from the beginning amber on one approach
15 to the beginning of amber again on that approach. So
16 it would be full cycle of all of the movements of the
17 intersection. On Route 34 we would have 78 seconds
18 and on Route 537 we would have 67 seconds green,
19 which relates to four-tenths, 40 percent of the
20 signal cycle. The other one-tenth is consumed by a
21 five second called all red a five second called amber
22 and five seconds amber for Route 34.

23 Q. Turning your attention to the first two
24 bars, in particular the top bar, that refers to
25 county Route 537, does it not?

1 A. Yes, that would be the eastbound approach which
2 would be on the Freehold side of the Route 34 -- of
3 537.

4 Q. Does the top line where it says under
5 the word "movement", it says "all". Does that
6 represent present conditions?

7 A. Yes.

8 Q. Across?

9 A. That would be right turn, straight through and
10 left turn movements as indicated in the phase one box.

11 Q. And that would indicate that the width
12 of the lane is 15 feet?

13 A. That's correct.

14 Q. And going to the about the middle of it
15 we see a word "capacity"; and, I see a figure 361,
16 461. Could you explain those two figures, what they
17 relate to?

18 A. Yes. The capacity was assuming a five percent
19 truck, which is a standard assumption; seven percent
20 right turns which were taken directly from the
21 traffic count and a 25 percent left turn.

22 Q. Does the 360 relate --

23 MR. DAHLBOM: I'm sorry. Do me
24 one favor. Maybe I'm the only confused here. If you
25 relate to phase one here, which one of the movements --

1 we're coming from Freehold across 34 towards the town?

2 THE WITNESS: If you look at the
3 second phase, that would be the lower left corner.

4 MR. LARKIN: This one here?

5 THE WITNESS: Yes.

6 BY MR. MARKS:

7 Q. Returning again to that box marked
8 "capacity" is that considered -- refer to design
9 capacity?

10 A. Yes, the design or capacity of the intersection
11 based on the physical conditions.

12 Q. Does that mean that this road is
13 designed to handle 360 cars per hour?

14 A. No. That says the intersection to operate at
15 level of service B, which is a standard design would
16 be able to reasonably carry 360 vehicles an hour
17 through it.

18 Q. Could you contrast that with the next
19 figure, CP 461?

20 A. "CP" is what is considered possible capacity
21 and is really not possible. It's possible reasonable
22 capacity of the intersection and the "K" that is
23 derived -- it's going back to the charts and finding
24 that for a 15 foot roadway -- for a 15 foot roadway
25 having a design capacity of a factor 1.0, which in

1 this case would be the 360, the possible capacity
2 would be multiplied by a factor of 1.28 and that
3 would give us the figure of 461 as a possible
4 reasonable capacity for the intersection carrying the
5 traffic.

6 MR. LARKIN: What is the basis of
7 the 1.28?

8 THE WITNESS: The 1.28 is what
9 they have found in the studies from which these
10 numographs and the Capacity Manual is derived.

11 MR. LARKIN: Is this a State
12 manual what are you referring to?

13 THE WITNESS: What I'm referring
14 to is a numograph that was derived in the Highway
15 Capacity Manual, which is Special Report 87 from the
16 Highway Research Board of the National Academy of
17 Sciences. This has been the Bible for -- at least
18 since 1965, when it came out, for calculated.
19 Capacity I believe the book before that was 1950
20 something.

21 THE CHAIRMAN: In other words,
22 the Bible for the County of Monmouth, the Bible for
23 the State of New Jersey? Everyone uses it?

24 THE WITNESS: Yes, sir. They
25 have -- there have been other methods developed in

1 the Capacity Manual based on observation as being
2 updated. But this is still what is used. And it's a
3 reasonable calculation of it. They found in some of
4 the studies that you may get somewhat of a higher
5 capacity using a method called the critical lane
6 method. Some people are using it, but this is still
7 highly used. This is probably more prevalent than
8 the critical lane method.

9 MR. DAHLBOM: Although the
10 intersection is designed for passing 360 cars per
11 hour, it's reasonable that it could pass 461 per
12 hour?

13 THE WITNESS: Yes, sir, it is.

14 MR. TISCHENDORF: Depending upon
15 the 15 feet?

16 THE WITNESS: Also, that is one
17 of the restricting factors, one of the reasons for
18 that the following car is always governed by the
19 movement of the lead car until it reaches a point in
20 the intersection which is sufficiently wide for the
21 following car to bypass it if it's not going in the
22 same direction.

23 BY MR. MARKS:

24 Q. Would you be good enough to explain the
25 next figure, which is DHV?

1 A. The DHV, in this particular case, represents
2 the demand hourly volume.

3 Q. Where did you get that figure from?

4 A. That's directly from the traffic count that
5 Abbington-Ney did.

6 Q. I see. So in other words, that figure
7 is raw calculation from Mr. Ney's traffic count; is
8 that correct?

9 A. Right, that's a raw count. That's what's there.

10 Q. Now have you calculated or do you have
11 an opinion based upon that raw traffic count and the
12 other data in that first bar as to what the level of
13 service -- and I assume that's LOS --

14 A. Yes.

15 Q. -- is in that eastbound lane of 537 at
16 the present time?

17 A. Yes. That would be level of service E to F and
18 the way that that is derived is divide the demand or
19 the "D" of DHV by the CD portion of the capacity
20 which was 360. That exceeds the possible capacity of
21 1.28 by some number and I can put it on a calculator
22 and determine it, if you like. Why don't I do that
23 and make it complete? That would be a demand of 1.5
24 or a factor of 1.5 over the design capacity, whereas
25 the possible capacity level of service E is 1.28.

1 See we're about 24 percent over the level of service
2 E, that's why the E to F.

3 Q. Now you told me that you've used Mr.
4 Ney's raw traffic counting data and you come to a
5 conclusion that the level of service is an E to an F
6 as opposed to what Mr. Ney described as A,B level of
7 service. I believe that's what he described. Could
8 you explain why your analysis is different from his?

9 A. Well, we had used different charts. I can't
10 understand why we have the differential. They're
11 fairly close as far as hour. It could just very well
12 be the method that was used.

13 Q. When you say "the method", do you mean
14 the old and new method of traffic analysis that has
15 been promulgated by Northwestern University?

16 A. Right. Both of them. I understand
17 Northwestern is also teaching the newer method and I
18 happened to be using Northwestern numograph charts.

19 Q. Now, just to make it clear, Mr. Ney's
20 analysis was based on a technique known as the
21 critical lane theory?

22 A. Critical lane method, yes.

23 Q. And what is your analysis based on what
24 method?

25 A. Well it's a method that was used and

1 promulgated by Northwestern University and it's a
2 series of numographs that were developed by Jack
3 Hipshire (phonetic) Associates and they were based on
4 the 1965 Highway Capacity Manual.

5 Q. So in other words, you're conducting a
6 capacity study as opposed to a critical lane approach,
7 is that correct?

8 A. That's correct. I am not familiar enough with
9 the critical lane approach to determine whether they
10 distinguish between the rural intersections and urban
11 intersections. The reason that these distinguishing
12 factors were made in the past is that the people who
13 were in the large metropolitan areas are much more
14 aggressive drivers. Therefore, you got more vehicles
15 through an intersection than you would in a rural
16 intersection where the pace is somewhat slower, which
17 also reflects in a person's driving -- New York City
18 versus Red Bank, if you want to take an example.

19 Q. Given this difference in methodology and
20 what -- that's what we're really talking about --
21 which methodology is more widely employed, the
22 critical lane method or the capacity method at this
23 point in time?

24 A. Most of the traffic engineers that I know of
25 and talk with on a daily basis are still using the

1 Highway Capacity Manual recommendations.

2 Q. Now --

3 THE CHAIRMAN: Can I interject a
4 question?

5 MR. MARKS: Yes, certainly.

6 THE CHAIRMAN: You feel that in
7 certain traffic analyses that perhaps Mr. Ney uses
8 the same methodology that you use on certain
9 occasions?

10 THE WITNESS: Well, I know for a
11 fact that he had in the past.

12 THE CHAIRMAN: He has used it in
13 the past on certain occasions?

14 THE WITNESS: Well, at one time
15 it was the only thing that he did because that's all
16 that was available.

17 BY MR. MARKS:

18 Q. Now, again, you've considered Mr. Ney's
19 raw traffic data to be correct in traffic count? You
20 are not questioning that at all?

21 A. No, not at all.

22 Q. However, did Mr. Ney's conclusions as to
23 traffic capacity of the 537, Route 34 intersection
24 did that make -- did that leave certain areas out in
25 terms of an omission potential, additional traffic

1 which is not presently there at this particular time?

2 MR. FRIZELL: I object. I don't
3 remember Mr. Nelson telling us what he understood Mr.
4 Ney's testimony to be in the terms of the capacity of
5 the intersection.

6 MR. MARKS: Mr. Ney's?

7 MR. FRIZELL: Yes.

8 MR. MARKS: I think you -- I
9 think he said B.

10 MR. FRIZELL: That's the level of
11 service. That doesn't refer to capacity.

12 MR. MARKS: Excuse me. We were
13 talking about the level of service at 537. I'm sorry.
14 I should have used another term.

15 THE CHAIRMAN: Your objection is
16 sustained as well, both ways.

17 Rephrase your question.

18 MR. MARKS: Yes.

19 BY MR. MARKS:

20 Q. In reaching his conclusions, did Mr. Ney
21 consider any traffic which would be generated from
22 the shopping center, proposed shopping center on the
23 corner of Route 537 and State Highway 34?

24 A. He had mentioned that such a place is proposed.
25 However, in his analysis of the traffic, he referred

1 only to the residential uses of the site. In fact,
2 if I recall from the night that he had testified, he
3 had mentioned that he hadn't gotten into the office
4 calculation at that time.

5 Q. You mean the shopping center?

6 A. Shopping center or offices.

7 Q. Well, let's just stick to the shopping
8 center for a minute

9 MR. LARKIN: Do you mean the
10 shopping center on the corner of 537 and 34 or the
11 shopping area, bus stop, whatever we finally defined
12 it as?

13 MR. MARKS: No, the shopping
14 center that is approved that's right on the corner.

15 BY MR. MARKS:

16 Q. Does Mr. Ney's analysis also omit any
17 consideration of traffic generated from either the
18 industrial area of the Orgo tract as well as the
19 office-commercial end of it?

20 MR. FRIZELL: Let me object. I'm
21 not sure what the source of Mr. Nelson's knowledge is.

22 MR. MARKS: He was here that
23 night.

24 MR. FRIZELL: Mr. Ney was here
25 twice. Was Mr. Nelson here both times?

1 MR. MARKS: Mr. Nelson also read
2 the transcript.

3 MR. FRIZELL: Has he read both
4 transcripts?

5 MR. MARKS: He was here for the
6 first presentation. Only the second one.

7 MR. FRIZELL: Well --

8 THE CHAIRMAN: Was he here for
9 one and did he read the other?

10 MR. FRIZELL: If he did that and
11 he's saying Mr. Ney didn't consider the industrial
12 areas -- let him testify.

13 THE CHAIRMAN: That's a fair
14 question -- fair objection.

15 Were you aware of both
16 testimonies either through transcripts or being
17 present?

18 THE WITNESS: I have a copy.
19 "Outline of the Testimony, Henry Ney, Colts Neck
20 Village" and it's got charts, capacity traffic
21 volumes in it.

22 MR. FRIZELL: Well, if the
23 question is whether it's considered in there, I don't
24 have any problem with the question. It's not
25 considered in there. The answer is no. That's a

1 different question from what Mr. Marks has asked.

2 THE WITNESS: The night that I
3 was present, Mr. Ney had indicated that -- well, he
4 was talking only about the portion on the northerly
5 side of Route 18. And he did mention something to
6 the effect that the traffic going to the office
7 buildings would be in a counter flow with the traffic
8 that was coming from the residential development and
9 therefore would have no detrimental impact on the
10 traffic. I do recall that from the testimony. Which
11 night that was I don't know I was here only one.

12 MR. FRIZELL: Did you read the
13 transcripts of the testimony of the night that you
14 were not there, other than that summary?

15 THE WITNESS: No, this is all I
16 have.

17 BY MR. MARKS:

18 Q. But you do recall Mr. Ney on that night
19 discussing either the generation or non-generation of
20 traffic from that section of the Orgo property?

21 A. Yes.

22 Q. Then I'll ask the question again. In
23 his analysis, did Mr. Ney omit consideration of
24 traffic that would be let into the 537, Route 34
25 intersection that would be generated from the

1 office-commercial area as well as the industrial area?

2 MR. FRIZELL: Let me object. I
3 don't want to belabor this because Ney came back and
4 gave that information on the record and it's in the
5 transcript somewhere.

6 MR. MARKS: Fine. I think the
7 Board --

8 MR. FRIZELL: But I don't see how
9 he can answer the question. He wasn't here and he
10 didn't read the transcript.

11 MR. MARKS: He just said that the
12 night he was here that he heard Ney testify as to the --

13 THE CHAIRMAN: He's only going to
14 answer the question, Mr. Frizell, on the basis of
15 what he heard.

16 MR. FRIZELL: Okay.

17 THE CHAIRMAN: He is admitting --
18 I'm sure he's going to admit there might be possible
19 testimony he did not hear that was presented that he
20 was not aware of.

21 MR. FRIZELL: All right. Go ahead.

22 THE CHAIRMAN: Did I presume too
23 much for you?

24 THE WITNESS: No, you did fine.

25 MR. SAGOTSKY: You may answer.

1 THE WITNESS: On the basis of the
2 information that I had been present to hear at the
3 one meeting that I attended and from the outline
4 which gives specific a.m. and p.m. traffic volume
5 movements at the intersection of Route 537 and Route
6 34; as well as various charts and a deliniation of
7 the trip generation which include 172 single families,
8 484 apartments, 361 townhouses and 120 senior citizen
9 units, that's what I am taking my information from.
10 And that gave a total of 1,118 vehicle trips during
11 the morning peak and 391 being peak street hour,
12 evening.

13 BY MR. MARKS:

14 Q. Calling your attention back to PB-9,
15 would you make a projection on that first bar as to
16 traffic that would exist at the intersection in 1985?

17 A. That was based on Mr. Ney's testimony, which
18 indicated an annual growth of three percent, which I
19 used to project that traffic forward at an annual
20 three percent growth rate that I also concur with.

21 Q. Now does the level of service then
22 change?

23 THE CHAIRMAN: Wouldn't it have
24 been better to mark that at three percent per annum?
25 It looks like to an overall three percent. Would you

1 mark that?

2 MR. MARKS: If the Board
3 understands it's three percent a year --

4 THE WITNESS: Yes. I just kind
5 of ran out of room in these little boxes here.

6 THE CHAIRMAN: I would direct
7 that the Board members, for the their own education,
8 mark that at three percent per year increases and
9 this was on the testimony of Mr. Ney.

10 THE WITNESS: Yes.

11 THE CHAIRMAN: You were here?

12 THE WITNESS: I was here for that
13 one.

14 BY MR. MARKS:

15 Q. You then have a conclusion as to what
16 level of service would be in 1985 at the Route 537
17 intersection on the eastbound lane?

18 A. I would give it a level of service F although
19 there really is no such thing at a signalized
20 intersection. What you are really talking about is a
21 high level of C after which you have totally
22 interrupted flows with these minor outside influences,
23 such as a flat tire, nice looking girl walking by or
24 something. These things can cause that kind of a
25 slowdown where you are not going to have the through

1 put we've determined. To have the level of service F
2 is a back up. A level of service on a freeway is
3 more easily detected than when you are at a traffic
4 signal where you have a stop and go movement. As far
5 as the report goes, it's a method of distinguishing
6 it.

7 Q. Did your queueing study verify your
8 estimates of the level of service?

9 A. Yes.

10 Q. Now, turning your attention to the
11 westbound lane on Route 537, do you have an estimate
12 did you calculate a level of service for the present
13 westbound traffic on Route 537?

14 A. Yes. That would be level of service E.

15 Q. Again, that would be at variance with
16 Mr. Ney's level of service?

17 A. I believe it is, yes.

18 Q. And did you project that out to 1985 at
19 a three percent per annum?

20 A. Yes, that's compounded again.

21 Q. And what did it come out to; I mean,
22 just the level of service?

23 A. Again, it's in the high range of what I would
24 call F in this particular case so we're dealing with
25 some kind of finite quantity.

1 Q. Those three percent per year projections,
2 does that include the traffic that would be generated
3 by the Orgo project?

4 A. No, that did not.

5 Q. So in other words, these are just normal
6 projections without any consideration of the Orgo
7 Farm tract if it were built?

8 A. That's correct. That's just by that
9 intersection.

10 Q. No figures with respect to the shopping
11 center which may be built on the corner of Route 537
12 and county and State Highway 34?

13 A. No, that's correct. And it's also the fact
14 that Route 18 is open, is another route to and from
15 the east which has taken some traffic off. It's been
16 open long enough to stabilize and it's still under
17 these conditions. Based on the capacity charts, that
18 is the level of service.

19 THE CHAIRMAN: I would like to
20 interject a point here. If I recall Mr. Ney's
21 testimony, he is at odds with that. He's not too
22 sure that 18 is really stabilized yet; not too many
23 people are familiar with it to have stabilized it as
24 to flow of traffic.

25 BY MR. MARKS:

1 Q. Can you comment on that?

2 A. I'm not sure I recall him saying that. I can
3 comment on it.

4 THE CHAIRMAN: I wish you would.

5 THE WITNESS: I live on the other
6 side of Route 34 in Ocean Township. In fact, Route
7 34 terminates -- I'm sorry -- Route 18 terminates in
8 Ocean Township, as a matter of fact, at Deal Road.
9 And there's an open section and then it begins again.
10 From my point of view, it begins again at Wayside
11 Road and continues on into Freehold. I would dare
12 say that anyone who is over in that area, within two
13 months, knew all about where Route 18 was and where
14 it goes simply because it's such a hassle to get
15 around the Collingwood circle over the Parkway taking
16 Route 36 or taking the back roads where you get tied
17 up in Route 36. But traffic that would be coming
18 from the Fort during the peak hours, it cuts five to
19 ten minutes off of the total trip time. It's a
20 shorter route. It's a much more comfortable driving
21 route and I'd think that anybody going back and forth
22 between the Freehold area on a commuting basis during
23 the peak street hours is very familiar where that
24 road will go and the kind of benefits that they will
25 gain from it. For instance, you can get out from

1 Freehold get right onto Route 18 from Route 537 up by
2 the Colts Brook development. That will take you all
3 the way into -- I guess it's Ocean Township. It's
4 still Ocean Township or perhaps Eatontown, Tinton
5 Falls, which is then a very short easy trip into the
6 shore. And you have about four different routes you
7 are able to disperse and select and enable you to
8 reach your destination most quickly. So those people
9 do know about that road. There's no question in my
10 mind about that.

11 THE CHAIRMAN: Thank you.

12 BY MR. MARKS:

13 Q. Are you familiar with the access to the
14 industrial area of this tract?

15 A. Yes, I am.

16 Q. In particular, I'm referring to that
17 area of the Orgo tract below or south of Route 18?

18 A. Yes.

19 Q. Would you describe the method in which a
20 vehicle would be required to enter the industrial
21 area if they were proceeding south on Route 34?

22 A. If they were to do it legally at the present
23 time the present road conditions, they would probably
24 have to go up to the Collingwood circle and come
25 around again at least the whole area that I consider

1 the Collingwood circle. That is at the present time.
2 However, this road happens to be in a section where
3 Route 18 -- where Route 34 over to 18 is within a
4 divided four lane section. If you go out there and
5 look at the area now, there is grass that is
6 well-traveled by people who are crossing over the
7 median and turning left to go south that's what they
8 would do.

9 THE CHAIRMAN: Might be commented
10 upon that that is exactly what Mr. Ney testified to,
11 that they would have to legally go to Collingwood
12 circle and then come back if they were heading south.

13 BY MR. MARKS:

14 Q. Now, all the trip generations which were
15 considered by Mr. Ney in his analysis, were they not
16 wholly residential in scope?

17 A. Yes, they were, at least according to what I
18 have, that is the summary of testimony or outline of
19 testimony.

20 Q. Now, do you have an opinion from the
21 traffic point of view as to what is desirable in
22 terms of the dispersal of residential traffic? Is a
23 major intersecting road needed? Is secondary roads
24 preferable? Do you have any feelings on that?

25 A. Yes, I do. I don't think major roadways are

1 required to serve a residential area. You can have
2 roadways that will lead you somewhere near. But it's
3 more desirable, in my opinion, to be able to disperse
4 that traffic on roadways that will serve each of the
5 directions from which the traffic will arrive. For
6 instance, if this location were somewhere between
7 Route 18 or 537 and the Parkway and Route 34 you
8 could then pick up traffic and come into these on
9 less utilized roads than you have at a given
10 intersection in town, a heavily utilized intersection
11 and have a better dispersal of traffic on roadways
12 that have a lower utilization. Certainly there are a
13 number of residential projects that are being
14 developed that are nowhere near major highways and
15 people are getting to them quite easily.

16 MR. MARKS: I have no further
17 questions.

18 MR. SAGOTSKY: Now, how does that
19 fit with everybody's taking Route 18 over to Freehold
20 to get off at back roads?

21 THE WITNESS: Well, this is a
22 major artery. However, the vehicles, the drivers
23 that are coming to Route 18 are coming from many
24 different locations, which is why the roadway system
25 is not that highly used. If the only route were

1 Route 34 and 537 for all those cars to come, you'd be
2 right back to square one where you were about a year
3 ago.

4 MR. DAHLBOM: We can conclude
5 that, based on your testimony and Mr. Ney's testimony,
6 using the same basic data, you come to two different
7 conclusions; one that it's pretty good and one that
8 it's not so good?

9 THE WITNESS: It looks that way.

10 MR. LARKIN: You know, in my
11 business, I'm pretty used to having experts say that
12 stock money is going up or down. When I see a bunch
13 of cars sitting in the traffic, I can't believe that
14 one expert can tell me it's a level B and another a
15 level F.

16 THE WITNESS: Well, if what
17 you've been given -- what I have done is worked with
18 the charts and given an indication -- an indication
19 of exactly how everything is computed. I haven't
20 seen anything as to capacity calculations that were
21 conducted for the property, for the project, by Mr.
22 Ney's office.

23 MR. LARKIN: Are there no
24 standardized methods of defining A, B, C and E level
25 of service?

1 THE WITNESS: Yes, there are
2 standardized methods.

3 MR. LARKIN: There are clearly
4 more than one. Are there more than the two that
5 we've been presented with tonight?

6 THE WITNESS: When you are talking
7 level of service, what you are doing is talking about
8 quality of flow. Mr. Ney has taken his definition in
9 these notes of levels of services A, B, C and he took
10 them out of the other Capacity Manual, which is still
11 valid and I concur with Mr. Ney. When you are
12 talking about level of service A to read from his
13 notes at level of service A there are no loaded
14 cycles. For example, a load factor of zero and few
15 even close to it. No approach phase is fully
16 utilized by traffic and no vehicle is waiting longer
17 than one red light. Typically, turning movements are
18 easily made, all drivers find freedom of operation.
19 Their only concern is that the light will turn red
20 when they approach. When we start counting the
21 numbers of loaded cycles and when the car leaves
22 there is another one to take its place at the red
23 level of service C, has a load factor of 0.1 -- of
24 0.3 which is anywhere from ten to 30 percent. In
25 this particular case, when we were doing our count --

1 and admittedly they were on different days -- for the
2 eastbound movement we had 48 percent of the cycles
3 loaded and westbound we had 69 percent of the cycles
4 loaded. Now, if we take that, that brings that into
5 the level of service D according to his definition
6 that he gave before. So the actual way I did is I
7 went out and I took this queueing or loading analysis
8 to test what I had done on my cycles and I still feel
9 that I'm close.

10 THE CHAIRMAN: I think what the
11 members of the Board are going to have to do in their
12 considerations are to understand there are to the
13 methods and that obviously, from the testimony, the
14 methods differ quite a bit and we have to decide
15 which one is valid and which one is not, in this
16 particular instance.

17 MR. LARKIN: Can I ask maybe a
18 question of Mr. Frizell? Maybe you can just help us
19 out a little bit. I don't recall exactly all the
20 testimony but was there, in Mr. Ney's analysis of
21 traffic patterns, did he use this load factoring in
22 his?

23 MR. FRIZELL: I think --

24 MR. LARKIN: I don't mean --

25 MR. FRIZELL: I'll talk -- Mr.

1 Ney couldn't be here and if we still have problems,
2 we'll bring Ney back next week. I'll tell you the
3 truth, traffic is one thing we're not an expert.

4 MR. TISCHENDORF: Is that
5 gentleman from the same office?

6 MR. FRIZELL: Yes.

7 MR. TISCHENDORF: It would be
8 best if those two gentleman argue among themselves
9 and us listen.

10 MR. FRIZELL: I would like to
11 have -- can I ask a few questions, Mr. Schruppf?
12 Could I ask a few questions because I would like to
13 talk to Mr. Grunoff (phonetic) about this.

14 THE CHAIRMAN: You would like to
15 ask a few questions? Let's see if there are any more
16 questions from the members of the Board.

17 MR. BRENNAN: The numbers on here
18 for the demand hourly volume, those are from Mr.
19 Ney's raw traffic count?

20 THE WITNESS: That's correct.

21 MR. BRENNAN: Did I understand
22 you to say that you also made a traffic count
23 yourself on different days?

24 THE WITNESS: I did not take a
25 specific one car, two car, three car count. What I

1 did is observe and recorded the loading of the
2 traffic signal or queueing behind it and I also
3 determined how many vehicles were left waiting that
4 had waited in order for one signal to change and had
5 gone into the other. In fact, the two were exactly
6 parallel.

7 THE CHAIRMAN: I know I waited
8 for six lights today at quarter to five. That
9 doesn't mean a thing, I guess.

10 MR. TISCHENDORF: If you are
11 identifying exhibit A-20 where these counts came from?

12 MR. SAGOTSKY: Could you speak a
13 little louder, please?

14 MR. TISCHENDORF: I asked Mr.
15 Nelson if you could identify that submission A-20,
16 Mr. Ney's outline of testimony I thought I --

17 THE WITNESS: They were taken
18 from the peak hour volumes. You can see. They were
19 between the peak hours, occurred between 4:30 and
20 5:30.

21 MR. DAHLBOM: What page is that
22 on?

23 THE WITNESS: The first one after
24 the appendix. It's about halfway through.

25 MR. TISCHENDORF: You are looking

1 at summary sheet dated June 3rd at the top?

2 THE WITNESS: Yes, that's correct,
3 four p.m. and six p.m..

4 MR. TISCHENDORF: Five hundred
5 and forty-two is the sum of eastbound traffic, is the
6 maximum of something in this table? Is that what you
7 are saying?

8 THE WITNESS: Well, it's adding
9 up four consecutive blocks for three movements. In
10 other words, within a given approach you have one,
11 two, three as one approach; four, five, six as
12 another approach. If you add them up, you will get a
13 number which I have recorded on the sheets that I
14 have.

15 MR. MARKS: PB-9.

16 THE WITNESS: On PB-9.

17 MR. TISCHENDORF: Five hundred
18 forty-two is labeled approach 1E in your PB-9. That
19 means that eastbound?

20 THE WITNESS: That would be
21 eastbound. In terms of this, it would be movements
22 one, two and three.

23 MR. TISCHENDORF: Eastbound looks
24 to me like two, six and ten coming eastbound.

25 THE WITNESS: No, eastbound

1 consists of a left turn which is movement 1A through
2 movement -- which is movement two and a right turn
3 which is movement three, all approaching from the
4 left side

5 MR. TISCHENDORF: I'm sorry, sure.
6 So the parameters of these data are something like
7 peak hour on June 3, Mr. Ney's count and are not
8 represented to be peak year? It's a busy day in June?

9 THE WITNESS: Also that's not
10 necessarily so. During the morning and evening peak
11 hours, this does not operate as a recreational route.
12 You have a heavy directional flow in one morning
13 since it is really across roads of work trips. What
14 you are doing is operating very much as an urban
15 intersection that has no recreational influence.

16 MR. TISCHENDORF: Another thing,
17 I can't read in the left margin here what the
18 individual lines are here. Are these different times?

19 THE WITNESS: Yes, these are 15
20 minute periods and you have to add up the four 15
21 minute periods that are consecutive. That will give
22 you the highest hourly volume. In this case, to be
23 4:30 from 5:30.

24 MR. TISCHENDORF: Now when you
25 look north/south?

1 THE WITNESS: Four, five and six
2 would be northbound and ten, 11, 12 would be
3 southbound.

4 MR. TISCHENDORF: Still on the
5 same June 3rd summary?

6 THE WITNESS: Yes.

7 MR. TISCHENDORF: Thank you.

8 THE CHAIRMAN: Any other
9 questions from the Board?

10 MR. BRENNAN: You have
11 characterized traffic flows in four different
12 directions. Overall, for the intersection, I'm not
13 quite certain as to whether or not Mr. Ney didn't say
14 the intersection in its totality was a B today. If
15 you have got a couple of A's, that's numerically
16 heavier than your E's, can you characterize what the
17 level of service is for the intersection in total?

18 THE WITNESS: That would be very
19 difficult for me -- it's relatively easy to do it on
20 an approach because we're dealing with a certain
21 width and a certain demand volume. When we start
22 going on an overall level F service on an
23 intersection, we are going to have some approaches
24 are operating at A and some at F simply because of
25 capacity of flow. And capacity prevents -- the only

1 kind of relationship that a driver has to an
2 intersection is in the direction that he approaches
3 from it, is it a good intersection, a medium
4 intersection or a lousy intersection? And it's
5 strictly from the standpoint of the driver and the
6 direction that he's traveling. For instance, if you
7 were on Route 34 at five o'clock at night and you
8 were traveling northbound, you'd say, boy, this is a
9 great intersection, and take and swing in. However,
10 to the eastbound traffic you have an entirely
11 different story. I don't think you can give an overall
12 to the intersection.

13 THE CHAIRMAN: Any other
14 questions? Mr. Frizell, you say you would like to
15 ask a few?

16

17 CROSS-EXAMINATION BY MR. FRIZELL:

18

19 Q. Would you just for me just take one
20 number for me 624 the approach three in which your
21 demand hourly volume 624. What numbers did you add
22 to come to 624 I've got the June 3 sheet?

23 A. That would be in there morning peak street hour.
24 what we're doing is taking demand volumes on legs of
25 the intersection, which we have to use in order to --

1 five, and six, morning peak hour.

2 Q. Now, Mr. Ney testified at length about
3 the fact that the capacity manuals were based on
4 counts which are taken between 1948 and 1955. Is
5 that accurate?

6 A. well, I think it was probably a longer period
7 than that because the Manual never came out until
8 1965 and --

9 Q. But they were -- if you extend it -- I
10 understand they were all waiting for it to come out?

11 A. 1965, all set ready to go.

12 Q. But they were based on counts that were
13 taken largely at least through the 1950's?

14 A. Fifties and somewhere's into the sixties, too.

15 Q. One of his criticisms of the accuracy of
16 the capacity that were reported in the manuals was
17 the fact that during the 1950's -- and, of course,
18 there was a gradual change in these days -- cars were
19 not only bigger but 50 percent of the cars were
20 standard shifts. Do you agree with that criticism?

21 A. I don't know if 50 percent of the cars were on
22 standard shift. I don't believe that I'd be able to
23 substantiate that. I happen to have had an automatic
24 snift at that time.

25 Q. Well, he said that if you took out the

1 Capacity Manual -- for instance, he said he has
2 personally gone up and compared it to certain
3 roadways that he is familiar with. Those roadways
4 are operating at 150 percent of capacity according to
5 the manual. Do you have experience like that?

6 A. Yes. Basically, the Manual is, this is a
7 reasonable level of service that you are going to put
8 the cars through. Once you begin to load, there is
9 no question that you can at some times, at given
10 conditions, once you begin to load more cars into
11 that, your chances of the breakdown of the system are
12 much more, greater.

13 Q. I understand that. But I mean using the
14 Capacity Manuals, I mean, is it conceivable to you
15 that that Manual could still be accurate in today's
16 world and yet still permit a roadway to carry, in a
17 free-flow condition at 150 percent over the
18 theoretical capacity?

19 A. First of all, with a traffic signal you have no
20 free-flow condition. The roadways --

21 Q. That's not what I asked you. I asked if
22 you have a roadway operating at a free-flow condition
23 at 150 percent of capacity; I mean, doesn't that tell
24 you something about the accuracy of the manuals?

25 A. What it tells me is that, yes, it can happen;

1 and, yes, I have observed it. But it doesn't tell me
2 is that what happens when we have these slight side
3 influences that are going to create some kind of a
4 problem; for instance, a vehicle parked on the side,
5 attractive nuisance or an attractive anything, a
6 vehicle that's stalled, things like that that are
7 going to affect the overall operation of the
8 intersection, that will not permit it to have that
9 kind of a movement. On the Garden State Parkway, and
10 we had experienced, the lane capacity is 2,000
11 vehicles per lane per hour. That's theoretical,
12 possible capacity. We were putting 2,700 cars per
13 hour. But what happened, when you had 14 toll booths
14 set up, we had chaos. We reached the point where we
15 could not make that actually operate because of that
16 side influence. We are saying that that intersection
17 cannot operate for short periods of time at that kind
18 of a capacity given no outside influences. Once you
19 get those influences, heavy rain, storm or any kind
20 of influence, you are going to get a demand that's
21 intolerable under the same rate that you do under
22 ideal conditions.

23 Q. You answered about 19 questions that I
24 didn't ask you.

25 Let me ask you, when did you do your

1 peak analysis?

2 A. It was Wednesday, August 6, 1980 from seven to
3 nine and from four to six.

4 Q. All right. Was it only one day?

5 A. Yes.

6 Q. Now, could you explain what is queueing?

7 A. Queueing is a backing up of cars at an
8 intersection.

9 Q. At a light?

10 A. At a light, at anything.

11 Q. What are the factors that cause queueing
12 at a signalized intersection?

13 A. The width of the intersection, which is the
14 inability of it to handle the vehicles, the demand;
15 the inability of that intersection to process the
16 various turning movements that are at the
17 intersection.

18 Q. Do you mean an intersection that
19 wouldn't be able to turn in all directions?

20 A. Well, if I want to turn left and there are cars
21 going straight, I can't turn left if they're in the
22 way. And if I'm turning left and the cars want to go
23 straight, they can't go straight.

24 Q. That, I assume, is a condition that
25 exists at all signalized intersections?

1 A. Where two-way traffic is available, yes.

2 Q. Are there any other things that cause
3 queueing?

4 A. Signal timing, any hundreds of outside
5 influences such as poor pavement, inability to see,
6 poor sight distance.

7 Q. That's design, put that under design?

8 A. No, it could be maintenance, too.

9 Q. Now, did anyone ask you to -- I assume
10 the Planning Board hired you, the Township hired you?

11 A. Yes.

12 Q. Did they ask you to make recommendations
13 to the Board of Adjustment as to how that
14 intersection could be improved in order to
15 accommodate the projected traffic?

16 A. No, they didn't ask me.

17 Q. You are not in a position to tell us
18 tonight what improvements could be made in order to
19 alleviate the conditions that you testified about
20 given the project?

21 A. Well, there are a number of factors that must
22 be considered. And very prominent among those
23 factors is whether the Department of Transportation
24 is either going to do it or going to let you do it,
25 whatever recommendation that you make.

1 Q. That's beyond the scope of my question,
2 isn't it? I asked you whether or not you knew or
3 were in a position to tell us what could be done at
4 that intersection in order to alleviate the
5 conditions that you referred to?

6 A. There are a number of things that can be done.
7 Whether the Department of Transportation will agree
8 with any of them or all is entirely up to them. And
9 they're the ones that control the design of the
10 intersection.

11 Q. You are not in a position to recommend
12 any design changes in that intersection or any
13 changes at all in that intersection at the present
14 time?

15 A. I know basically what things that could be done.
16 I have to study it. I would not give a professional
17 opinion.

18 Q. Let's just look for a minute -- could we
19 mark this -- now, the level F of service northbound
20 on Route 34, is that a level of service A?

21 A. Yes, that's correct.

22 Q. And it's projected to be "A" through
23 1985 with three percent increases?

24 A. That's correct.

25 Q. And level of service on Route 34 going

1 south that's A to B?

2 A. A to B, A,B.

3 Q. That's projected to be "C" in 1985 with
4 three percent increases?

5 A. That's just with the very existence, with
6 nothing added, no further development.

7 Q. Well, the three percent volume increases
8 anticipates some future growth of traffic on the
9 roads. It does not anticipate a specific influence
10 that you referred to, which our project would be?

11 A. That's correct.

12 Q. But the three percent figure, where did
13 you get the three percent figure?

14 A. From Mr. Ney.

15 By the way, that's also consistent with what
16 the county has found the growth of the area is, about
17 three to five percent.

18 Q. You correct me if I'm wrong, but as I
19 understand this analysis and as I look at it, you
20 indicated to us a minute ago that the factors that
21 govern the capacity of the intersection that is
22 handling traffic in any given direction is the
23 function of at least two things that are on your
24 chart. One of them is the width of the road; is that
25 correct?

1 A. That's correct.

2 Q. And the other is the length of the
3 signal?

4 A. That's correct.

5 Q. Now --

6 A. Well, no. I'm sure that's not correct. It's
7 not the length of the signal, also the manner in
8 which the signal is timed, the duration of that
9 timing to accommodate the various movements so that
10 you can process the optimum number of vehicles.

11 Q. That's a percentage of the total? That
12 is, 100 percent of the cycle was 160 seconds?

13 A. That's correct.

14 Q. Now, do you find 160 seconds a long
15 cycle or is that a medium type cycle or is that a
16 short cycle?

17 A. That's a pretty long cycle.

18 Q. I think Mr. Ney said the same thing.
19 What would happen, Mr. Nelson, looking at your chart,
20 if I were to adjust the signal so that I would have
21 more green going through on your approach number one
22 in the eastbound direction, where you say that
23 there's a level of service E and less time for the
24 people to move in a northbound direction that's a
25 level of service A?

1 A. Well, the signal already adjusts itself to
2 accommodate such a thing. And it does it by having a
3 maximum and minimum green time based on demand. For
4 instance, if we have a I demand on the northbound
5 approach and a I demand on the eastbound approach we
6 would probably go to the maximum green time on both
7 approaches that is available. As you give more green
8 to one, you have to take more green away from the
9 other though in order to balance out the cycle. You
10 can't give maximum to everybody. So that is already
11 taken care of internally with the controller. And
12 it's based on the vehicle movements over the vehicle
13 detectors.

14 Q. If I understand you correctly, this
15 internal controller is giving a great deal of
16 preference in terms of level of service to those
17 people who choose to go north versus those people
18 that go east or west?

19 A. Let me acquaint you with a fact of life with
20 the Department of Transportation. They will never
21 give less than 50 percent in a cycle time to the
22 State highway in all my experience.

23 Q. How much of the cycle are you giving
24 Route 34 here, what percent?

25 A. Forty percent. Excuse me, one second.

1 Q. Did you just tell us they never give
2 less than 50 percent?

3 A. To a State highway. They will always make sure
4 that they have at least 50 percent of the cycle
5 available to move the traffic on that State highway.

6 Q. Is Route 34 a State highway?

7 A. It is, sure.

8 Q. What is the cycle?

9 A. Fifty percent.

10 Q. It's giving -- I thought you said 40
11 percent?

12 A. No, no. Forty percent is for the sidestreet,
13 50 percent is for Route 34. In fact, that's
14 reflected on my G over C of 0.4 for the E and W
15 movements and 0.5 for the N and S movements.

16 THE CHAIRMAN: I'm glad you
17 corrected that. You did give the impression of 40
18 percent for State Highway 34.

19 THE WITNESS: I'm sorry.

20 BY MR. FRIZELL:

21 Q. Now, I don't know if you answered my
22 question. I asked you what would happen to this
23 intersection if I changed the signal to give more
24 time to the east, west movement and more time to the
25 north, south movement?

1 MR. MARKS: I'm going to object.
2 That's speculative. If you are going to phrase your
3 question how much percentage and give the fact that
4 you can't change the State Highway below 50 percent --

5 THE WITNESS: I thought I
6 explained it. what we are giving is a range in which
7 the signal will operate a maximum and minimum.

8 BY MR. FRIZELL:

9 Q. I may be thick, but it just seems to me,
10 Mr. Nelson, you correct if I'm wrong, if I change
11 that signal and let more cars move through in an east,
12 west direction, there's plenty of time in that light
13 and in that intersection, if you take the total, to
14 change the signal and permit more east, west movement?

15 A. Perhaps you may be right.

16 THE CHAIRMAN: You feel it's
17 within your purview to answer that? Could you
18 properly answer that or is that a decision to be made
19 by someone from the DOT?

20 THE WITNESS: Also, it's their
21 signal and they control all of the timing that's
22 involved with that signal. And they are the ones
23 that will establish the time.

24 MR. FRIZELL: That's not the
25 point. A lot of things are beyond the jurisdiction

1 of this Board. But my question is assuming that that
2 was done, if we're talking about -- if it was a major
3 improvement to the intersection. It may be a matter
4 of changing a clock in a little box on the side of
5 the road.

6 MR. LARKIN: I think you
7 testified before that in your experience the State
8 has never given less than 50 percent to the major
9 highway. What would you assess the chances of the
10 DOT's changing that for the particular intersection?

11 THE WITNESS: I would say
12 extremely low. What they do, they plan on volumes
13 from 18. You are going to have a different change.
14 You may have a different demand than is on there.
15 There is also a possibility that 34 may be widened,
16 since that road has the right-of-way there. It's a
17 higher type of roadway. They are going to make sure
18 that the people using that roadway have the best ride.

19 MR. LARKIN: I think Mr. Frizell
20 is asking a hypothetical question. You could adjust
21 the red and green intervals such as the A would go up
22 to B and E and F would come down to D or C.

23 THE WITNESS: There's a
24 possibility. In other words, you can physically go
25 in and turn a thumbwheel and do it. If somebody's

1 going to let you or not is an entirely different
2 story. I was trying to get from my analysis, on a
3 practical standpoint --

4 MR. FRIZELL: Mr. Marks is a good
5 attorney. He can ask you questions about what you
6 know about State policy. And if he can prove there's
7 a State policy like the one you described, that's up
8 to him. I simply want answers to my questions.

9 MR. MARKS: Why don't you save
10 your argument for your summary?

11 THE CHAIRMAN: I think the
12 question has been adequately answered. He did say
13 it's possible to physically change the controls. To
14 get permission for same is highly remote. In his
15 professional opinion, from past experience.

16 BY MR. FRIZELL:

17 Q. Now, do you have any different
18 experience in observation of the traffic from what
19 Mr. Ney testified to in terms of the fact that
20 despite the fact that there's queueing at this
21 intersection on Route 537? He indicated there was,
22 in fact, queueing and it was due to the length of the
23 cycle; that is, the length of the light was so long.
24 And yet he indicated that all -- in his experience
25 which he observed -- all the cars cleared the

1 intersection. Did you find any difference?

2 A. Yes, I did find a different experience.

3 Q. Could you tell us what those were?

4 A. Yes. During the peak hour in the westbound
5 direction, we have 19 cycles out of the available 28
6 cycles.

7 Q. What does that mean?

8 A. Well, in the hourly period, the signal changed
9 28 times and out of those 28 times we have 19 of
10 those 28 cycles have left a vehicle wait. It's
11 waiting for more than one cycle. Not many. It's
12 getting a lot closer than it used to be.

13 Q. Can you just look at the sheet and tell
14 us the average? Is it one or two?

15 A. Some one, some are two and there are a few
16 three's in there.

17 MR. FRIZELL: Can we take that
18 break now, Mr. Schrupf?

19 THE CHAIRMAN: Okay, ten minutes.
20 (Whereupon a recess is taken at
21 9:17 p.m.)

22 (The hearing reconvenes at 9:30
23 p.m.)

24 THE CHAIRMAN: Ready to resume,
25 Mr. Frizell?

1 BY MR. FRIZELL:

2 Q. Am I wrong, Mr. Nelson, in concluding
3 that the differences in present level of service
4 which I understand is where your testimony was
5 directed is basically because of the different
6 methods that Mr. Marks asked you about; that is, the
7 critical lane method versus the Capacity Manual?

8 A. No, not entirely, because when you deal with
9 the number, with the loaded cycles, the numbers of
10 loaded cycles are well in excess of the 30 percent.
11 So that brings it into a level of service D and F and
12 that's a matter of interpretation.

13 Q. I didn't understand that. Are you
14 saying that what Mr. Ney -- it seemed to me is that
15 what you are saying you used a different method; Mr.
16 Ney used a different method. Are you now saying that
17 you did a critical lane analysis?

18 A. What I'm saying, that Mr. Ney went back into
19 the Highway Capacity method definition of level of
20 services; as soon as the last car leaves, there is a
21 car ready to take its place or a car that is taking
22 its place. After that indication, it's not that you
23 have a lag period in between and nothing is coming.

24 Q. You observed loading and you would come
25 to a different conclusion?

1 A. No. I'm saying that I calculated the capacity
2 according to my method and I observed loading
3 according to my method and Mr. Ney's method, which is
4 the Highway Research Board and I came to that
5 conclusion. That is one of the tests. It's a matter
6 of doing a capacity calculation which is a numerical
7 type of thing and see how it's really operating. And
8 if you take the loading that's there and apply it to
9 the levels of service, all of which come out of the
10 highway Capacity method, with this, one is a test of
11 the other.

12 Q. Well, you did not then do a critical
13 lane method analysis?

14 A. No.

15 Q. Mr. Ney did do one?

16 A. Yes.

17 Q. Mr. Ney came to a different conclusion?

18 A. Right.

19 Q. Now --

20 A. He didn't use my method either.

21 Q. That's what I thought I had asked before.

22 Now, in your sheet, as I look at this
23 sheet, is this intended to tell me something about
24 this intersection at any given point in time?

25 A. No. It's intended to tell you how that

1 intersection operates during the day upon which the
2 signal timing is based.

3 Q. Now these different levels of service
4 did the difference in the different direction or
5 capacity, they're all different in times of the day
6 are they not?

7 A. Different peak hours. In other words, the
8 approaches during the highest peak hour, approaches
9 to the intersection.

10 Q. So then when I asked you about whether
11 or not you could shift the signal and change the
12 capacity, in fact, just looking at this, that is your
13 PB-9, this wouldn't even tell me to what extent that
14 is possible because, for instance, while approach one
15 was suffering from, in your opinion, level of service
16 E approach four may be experiencing a level of
17 service above A or A -- that is to say, a perfect A
18 not not an A to A,B?

19 THE WITNESS: A perfect A it is
20 not.

21 Q. Is that accurate?

22 A. I'm really not sure what you said.

23 Q. Well, for instance, this doesn't tell me
24 what level of service approach four is experiencing
25 when approach one is experiencing a level of service

1 E? It doesn't necessarily tell me that?

2 A. No, but my queueing analysis does.

3 Q. But the PB-9 does not?

4 A. No, what PB-9 is saying is that you're
5 evaluating the maximum length on each of the
6 approaches to the intersection upon that your signal
7 timing is based, the signal timing at that
8 intersection for Route 34. And this was from the
9 Department of Transportation. It's their authorized
10 time. Gives anywhere from 25 to 78 seconds of green
11 time, and Route 537 gets anywhere from 15 to 67
12 seconds of green time. Really, what it's doing is
13 it's being sensitive to the demand volumes and not
14 giving any fixed time, which is unused time, to the
15 approaching vehicles at the highest approach.
16 Obviously, if you can take care of the highest you
17 can then take care of the lowest approaches, too.

18 Q. When you analyzed the capacity of this
19 intersection, you refer to it as a rural intersection;
20 is that correct

21 A. Yes.

22 Q. Now, would you describe to the Board
23 what the Manual says is a rural intersection?

24 A. Well, it's not in an urban area.

25 Q. And could you describe for the Board,

1 using your experience and expertise, what the Manual
2 refers to in terms of the rural drivers in terms of
3 using a rural intersections?

4 A. I can't give you chapter and verse on it.

5 Q. You used it; is that correct?

6 A. It was my opinion, based on the work that I
7 have done in traffic engineering, that this was a
8 rural intersection.

9 Q. And you have no memory of what that
10 refers to in terms of drivers using that intersection?

11 A. When we're talking about metropolitan area
12 traffic, what I did is I gave the metropolitan area
13 factoring of 1.0 which is higher than you would have
14 at a rural intersection.

15 Q. Would you describe for the Board, in
16 terms of a scale, if the capacity of an intersection
17 is rural, would a rural intersection have a lower
18 capacity than an urban intersection given the same
19 design?

20 A. Yes, if we're using the metropolitan area peak
21 hour factors, yes.

22 Q. As a matter of fact, a rural character
23 intersection -- when you designated this to be a
24 rural character intersection, you are giving it one
25 of the lowest capacity levels possible in the Manual,

1 lowest description?

2 A. No, I think I was giving a realistic
3 description. In other words --

4 Q. I'm not asking -- excuse me, Mr. Nelson.
5 I only want you to answer my question.

6 MR. MARKS: I'm going to object.
7 I think he's arguing with the witness. I think the
8 witness has a right to answer the question fully and
9 completely.

10 BY MR. FRIZELL:

11 Q. Well, my question was on a relative
12 scale. Whether or not it was fair, I assumed that
13 everything you did was fair and accurate. And in
14 your opinion, correct, my question to you, Mr. Nelson,
15 relative to the way an intersection is measured,
16 isn't rural the lowest character intersection that
17 you can designate it according to the Manual?

18 A. It is. However, if you use the metropolitan
19 factor of 1.0, which has no adjustment to it, as
20 compared to what you may have in a rural intersection
21 that may have a lower metropolitan area factor,
22 you're going to get very nearly what you would have
23 in an urban area.

24 Q. Now, can you tell us from memory
25 generally, are there other designations? Is there a

1 suburban designation and urban designation?

2 A. Not specifically, no. Basically, what the
3 designations are, central business district, outlying
4 fringe and then it goes into one-way streets, two-way
5 streets, et cetera.

6 THE CHAIRMAN: It might be
7 clarified on PB-9. They are designated right on the
8 top of the page. And "rural" is circled. The others
9 are classified right there.

10 THE WITNESS: Also residential.

11 BY MR. FRIZELL:

12 Q. Did you attempt to determine what kind
13 of drivers use these intersections, whether they are
14 commuters, farmers, what kind of drivers are queueing
15 up at these intersections?

16 A. Well, I would have to go on my experience,
17 simply. I did not do a questionnaire survey.
18 However, the peak hour that was selected is the
19 normal hour that is used in going to work between
20 seven and nine. That's the highest hour in that time
21 frame; and, also from four to six, which also
22 provides truck approaches.

23 Q. Do I understand then that you
24 characterize -- in your opinion, they would be
25 commuters, workers going back and forth to work?

1 A. During those periods of time, yes, sir.

2 THE CHAIRMAN: My recollection

3 Mr. Ney characterized them as such also.

4 Q. Now, having characterized them that way,
5 do you still feel that characterizing this
6 intersection as a rural intersection is an accurate
7 description, since the effect of characterizing it as
8 a rural intersection is to lower its capacity? To
9 put another way, Mr. Nelson, is there any difference
10 between this intersection and an intersection having
11 all the same parameters, width, the signal, et cetera,
12 and you moved it easterly or westerly closer to the
13 Garden State Parkway where we'd have no disagreement
14 it's a fringe area, if not a residential area, is
15 there any legitimate difference? Is it accurately
16 characterized as a rural intersection under those
17 circumstances?

18 A. It's accurately characterized as a rural
19 intersection simply because of its location. In
20 other words, as I had mentioned before, when traffic
21 signals are designed they are designed to accommodate
22 the maximum flow. The maximum flow will occur in the
23 morning when you have people that are going to work
24 at a given scheduled time. They have to be there.
25 Also, in the evening when people are coming back from

1 work and they are combined with people coming from
2 shopping. Your peak street hour is the highest hour.
3 The way to design the traffic control signal is
4 accommodate the highest volumes on the approaches.

5 Q. My question is, when they designate
6 something as a rural character intersection, as I
7 understand it, given the exact same design of an
8 intersection, they will allocate a lower capacity in
9 a fringe area or business area. That's only a
10 designation and that designation is really intended
11 to tell you something -- tell them something about
12 who are the people using the intersection, for what
13 purpose are they using the -- are they using it to go
14 back and forth across the street to buy shopping
15 goods or back and forth to go to work?

16 MR. MARKS: I can't understand
17 what Mr. Frizell is asking and I don't know if the
18 Board is confused but --

19 THE CHAIRMAN: I don't know if
20 the Board is confused but I think the question was
21 accurately answered. The intersection is
22 characterized as rural merely because of its location.
23 And I couldn't think it would be more succinct than
24 that.

25 MR. SAGOTSKY: The question was

1 not really a question. It was partly testimonial.

2 MR. LARKIN: Mr. Nelson, you are
3 familiar with the Route 34 and 520?

4 THE WITNESS: Yes, I am.

5 MR. LARKIN: Would you
6 characterize that intersection as rural as well?

7 THE WITNESS: That would be rural,
8 also.

9 MR. LARKIN: You used a factor of
10 1.0, which was a higher factor than you would
11 normally assign to it. The capacity figures that you
12 came up with, would these be the -- are these somehow
13 increased by a higher factor that you applied to this
14 road a metropolitan factor?

15 THE WITNESS: Yes. I considered
16 this as if it were in the city, by metropolitan area
17 classification. In other words, I did not say
18 600,000 or half a million. That would be a reduction
19 factor. I considered this in the calculation portion
20 as a city intersection simply because it has work
21 trips that are oriented through it.

22 MR. LARKIN: The capacity levels
23 that you calculated are based as if this were a
24 metropolitan road rather than a rural road?

25 THE WITNESS: We're really

1 talking levels of service. We're not talking about
2 capacities. We're talking about flow at a given
3 level of service.

4 BY MR. FRIZELL:

5 Q. Did you attempt to analyze, Mr. Nelson,
6 what the effect of the installation of Joshua Huddy
7 Drive in this project would be?

8 A. You are talking about as to whether I heard Mr.
9 Ney's testimony on that saying that it would help to
10 split the traffic? The fact that we would have more
11 than one outlet, one being on Route 34 and also one
12 being on Route 537, my analysis of this was that we
13 would have then more of a demand going from one
14 direction or the other on the intersection. You
15 still can't put "X" number of vehicles through on the
16 same green that you are going to have, add more
17 vehicles to. You are going to have to take green
18 time away from those. Therefore, you are going to
19 have more vehicles on 537 if you put more vehicles on
20 34.

21 Q. Is that your basis of your understanding,
22 the fact there was one outlet is Route 537 and the
23 outlet on Route 34?

24 A. The analysis had nothing to do with that.

25 Q. Your analysis had nothing to do with

1 that?

2 A. Basically what my analysis said is where the
3 level of service at which the intersection is
4 operating; what will it be a few years hence. I
5 didn't even put any other traffic on it.

6 Q. Well, perhaps then I didn't understand
7 your last comment or answer when you said, I'm
8 referring to the fact that there would be more than
9 one outlet to the property, one on Route 537 and one
10 on route 34?

11 A. The initial plan that I reviewed had only
12 Village Boulevard. The next set of plans that I saw
13 used the proposed alignment of some road that's shown
14 on the master plan as well as Joshua Huddy Drive.
15 This is the first time that I had known that there
16 was any access to Route 34. However, if you are
17 going to take traffic, and you are going to put it
18 out on the road. Everybody is going to be headed as
19 you have distributed the traffic, wherever they come
20 from, they're still going to go through that
21 intersection. And if they are going through the
22 intersection they are going to need a certain amount
23 of time. If you take from one you have to give it to
24 another.

25 Q. Did anybody ask you to analyze any other

1 traffic patterns within the surrounding areas?

2 A. No, they did not.

3 THE CHAIRMAN: Also, the Board
4 has a question if you permit me, Mr. Frizell, to
5 interrupt you? I would like to reiterate, please,
6 Mr. Nelson, that this PB-9 that you presented is
7 merely that which exists today and with no
8 consideration whatsoever of the impact of Colts Neck
9 village; is that correct?

10 THE WITNESS: That's absolutely
11 correct.

12 THE CHAIRMAN: All right. That's
13 what I wanted to know.

14 THE WITNESS: And also a
15 projection of three percent increase --

16 THE CHAIRMAN: I understand that.

17 THE WITNESS: -- to year
18 1955. There is no other traffic added from any other
19 kind of a project, the shopping center that has been
20 approved or Orgo Farms that is proposed.

21 MR. HERMAN: Mr. Nelson, would
22 that also include outside the community like the Bell
23 Labs expansion? That's not included?

24 THE WITNESS: No. All we've
25 analyzed is in its present condition, what would be

1 the level of service at the present time using my and
2 a lot of the rest of the United States' method of
3 analyzing the intersection capacity for a given
4 demand and for a given physical condition. What we
5 did is analyze, based on the physical conditions,
6 what the design capacity would be. We then said if
7 we design this for a level of service A, what will
8 that volume be and then we compared level of service
9 E to the physical demand at the present time and said
10 what will that be. But it has nothing to do with any
11 development or anything. It's a matter I have a
12 quart bottle here, how much is in it now, how much
13 will be in it later?

14 MR. FRIZELL: I have one other
15 question.

16 BY MR. FRIZELL:

17 Q. Did you determine in your analysis you
18 told us that the maximum green light of phase one
19 went from 25 seconds to 78 seconds?

20 A. That's correct.

21 Q. What were the cycle lengths?

22 A. One hundred sixty second cycle. That's the
23 maximum cycle.

24 Q. What was the minimum cycle that you
25 observed?

1 A. Well, when you compare -- for instance, if
2 there is a demand on Route 34 of "X" number of
3 vehicles, once that demand is past you will use up a
4 minimum of 25 seconds. If the demand requires more
5 time on that, you will use anywhere up to 78 seconds,
6 at which time it will go over to Route 537. Route
7 537 has a minimum time of 15 seconds in which to pass
8 vehicles. If the demand is not on Route 34, Route 34
9 will permit the Route 537 timing to go to 67 seconds
10 to accommodate that traffic. Then it will come back
11 to the Route 34 move and again determine how many
12 vehicles are there that require green time.

13 Q. Did I understand that it would be
14 possible for Route 537 to have a cycle or to have a
15 queen time of 67 seconds then for Route 34 to have a
16 green time of 25 seconds?

17 A. Sure.

18 Q. Well, then?

19 A. That's the way it operates right now.

20 Q. As I say, Mr. Nelson, I'm not expert in
21 traffic. I thought I understood you to say that the
22 maximum percentage which the State would allow for
23 the non State Highway at the intersection would be 50
24 percent. If there is 67 seconds in a cycle in Route
25 537 and 25 on Route 34, how is that 50 percent?

1 A. I believe you misunderstood me. The least that
2 they will give themselves on a maximum is 50 percent.
3 They are not going to take any less than half of the
4 green time if the demand exists.

5 Q. If you were not maximum on a State
6 highway, then in fact the side road would be
7 operating at greater than 50 percent of the green
8 time?

9 A. Which it does right now.

10 MR. FRIZELL: Thank you. I have
11 no other questions.

12 THE WITNESS: My analysis was
13 made on 67 seconds.

14 MR. FRIZELL: I don't have any
15 other questions

16 MR. LARKIN: Are there traffic
17 sensors on both 537 and 34?

18 THE WITNESS: I believe they are
19 with the timing established as it is.

20 MR. BRENNAN: Is the cycle always
21 160 seconds?

22 THE WITNESS: Yes, it is.

23 MR. BRENNAN: I had some trouble
24 adding up to 160 a couple of times.

25 THE WITNESS: Well, you have to

1 figure the amber and all red within the cycle which
2 also takes 15 seconds. So if you add that 15 seconds
3 on, I believe I did it --

4 MR. BRENNAN: You did it for the
5 first one.

6 If you add to 160, you are saying
7 that could be minimum time on 34?

8 THE WITNESS: Yes.

9 MR. BRENNAN: Of 25 seconds?

10 THE WITNESS: Right.

11 MR. BRENNAN: Plus ten amber?

12 THE WITNESS: No, plus five amber,
13 plus five all red. All right? So that's an
14 additional ten seconds. The reason for the all red
15 is because people have a tendency to violate amber if
16 it goes beyond five seconds.

17 MR. BRENNAN: That's another 35
18 seconds. That gives me 125 seconds of green on 537.
19 That's where I'm having trouble. Is that correct?
20 You would have 125 seconds of green?

21 THE WITNESS: Not really. It
22 will never get up to that. It sometimes will float
23 along in there.

24 THE CHAIRMAN: Board members?
25 John?

1 MR. TISCHENDORF: Yes. In
2 further study of your analysis, Mr. Nelson, I have
3 caught up how to learn how you used Mr. Ney's figures.
4 Am I correct in understanding here that you made
5 arithmetic corrections for errors in 34 of his totals?

6 THE WITNESS: Let's say that I
7 added them up differently.

8 MR. TISCHENDORF: Your DHV on
9 southbound, 746, is a correction of his 646 on the
10 first page of the appendix, is it not? What I've
11 learned is you use of hourly or rather Mr. Ney's use
12 of the hourly peak around five o'clock was to add the
13 four entries nearest to five o'clock in the tables
14 that we've just been looking at, on the first two
15 pages of the appendix. I notice you have 746 for DHV
16 southbound. That is at odds with the 646 in his
17 table. That 646 presumably was used because it's
18 bigger than 472 on the next page and the sum of the
19 four numbers that constitute the four 15 minute
20 period around five o'clock are indeed 746, are they
21 not?

22 A. That's correct.

23 MR. TISCHENDORF: You made that
24 correction. Now, that 746 is also part of the main
25 body of his testimony. If I recall, that the time

1 preceding the appendix page three of A-20 646 appears
2 is the right hand lower number mid-page table. There
3 again, seeing some of your numbers here, that you
4 used?

5 THE WITNESS: I don't see the 646,
6 but I'm sure that it's there. I'm sorry, it's a
7 total.

8 MR. TISCHENDORF: So there being,
9 in my judgment, that should be 746. Does that agree
10 with your judgment?

11 THE WITNESS: Yes.

12 MR. TISCHENDORF: Further, in my
13 judgment, the column headed westbound should be
14 southbound. Is that your interpretation of the
15 traffic that the column headed southbound should be
16 called westbound?

17 THE WITNESS: Yes, I believe --

18 MR. TISCHENDORF: As presented on
19 page three. In other words, those column headings
20 are also switched?

21 MR. SAGOTSKY: Are you reading
22 from A-20?

23 MR. TISCHENDORF: Page three of
24 A-20. You are telling us in your PB-9 that
25 southbound is the last panel in your figures and also

1 the summary of ten, 11 and 12?

2 THE WITNESS: Yes, it is. It's
3 the summary of ten, 11 and 12.

4 MR. TISCHENDORF: well, that's
5 labeled westbound on page three. My conclusion is
6 that heading should be southbound and the third
7 column should be westbound for anybody's use of these
8 data. Perhaps we could get a response from Mr. Ney
9 or someone to confirm these but I think these are
10 corrections. I would not say that this is exhaustive,
11 so do you know of others beyond what this -- what
12 I've just run through here?

13 THE WITNESS: I don't believe I
14 did, because basically when I added my figures, I
15 like to take my own numbers then I can at least go by
16 my own additions.

17 MR. TISCHENDORF: So that the
18 fact that you are -- fact the southbound peak volume
19 is 746 is not really at odds with Ney's testimony
20 because the 646 should have been 746?

21 THE WITNESS: Yes, sir.

22 THE CHAIRMAN: Any other
23 questions from the members of the Board?

24 Mr. Herman?

25 MR. HERMAN: I have none, Mr.

1 Chairman.

2 THE CHAIRMAN: Mute.

3 MR. HERMAN: Yes.

4 THE CHAIRMAN: Edifying. A
5 little levity. Anyone from the audience that might
6 like to pose a question of Mr. Nelson?

7 MS. THOMAS: I'm Barbara Thomas.
8 At the intersection of 537 and 34, is it possible, in
9 case of an emergency, to have an override with an
10 officer to put it on manual?

11 THE WITNESS: The Department of
12 Transportation has really gone against that. What
13 they will do is put it on flashing. Generally, they
14 found they tried to take all the hand controls out of
15 the control because what happens is when you have
16 somebody who is standing in a street trying to
17 observe traffic over an hourly period, he is not
18 going to process as much traffic as the controller
19 will. Generally, you will have this. At times of an
20 emergency what will happen is that he'll put the
21 signals onto flashing operations rather than a stop
22 and go operation and that then the officer would do --
23 will do the direction of the traffic.

24 MRS. THOMAS: On Route 36, over
25 near Eatontown, when the peak for the racetrack

1 occurs, an officer will take it and manually control
2 the track.

3 THE WITNESS: They're different.
4 They're State employees.

5 MRS. THOMAS: But this is a State
6 highway.

7 THE WITNESS: As far as the track
8 goes, because of the recreational kind of a demand
9 that it has, the signal at the circle is timed at 40
10 seconds for each direction plus the corresponding
11 amber time and red times. What happens is that when
12 everybody's going to the track, you really don't have
13 the demand on Route 35. So what the police will do,
14 they clear out the Parkway and they will take that
15 and they will try to clear out that. And they will
16 have a trooper stationed at the circle and several
17 other locations on down as well as being in
18 communication with the Parkway State Police. So that
19 basically, is the way that works.

20 MS. THOMAS: Thank you.

21 MR. TISCHENDORF: Let me ask you
22 one last question.

23 THE CHAIRMAN: Can't reserve the
24 last one for yourself.

25 MR. TISCHENDORF: Considering

1 your analysis of existing traffic conditions, both at
2 the intersection of Route 34 and 537, and further
3 inland on 537 heading east, do you have an opinion as
4 to what effect the development of Colts Neck Village
5 will have upon the traffic conditions after
6 construction in that given vicinity of Colts Neck
7 Village?

8 THE WITNESS: I think there are
9 many factors involved in this kind of an opinion;
10 that is, what is or what can be done with the
11 intersection. In any event, I think at this
12 intersection you don't have the dispersal of traffic
13 that would permit the intersection to operate at a
14 better level of service. In other words, each time
15 you have a growth rate on the roadway which you are
16 going to have on an annual basis, you are going to
17 have a lowering of the quality of flow through the
18 intersection. When you put a major development on it,
19 that does not need to be highway oriented, for
20 instance, mostly residential, what you are doing is
21 impacting this intersection. And most everything
22 that goes in or out of this site will have to go to
23 it simply because Route 537 eastbound is the only
24 alternative you have. So what you are doing is
25 putting everything through the intersection, which is

1 already a crossroad, that has nothing to do with the
2 town at all except that it happens to pass through it.
3 But you have no control over it. The traffic control
4 signal -- well, there's a county road which is a
5 higher authority road than a municipal road and you
6 have a State, anyway which is a higher authority than
7 both of them. So what you are at the mercy of what
8 the county and what the State can do. And if the
9 county wants to do something and the State says,
10 we're not going to do it, as we had -- for several
11 years I know Colts Neck has requested the state to do
12 improvements on the road because of the intolerable
13 conditions that existed before. When Route 18 came,
14 it took a lot of the impact off the intersection.
15 But if they weren't going to do then, when you had
16 back up many hundreds of feet long approaching the
17 intersection, as I have been caught in many times
18 personally when I worked in Freehold, if you couldn't
19 have the State do anything then, I'm not sure that
20 the State at any other time is going to do anything.
21 Because this is an intersection that affects very few
22 people. If they can affect an intersection or if
23 they can do work on an intersection that will effect
24 a lot of people, for instance, an urban intersection.
25 An intersection of a freeway that is totally for the

1 use and service of people who are using it and not
2 directly oriented to the single development they will
3 do that. But I cannot not see the State getting too
4 excited over doing anything on an intersection here
5 if they haven't done it in the past when you had
6 particularly bad conditions.

7 MR. TISCHENDORF: What effect --
8 how many units are you preparing, Mr. Frizell?

9 MR. FRIZELL: 1,137.

10 MR. NIEMANN: Assuming the
11 construction of 1,137 units on that tract of property --

12 THE WITNESS: Residential, not
13 anything else?

14 MR. TISCHENDORF: Of the type of
15 design that Mr. Frizell has proposed, what is going
16 to be the impact on the traffic conditions in the
17 general vicinity of Colts Neck Villge?

18 THE WITNESS: Mr. Ney, I believe,
19 had mentioned 700. What I did is I went into the
20 chart that Mr. Ney had prepared. I added up the
21 total demand on the intersection during the evening
22 peak street hour and then I added up what he had put
23 in his diagram of little boxes that's entitled, "Route
24 537 and Route 34" adding in all the boxes for the
25 speculative hours on one of them. Although they're

1 not marked, I assume that one was evening and one was
2 morning. On one I got 3,590 and the other I got
3 2,626. The note difference, assuming that the lesser
4 volume is in the morning peak street impact, net
5 impact of 570 vehicle trips in the morning; in the
6 evening, 1,457, that is what the impact would be. I
7 don't know totally whether that encompasses
8 everything or just residential since his outline of
9 his testimony only addresses the residential uses. I
10 think it's reasonable to assume that this portion of
11 it would also interpret the residential uses.

12 MR. TISCHEENDORF: What percentage
13 increase is that over and above the existing traffic
14 volume?

15 THE WITNESS: We're talking 2,100
16 to 3,500, 68 percent.

17 MR. TISCHEENDORF: A 68 percent
18 increase?

19 THE WITNESS: Increase over what
20 exists.

21 MR. TISCHEENDORF: And what's that
22 do to your overall -- as you call, the cycle?

23 THE WITNESS: Cycle length.

24 MR. TISCHEENDORF: How does that,
25 in terms of 15 out of 28? You, I think, had said

1 queueing?

2 THE WITNESS: It's got to get
3 longer. If the signal can't process what it has now
4 at certain times of cycle, then what you are going to
5 do is add onto the back of it.

6 MR. LARKIN: So the LOS is going
7 to go down?

8 MR. DAHLBOM: Do you get a chance
9 to study or listen to or hear some of the suggestions
10 that were given in terms of the improvement of that
11 intersection?

12 THE WITNESS: Yes. You mean with
13 the three widening of the intersection? That will
14 certainly improve it. No question about it.

15 MR. DAHLBOM: Do you have an
16 opinion, assuming that widening will occur, in your
17 estimate in terms of number of trips and so forth for
18 this which is the 68 percent of this? Do you have an
19 opinion as to road widening and the approval of the
20 first analysis, the widening of the road was the only
21 part of the suggestions -- I believe the widening of
22 the road was the first suggested improvement on the
23 road and there were other things that could have been
24 included in there, left and right turn signals and so
25 forth. Assuming that only widening of the road

1 occurred with the increase of the traffic, how would
2 that relate to a level of service, in your opinion,
3 assuming that they could get the improvement through
4 the State?

5 MR. FRIZELL: Could we ask Mr.
6 Nelson -- I asked him whether or not he had any
7 suggestions for improvements. Could we ask him
8 whether he analyzed that question?

9 MR. SAGOTSKY: I would absolutely
10 object to his suggestions for improvements because he
11 mentioned why he couldn't give an opinion on that at
12 the present time. And I think his answer was
13 justified. To give an opinion, to give a
14 professional opinion, as he said, he would have to
15 make certain studies that he hasn't made.

16 Is that correct?

17 THE WITNESS: That's exactly
18 correct. I can tell you from experience it will help.
19 To what degree, I cannot tell you.

20 THE CHAIRMAN: Any other
21 questions?

22 MR. SAGOTSKY: You also testified
23 as to what the chances are of getting the State to
24 widen or improve the situation. Do I understand you
25 testified as to that?

1 THE WITNESS: I think I drew from
2 the experience of the town on the conditions that
3 existed prior to that.

4 MR. SAGOTSKY: That there would
5 be very little change in view of the needs in other
6 places? Am I correct?

7 THE WITNESS: The State will
8 spend the most money where it will do the most good
9 for the most people.

10 MR. SAGOTSKY: And this
11 intersection, if it's not now doing the job,
12 certainly you are indicating the State won't come in
13 on the situation if the intensities were increased,
14 if the traffic intensity were increased?

15 THE WITNESS: I don't know bout
16 certainly, but I would say it would be put onto a
17 list of priorities. I would say that because of the
18 location, the priority list is very low. We have
19 many things that occur, for instance, State funding
20 that's available. We have Route 18 that Ocean
21 Township had taken the State to court to complete the
22 link between Deal Road and the other side of the
23 Parkway. Some work has been done on it to alleviate
24 it but absolutely nothing has been done in the past
25 two years to do this because there's a certain

1 process that you must go through in order to do this.
2 And there must also be available funding in order to
3 complete this.

4 MR. FRIZELL: I don't -- I just
5 generally comment, I don't think there's been a
6 suggestion that the State of New Jersey --

7 THE CHAIRMAN: That's the
8 question I was about to ask. Mr. Ney, I think,
9 testified the widening, the cost of it, would be
10 borne by the developer. But the question then arose
11 that evening, even with the developer bearing the
12 cost, would the State grant approval and how readily
13 would they grant approval?

14 Could you approach that question
15 with the developer paying for it but the State still
16 having to grant approval and the county?

17 THE WITNESS: That would help but
18 I have also been involved and this is a time when I
19 was with Abbington-Ney Associates --

20 THE CHAIRMAN: That's interesting.

21 THE WITNESS: -- when certain
22 improvements -- there were certain improvements that
23 were to be made because of a development in southern
24 New Jersey. And I think the State was demanding so
25 much that the project was simply aborted. They're

1 funny about what they're going to let you do to their
2 road or to the intersection they control.

3 THE CHAIRMAN: Despite who pays
4 for it?

5 THE WITNESS: If you want to put
6 a grade separation they'll let you do that, usually,
7 which means a bridge.

8 BY MR. FRIZELL:

9 Q. Mr. Nelson I found your opinion to the
10 effect that a major planned development does not need
11 access to any major highways, that it can be served
12 by local roads, to be a novel one. Do you have any
13 other authority other than yourself that you can
14 quote to that effect, that in locating a major
15 planned development of this type that one should not
16 look for access to major thoroughfares in the region?

17 A. Well, first of all, I think you misinterpreted
18 what I said. what I said is that a residential
19 subdivision, whatever size it is, does not need
20 highway exposure to survive, does not have to be
21 located in the immediate vicinity. And by that, I'm
22 talking within several hundred feet of major highways.
23 It can survive as almost any location. I think if
24 you take a monmouth County photograph and look,
25 you'll see it.

1 What you're doing is you are located within a
2 certain proximity of the roadways that you would use
3 to get to do your work trips. You don't need those
4 highways in your backyard in order to make in project
5 work. It would be different with a development --
6 commercial development that needs highway exposure.

7 Q. You will agree that those major highways
8 are the methods that people use to get back and forth
9 to work?

10 A. Some of them.

11 Q. When you say "some", can we agree that
12 generally most people use the major highways when
13 they are going back and forth to work as opposed to a
14 local road?

15 A. The farther away they are from their work area,
16 I would agree. Which is one of the problems of the
17 urban sprawl.

18 Q. So that we can agree, can't we, that
19 most of the people would have to get to the major
20 thoroughfares.

21 A. I don't know where they're working. If they're
22 working in Holmdel, they never touch them.

23 Q. In doing these kinds of analyses and
24 projecting where people and what roads people are
25 going to use, don't you assume that they are going to

1 use the major thoroughfares to get back and forth to
2 work? Isn't that the rational assumption to make?

3 A. It's a general assumption. But you have to
4 look at the developments that might come into the
5 area. You can't very well say that simply because
6 someone had worked in New York in the past that he's
7 always going to work in New York if there is
8 reasonable, equal employment nearby.

9 Q. As I understand that, it would be
10 rational and intelligent to locate the project in an
11 area where the people who had to get back and forth
12 to this project had to be routed through existing
13 residential and agricultural roadways?

14 A. That's the general rule, part of the town where
15 it can presently handle -- where it is not operating
16 at its capacity.

17 Q. From a standpoint of the rational
18 development of a community that one should attempt to
19 always, for instance, use a residential road through
20 a residential neighborhood in order to route commuter
21 traffic simply because the residential road is not
22 presently being used?

23 A. When you talking about subdivisions, streets
24 that are strictly residential in nature. The roads
25 that we have in this area, although they may not act

1 as collectors right now, they are collector roads and
2 routes that provide land service to the different
3 parts of the area. It's always substantially better
4 to provide -- if we just take one particular project
5 as an example -- if you provide one driveway, the
6 total impact of that project goes on one driveway.
7 If you put two driveways in, you split their total
8 impact over two driveways. So, therefore, you are
9 lessening the effect of a given area. Basically,
10 what I'm saying, in this case, is that we don't have
11 to concentrate everything for a residential area
12 through one intersection or a substantial portion of
13 it. If it were located in a different location where
14 they would have access to major roads and not have to
15 pass through this intersection and could be dispersed
16 on the local street system, nobody would probably
17 know they're there. When you put them all out in one
18 place, you've got a problem.

19 Q. It seems to me what you are suggesting
20 is to take this project and put it out in the middle
21 of somewhere where there are no major roads and yet
22 expect nobody to go there. There must be something
23 there, agricultural uses or residential uses. I
24 suggest that your referring to very small narrow
25 country roads as a means of dispersing and providing

1 ingress and egress to a development?

2 A. First of all, what I'm talking about, nobody
3 knowing that they're there, is simply the traffic
4 impact on those roads that are going to virtually
5 undeveloped land or farmland, whatever it might be.
6 The impact of the dispersing of traffic on six or
7 eight or ten roadways that might be able to bring
8 from the major arterial roads is certainly better
9 than taking everything that you have and
10 concentrating it in one place and putting it through
11 the most highly congested intersection in the
12 municipality, which is also its main street.

13 Q. Do you disagree with the planner's
14 testimony that access is quick and immediate access
15 as is possible?

16 MR. MARKS: I'm going to object
17 to the planner's testimony.

18 MR. FRIZELL: I'm telling him
19 what it is.

20 MR. MARKS: I'm not going to
21 accept that. I object.

22 MR. FRIZELL: I don't care what
23 you accept.

24 MR. MARKS: I would like a ruling.

25 MR. SAGOTSKY: Mr. Frizell,

1 aren't you getting a little argumentative?

2 MR. FRIZELL: I'm not
3 argumentative. He's not here -- who's he, Robert
4 Wilentz?

5 BY MR. FRIZELL:

6 Q. Do you disagree with the planner's
7 testimony?

8 MR. MARKS: I withdraw my
9 objection.

10 Q. Do you disagree with the planner's
11 testimony that access to major transportation to and
12 from the development should be as quick and
13 convenient a method as possible --

14 MR. MARKS: Which planner?

15 MR. FRIZELL: I'm not going to
16 tell him which planner.

17 Q. -- is a prime criteria?

18 MR. MARKS: Which planner, your
19 planner?

20 THE CHAIRMAN: Let him finish.

21 MR. FRIZELL: Please muzzle Mr.
22 Marks for a moment.

23 BY MR. FRIZELL:

24 Q. Mr. Nelson --

25 MR. SAGOTSKY: You can save the

1 record by having it repeated. You can save the
2 record a little bit.

3 MR. FRIZELL: I'll do it.

4 Q. Do you disagree with the opinion of the
5 planner to the effect that a prime criteria for
6 locating multi-family uses and higher density uses is
7 the location of the project in close proximity to the
8 major transportation routes so that the residences,
9 the project could gain access to those routes in as
10 quick and efficient manner as possible? Do you
11 disagree with that opinion?

12 MR. MARKS: Now, I'm going to
13 object again. I want to know which planner said it.

14 MR. FRIZELL: He doesn't have to
15 know which planner.

16 MR. MARKS: In another case? Was
17 it in Chesterfield?

18 MR. FRIZELL: None of your
19 business. Does he agree or does he not?

20 MR. MARKS: I object. I don't
21 recall that question being asked in this inquiry.

22 THE CHAIRMAN: You want to pose
23 that as a hypothetical question?

24 MR. FRIZELL: For the moment.

25 MR. HERMAN: I have an objection.

1 It is that the question appears to be one to be
2 answered as a planner. I think this witness
3 testified that he's an expert in traffic and not
4 overall planning. There might be a number of reasons
5 why the the planner might feel that's the case.

6 MR. FRIZELL: He can tell us that.
7 Does he agree with the opinion that should be a main,
8 major factor in locating the development. It seems
9 to me that's the opinions he gave before.

10 MR. MARKS: If he gave the
11 opinion before, why are you asking the question again?

12 THE CHAIRMAN: Mr. Nelson, on the
13 basis of the question being posed as hypothesis,
14 would you render an answer or do you feel that you
15 are not qualified to answer it?

16 THE WITNESS: Well --

17 THE CHAIRMAN: No specific
18 planner, just a general.

19 THE WITNESS: I couldn't care
20 less who said it. I think I have to have certain
21 definition.

22 MR. HERMAN: As to traffic?

23 MR. BRENNAN: The word "proximity".

24 THE WITNESS: Right. What do you
25 mean by proximity?

1 MR. BRENNAN: As being astride,
2 as being proximal.

3 MR. FRIZELL: I think I described
4 verbally as much as I could, proximity meaning that
5 is the -- say the more approximate you are, the
6 better it is; the closer you can get to that major
7 road, the better it is on a relative scale. The
8 farther away you have to go away from those
9 intersections or away from those major transportation
10 corridors, the less preferable the location is. From
11 that single standpoint.

12 MR. NEIMANN: Mr. Chairman?

13 THE CHAIRMAN: Mr. Niemann?

14 MR. NIEMANN: It seems to me that
15 the question is almost self-evident unless you sort
16 of include the conditions of the thoroughfare as they
17 pertain to Colts Neck, and specifically Colts Neck
18 development. I think your answer, at least to me, I
19 can answer by the way you asked it. The answer might
20 be different if you include the various situations
21 and conditions which exist at that location. Otherwise,
22 I think it's almost a rhetorical, theoretical
23 question.

24 MR. FRIZELL: He can agree with
25 it. He says it's self-evident. If he thinks let him

1 tell me so. If he, Mr. Marks, wants to qualify,
2 that's a different question. But if it's
3 self-evident to Mr. Nelson --

4 THE CHAIRMAN: Given it's post
5 and riposte, would you answer the question now?

6 THE WITNESS: By "near proximity"
7 I would say that if you are located anywhere from one
8 to three miles, that that would be a sufficiently
9 close proximity to serve the interests of the
10 statement that was given. I don't think you have to
11 be specifically on top of an intersection or on top
12 of a crossroad of a county road, this kind of a
13 highway, in order to make it work for to have to be
14 right on top of the Garden State Parkway. You may
15 not want to use it. Depends on where you are going.
16 It's preferable to have a location of the kind of
17 uses that were described, centrally located to many
18 of the routes or as many I character arterial routes
19 than it is close to one; particularly if the effect
20 is going to be overwhelming to the intersection that
21 is going to be -- or to the specific roadway that's
22 carrying the traffic.

23 THE CHAIRMAN: Thank you.

24 MR. FRIZELL: No other questions.

25 THE CHAIRMAN: No more questions

1 from Mr. Frizell. Any other questions from anyone?

2 (whereupon the witness is
3 excused.)

4 THE CHAIRMAN: I will entertain a
5 motion.

6 MR. BRENNAN: I would like to --

7 MR. FRIZELL: You indicated last
8 week when Mr. Fessler was here that there was some
9 questions raised by the Board at different various
10 times as to subdivision activity in Colts Neck
11 Township I wonder whether Mr. Fessler intends to give
12 us a report on subdivision activity in Colts Neck
13 Township in the past two years or if that would be
14 possible to obtain?

15 MR. MARKS: We didn't plan on it.
16 we're not prepared for it. I'll have to speak to Mr.
17 Fessler about it.

18 THE CHAIRMAN: Well --

19 MR. FRIZELL: I have a Monmouth
20 County document showing five major subdivisions in
21 1979. I assume it's accurate. It doesn't go and
22 tell you how many homes in each one. But there was a
23 lot of witnesses made a lot of references to it. It
24 seems to me the record would be a lot more cleaner if
25 we had that map.

1 THE CHAIRMAN: Will you take that
2 under advisement as the attorney for the Planning
3 Board, Mr. Marks?

4 MR. MARKS: I will and will get
5 an answer.

6 THE CHAIRMAN: I didn't expect --
7 we still have a hearing next week. Hopefully we'll
8 wind up on the 14th, I mean on the 21st and then on
9 the 25th deliberations. And I want to make sure that
10 that special notice is posted properly.

11 MR. FRIZELL: Could I address
12 myself to the issue? Can you get the information
13 because it was indicated to me when I started looking
14 for this information the best source of that material
15 would be the Planning Board. The Planning Board has
16 been at every meeting. All we want to know, what's
17 the subdivision activity. It doesn't seem to me
18 that's secret information.

19 MR. MARKS: I don't think it's
20 secret at all. You can do it yourself. It's public
21 information. We don't have that information at our
22 fingertips.

23 MR. FRIZELL: You bring the
24 records or you bring Mr. Fessler. I'll add it up.
25 I'll be glad to do the arithmetic. If it's easier to

1 do five years --

2 MR. MARKS: We'll get you a
3 report or whatever.

4 THE CHAIRMAN: The availability
5 of such records are public knowledge.

6 MR. SAGOTSKY: Yes

7 MR. BRENNAN: I made the motion.

8 MR. LARKIN: Second.

9 (Whereupon the hearing is
10 adjourned at 10:30 p.m.)

11

12

CERTIFICATE

13

14

15

16

17

18

19

20

21

22

23

24

25

I, KATHLEEN M. SHAPIRO, a Registered
Professional Reporter and Notary Public of the State
of New Jersey, certify that the foregoing is a true
and accurate transcript of the proceedings as taken
before me stenographically on the date hereinbefore
mentioned.


KATHLEEN M. SHAPIRO, R.P.R., C.P.

Dated: August 23, 1980
my Commission Expires on
June 7, 1983



STATE OF NEW JERSEY

DEPARTMENT OF ENVIRONMENTAL PROTECTION
JERRY FITZGERALD ENGLISH, COMMISSIONER

DEPARTMENT OF AGRICULTURE
PHILLIP ALAMPI, SECRETARY

Governor Brendan T. Byrne
and
The Joint Legislative Oversight
Committee
The State House
Trenton, New Jersey 08625

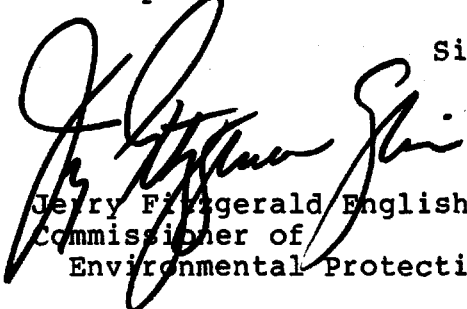
Dear Governor and Legislators:

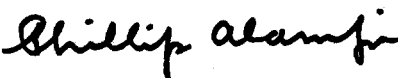
This report presents the findings and recommendations of a study of alternative ways to preserve our farmland and retain our agriculture in response to Chapter 234, P.L. 1979. Funded by the Department of Environmental Protection from the Green Acres Program and conducted by the Department of Agriculture, Division of Rural Resources, the study was designed to seek a broad public involvement and to propose a series of actions to solidify both the agricultural land base and the farming industry over the next several years.

We are pleased to submit this report with the hope and expectation that it will result in positive action on behalf of the State government as well as county and municipal governments to support agriculture. The time is right for an active program to be initiated. Farmland losses have recently slowed, although probably only temporarily, and there is a renewed public interest in agriculture's benefits for a heavily populated region.

Please call upon us to assist in achieving this goal of a strong agriculture and a continuing supply of productive open farmland.

Sincerely,


Jerry Fitzgerald English
Commissioner of
Environmental Protection


Phillip Alampi
Secretary of Agriculture