

**TOWNSHIP OF EGG HARBOR
PLANNING BOARD**

January 10, 2011

Solicitor: Christopher Brown, Esq.
Engineer: James Mott, P.E. (Mott and Associates), Robert Watkins, P.E. in attendance
Planner: Vincent Polistina, P.P. (Polistina and Associates) Craig Hurless, P.P. in attendance
Traffic: Edward Walberg, P.E., (Remington, Vernick and Walberg) Joseph Angelastro, P.E., in attendance

A re-organizational and regular meeting of the Planning Board of Egg Harbor Township was held on the above date, 6:30 p.m., prevailing time, Egg Harbor Township hall, Egg Harbor Township, New Jersey. The Chairperson opened the meeting by reading the statement in compliance with the Open Public Meetings Act.

Roll Call:

Manuel E. Aponte, V-Chair., present	Joseph Lisa, 2 nd V-Chair., present
Committeeman John Carman, present	Mayor James J. McCullough, Jr., * see below
Charles Eykyn, present	Peter Miller, Township Admin., present
James Garth, Sr., Chairperson, present	Paul Rosenberg, Alt. #II
Frank Kearns, Alt. #I, present, arr. 6:45 p.m.	Dorothy Saslav, another engagement
Robert Levy, present	

* **May the record reflect:** Mayor McCullough has sent Committeeman Joseph Cafero in his place this evening due to another engagement.

RE-ORGANIZATION:

1. Motion Lisa/Levy to nominate and appoint **James Garth** as **Chairperson** for the Planning Board. **Vote 9 Yes:** Aponte, Carman, Eykyn, Garth, Levy, Lisa, Cafero, Miller, Rosenberg
2. Motion Lisa/Carman to nominate and appoint **Manuel Aponte** as **Vice-Chairperson** for the Planning Board. **Vote 9 Yes:** Aponte, Carman, Eykyn, Garth, Levy, Lisa, Cafero, Miller, Rosenberg
3. Motion Carman/Aponte to nominate and appoint **Joseph Lisa** as **2nd Vice-Chairperson** for the Planning Board. **Vote 9 Yes:** Aponte, Carman, Eykyn, Garth, Levy, Lisa, Cafero, Miller, Rosenberg
4. Motion Eykyn/Aponte to nominate and appoint **Terry Wilbert** as **Secretary** to the Planning Board. **Vote 9 Yes:** Aponte, Carman, Eykyn, Garth, Levy, Lisa, Cafero, Miller, Rosenberg.

Township Committeeman, John Carman suggested, since there are no changes to the Board Professional's this year, that a consent motion be made to nominate. Board Member Aponte stated he has no problem with what is suggested, however, he advised he must abstain from any vote concerning Vicent Polistina.

5. Motion Carman/Lisa to nominate and appoint **Christopher Brown, Esq.** as **Solicitor** for the Planning Board, to nominate and appoint **James Mott, PP** as **Alternate Planner** for the Planning Board, to nominate and appoint **Remington, Vernick and Walberg** as **2nd Alternate Planner** for the Planning Board, to nominate and appoint **James Mott, P.E.** as **Engineer** for the Planning Board, to nominate and appoint **Matthew Doran** as **2nd Alternate Engineer** for the Planning Board. **Vote 9 Yes:** Aponte, Carman, Eykyn, Garth, Levy, Lisa, Cafero, Miller, Rosenberg

6. Motion Carman/Lisa to nominate and appoint **Vincent Polistina, P.P.** as **Planner** for the Planning Board and to nominate and appoint **Vincent Polistina, P.E.** as **Alternate Engineer** for the Planning Board. **Vote 8 Yes:** Carman, Eykyn, Garth, Levy, Lisa, Cafero, Miller, Rosenberg **Abstention:** Aponte

7. **Motion** Garth/Carman to adopt a resolution setting the **Time and Days for Special and Regular Meetings** for the Planning Board. **Vote 9 Yes:** Aponte, Carman, Eykyn, Garth, Levy, Lisa, Cafero, Miller, Rosenberg

8. **Motion** Carman/Aponte to adopt a resolution designating the **Official Newspapers** for the Planning Board as **The Press of Atlantic City** and **The Mainland Journal**. **Vote 9 Yes:** Aponte, Carman, Eykyn, Garth, Levy, Lisa, Cafero, Miller, Rosenberg.

9. Motion Aponte/Lisa to adopt a resolution concerning the fee to be paid by those wishing advance notice of meetings by mail as \$60.00 annually or by fax as \$70.00 annually. **Vote 9 yes:** Aponte, Carman, Eykyn, Garth, Levy, Lisa, Cafero, Miller, Rosenberg.

OTHER MATTERS:

1. **South Jersey Economic Development District:** Presentation and discussion concerning the development of the "NextGen Aviation Research Park" proposed building #3, consisting of a 66,000 sq. ft. office/research facility with 198 parking spaces on Block 101 p/o Lot 9.

Noah Bronkish, Esq., partner with Hill Wallack law firm, introduced himself as attorney for the South Jersey Economic Development District. He indicated Gordon Dahl will bring the Board up-to-date on the Next Gen Park. He indicated we are making progress and would like to construct the first building, which will consist of 66,000 sq. ft. and we ve a vital and economic engine for not only Egg Harbor Township but the region.

Gordon K. Dahl, Director of South Jersey Economic Development District, introduced himself and was sworn in: Mr. Dahl indicated he came to the Board previously and presented a 58 acre site that would have a total of 408,000 sq. ft. of office space. The property will be owned by the FAA and they are leasing this area to the South Jersey Economic Development District long term.

Mr. Dahl stated he is appearing before the Board to show the Member's what is proposed with the first building. He indicated this site is between Delilah Road and Amelia Earhart Boulevard. He noted the facility had been designed for both vehicle and pedestrian traffic. He advised parking for the employees of this building will be provided off an access road for Amelia

Earhart Boulevard. He stated the front of building will provide parking for the visitor's coming to site. He indicated there will be a left hand turn lane going out of the technical center and there will be a right turn going into the facility.

Chairman Garth asked what the size of the road will be going into the facility. Administrator Miller stated the road has already been constructed. Mr. Dahl stated he did speak with the Egg Harbor Township Fire Chief concerning the size and it has been constructed as such.

Mr. Dahl advised the 66 sq. ft. building will have a glass curtain wall and an open air lobby. He indicated there will be about 5,000 sq. ft. within the building that will be utilized as an FAA lab and the remaining square footage will be a series of tenants placed between the three (3) proposed floors.

Mr. Dahl stated there will be a canopy over the building walk way which will be pavers. He indicated he has presented to the Board Secretary a site plan with 198 parking spaces, as designed by his team. He indicated there will be ample pedestrian access to the building from the parking area.

Mr. Dahl advised the applicant has worked with the drainage and sewer requirements. He did stated they are waiting for Verizon and Atlantic Electric to move forward with our plan. He did advise the facility is constructing a pump station.

Mr. Dahl indicated he would be glad to answer any questions. Board Engineering Representative Watkins asked what approval was received from the Pinelands Commission? Mr. Dahl advised they have worked with them concerning the parking, location of the building and drainage.

Board Engineering Representative Watkins stated from an Engineering stand point it would be a benefit to the Township to make sure this site meets with our (Township) standards. Mr. Dahl stated there will be both public and private entities within the building. He indicated the District did come in a year or more ago with an informal review. Board Engineer Representative Watkins stated he would like to review the drainage. Attorney Bronkish advised they could supply the Township with what was supplied to Pinelands.

Township Administrator Miller indicated he is concerned with down stream properties. Mr. Dahl advised the district has went through painstaking issues with respect to the drainage in order to satisfy Pinelands. He advised this site has to be designed to FAA standards also. Mr. Dahl stated the basins are under scrutiny and the District went beyond a degree because of the Pinelands Commission and the FAA. He stated the Township can review these records. He stated he does not have a problem supplying them.

Township Administrator Miller asked if the Pinelands granted relief for the height of the building. Mr. Dahl stated yes, he indicated they allowed the District to go from 35' ft. to 45' ft. He indicated this was granted under the requirements of the Pinelands Commissions for Military Installations. Attorney Bronkish advised within the Township Zoning Ordinance this area is actually allowed a higher building height.

Township Administrator Miller asked what the setbacks were from the property line? Mr. Dahl stated the FAA required a lock down ability to this site. He advised the landscape architect

designed steel fabric panels (fiber board) so that a gate can roll out for a lock down. Mr. Dahl stated this is what created the location of the building.

Township Administrator Miller indicated that before the building is constructed the District needs to work out with the Township tax payment(s). He indicated something needs to be fully established prior to the issuance of a Certificate of Occupancy. Mr. Dahl stated the proposed buildings may be able to do a five (5) year tax abatement. Township Administrator Miller stated the Township would entertain discussions concerning a tax abatement. He again advised that everyone needs to sit down and iron this situation out. Mr. Dahl advised the park will be a co-mingle use of both private and public entities. He advised the District has a commitment to the FAA for the laboratory. Township Administrator Miller again stressed that this issue needs to be resolved before any entity receives a Certificate of Occupancy.

Township Engineering Representative Watkins again stated he would like to see drainage for the basin, so that he can check.

May the record reflect: no further action was taken by the Board concerning the presentation of "NextGen Aviation Research Park"

PUBLIC HEARING(S):

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|----|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------|
| 1. | <u>SP 20-10</u>
Open Range Communications
Zone: M - 1, 3.82 acre site, applicant seeking approval to collocate three (3) telecommunications antennas at a height of 120' ft. on an existing 175' ft. lattice tower. Other improvements include related equipment at the base of the tower on a 6' x 8' ft. concrete pad. CAFRA | Minor Site Plan
915/1
9 Atlantic Avenue
Waiver of Time- Not Granted |
|----|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------|

Checklist Waiver(s):

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|-----|------------------|---------------------------------------------------------------|
| 1. | Item #3: | Key map scale |
| 2. | Item #4: | Zoning district and requirements |
| 3. | Item #6: | Date of 200' foot adjacent properties list |
| 4. | Item #9: | Survey of property |
| 5. | Item #10: | Existing topography |
| 6. | Item #11: | Location of existing structures |
| 7. | Item #12: | Means of vehicular access |
| 8. | Item #14: | Sight triangles, radii of curblines and sign locations |
| 9. | Item #15: | Site characteristic maps |
| 10. | Item #16: | Location of wetlands |
| 11. | Item #18: | Stormwater management plan |
| 12. | Item #22: | Plan/project designed in compliance with ordinance |
| 13. | Item #23: | Landscaping plan |
| 14. | Item #24: | Lighting and signage plan |

Variance Relief:

- | | | | |
|----|----------------------|-----------------------------------|-------------------------------------------|
| 1. | §94-57(c)3: | Minimum PWTF Yard Setback: | 80' ft. required; 65' ft. proposed |
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Michael Learn, Esq., introduced himself as attorney for the applicant. He advised the applicant has met all jurisdictional requirements and the proposed applicant is compliant with all Township

requirements except for the setback of the Tower, which is a pre-existing condition.

Attorney Learn advised the tower should be 80' ft. and it is actually 65' ft. He indicated the applicant will be the 4th carrier on the tower. He noted this tower is actually on a parcel that intersects the Garden State Parkway and the Atlantic City Expressway.

Attorney Learn advised Open Range is a wireless communications and broad band company who is a federal carrier for FAA. He advised this application is the initial submittal for an inevitable build-out. Attorney Learn advised there is currently no coverage in the Township or actually in Atlantic County.

Attorney Learn advised there will be three (3) antenna's affixed to the tower, as well as, an equipment cabinet placed within the existing fenced compound for this applicant. He further noted the applicant does not propose to expand the compound for the placement of their equipment.

Attorney Learn advised the antenna's will be placed at a height of 120' ft. and this will be unmanned facility. He noted he has reviewed the Board Engineer and Board Planner report's. He advised the applicant is seeking a waiver of survey information. Attorney Learn indicated this is an existing facility and the survey information would have already been submitted. He advised other waivers being sought include the storm water report and traffic report. Again, this is an existing facility and drainage would have been addressed previously and this is an unmanned facility so no one will be coming to site. He advised the applicant will supply a structural analysis as a condition of approval.

Roger Johnston, P.E., Infinigy Engineer, sworn in Sandi Jakkidi, Radio Frequency Engineer, also sworn in. Attorney Learn asked if they both heard the information provided by him concerning the installation provisions, the radio frequency need and verification the applicant is a federal carrier for the FAA? He also asked if they agreed with the testimony he provided? **May the record reflect:** both professional's stated yes they did hear and neither one indicated they would change any part of the testimony provided.

Board Engineering Representative Watkins stated the landscaping is fine at this facility, but it should be shown on the plans.

Township Committeeman Carman stated he had no issue with the variance requested. He indicated it is an existing condition.

Motion Kearns/Lisa to open public portion. **Vote: 9 yes**

May the record reflect no one came forward

Motion Carman/Eykyn to close public portion. **Vote: 9 yes.**

Motion Lisa/Eykyn to grant requested checklist waiver(s) 5 & 7-14: **Vote 9 Yes:** Aponte, Carman, Eykyn, Garth, Kearns, Levy, Lisa, Cafero, Miller.

Motion Carman/Aponte to grant requested variance relief: §94-57(c)3: **Minimum PWTF Yard Setback: 80' ft. required; 65' ft. proposed: Vote 9 Yes:** Aponte, Carman, Eykyn, Garth,

Kearns, Levy, Lisa, Cafero, Miller.

Motion Lisa/Aponte **to grant conditional minor site plan approval. Vote 9 Yes:** Aponte, Carman, Eykyn, Garth, Kearns, Levy, Lisa, Cafero, Miller.

2. **SPPF 07-09** **Preliminary/Final Major Site Plan**
Egg Harbor Associates, LLC **2118/1 & 16-21**
as authorized agent for 7801 Black Horse Pike,
Wal-Mart Real Estate Business Trust 6820 Old Egg Harbor Road, Fire Road
“Oak Tree Plaza” Waiver of Time – **Not Granted**
Zone: RCD, 34.49 acres site, sewer and
water, applicant is proposing to demolish the existing buildings and parking areas currently on site and is proposing the construction of a 244,599 sq. ft. shopping center. The applicant proposes to construct a 188,463 sq. ft. WalMart anchor store which includes a seasonal garden center and grocery store, two (2) adjacent retail stores consisting of 18,588 sq. ft. and 18,275 sq. ft., as well as, a 4,000 sq. ft. bank with three (3) drive thru lanes, a 5,895 sq. ft. dine in restaurant, a 3,400 sq. ft. restaurant with drive thru and a 4,250 sq. ft. fast food restaurant with drive thru facility. Other improvements include 1,106 paved parking spaces, freestanding and building mounted signage, landscaping and storm water management. CAFRA.

Checklist Waiver(s):

1. **Item #17:** **Proposed protective covenants and deed restrictions**
2. **Item #35:** **Typical floor plans and building views/elevations**

Design Waiver(s):

1. **§94-22A:** **Landscaping irrigation**
2. **§94-44D(2)(j):** **More than two feet of water for 50 year storm event**
3. **§94-44E(1)(i)[5]:** **Side slope of basins**
4. **§94-44E(1)(j)[1][b]:** **Top of basin width**
5. **§94-46B(1):** **Minimum pavement design**

Variance Relief:

1. **§225-63A:** One (1) building mounted sign is permitted per tenant. Applicant is proposing the construction of one (1) building with three (3) tenants, WalMart and two (2) retail stores. Three (3) building mounted signs are permitted, one (1) for each tenant. The applicant is proposing four (4) building mounted signs on the proposed WalMart building.
2. **§225-63A(1):** No building mounted sign shall exceed two (2) square feet in area for each one (1) foot width of the front building facade which is devoted to the business and to which it is attached; and shall not exceed 250 square feet on any one side. The applicant is proposing four building mounted signs for a total area of 550.64 sq. ft., whereas a maximum area of 250 sq. ft. is permitted for a building with a front facade of 500± feet.
3. **§225-63A(3):** No building mounted sign shall have a vertical dimension in excess of five (5') feet. The applicant is proposing a building mounted sign with a

vertical dimension of eight (8') feet, whereas a maximum of five (5) feet is permitted.

Board Solicitor Brown swore in the Board Professional(s).

Stephen Nehmad, Esq., introduced himself advising he is appearing on behalf of Egg Harbor Associates, LLC. He indicated this is the second (2nd) hearing associated with this application. He indicated the applicant was before the Board on November 15, 2010 where information was presented by the Applicant's Engineer, Traffic Consultant, Arborist, and Planner.

Attorney Nehmad advised this application is for Oak Tree Plaza which was before the Board in 2004 and for which received approval. He indicated after the Township's approval the applicant went to the Department of Transportation to receive their approval, however, they requested a design change to the site.

Attorney Nehmad advised he would like to present two (2) of his previous witnesses since a minor change had been made to the plans.

Perry Petrillo, New Jersey Registered Architect for the Walmart Store portion of the application. Architect Petrillo advised he has designed 20 to 30 Super Walmart's and his firm is from Park Ridge New Jersey.

Architect Petrillo advised since the November 15, 2010 meeting there has been one (1) minor architectural change to the building. He stated this is based on the information provided by the acoustic engineer. Architect Petrillo referred to Exhibit A2: plan dated 11/15/10. Architect Petrillo advised in the loading dock area there was a proposed fence, however, after speaking with the acoustic engineer it was decided there should be a masonry knee wall proposed versus a fence. He indicated the applicant is now proposing a 12' ft. high screen wall on the truck wells, as shown on Exhibit A16: Architect Rendering of loading dock/truck wells.

Architect Petrillo advised, again, this change was based upon the acoustical engineer, Norm Dotti's suggestion. He further noted that these knee walls will be consistent with the building materials proposed for the Walmart, as well as, the coloring. Architect Petrillo stated the knee walls will be 86' ft. in length. Architect Petrillo stated the proposed is a minor change to the elevations of the facility, however, it is a significant proposal to the screening of the Walmart.

Attorney Nehmad called the next witness Norman Dotti. Board Solicitor Brown swore in Norman Dotti. Norman Dotti advised he has a B.A. from Stephenson Institute of Technology, a Masters from NJIT, and he is a licensed Engineer within the State of New Jersey. Engineer Dotti advised is an acoustical engineer and 100% of his practice is dedicated to acoustical engineer or what is called sound engineering.

Attorney Nehmad asked if Engineer Dotti belong to any professional organizations. Engineer Dotti advised he is a member of the Acoustical Society of America, the Institute of Noise Control Engineer's, and the Audio Engineer Society. Engineer Dotti further noted that he is an appointed member, at the state level with the New Jersey Noise Control Counsel. He indicated there are ten (10) appointments to this counsel, which he has been part of for five (5) years. He stated the counsel basically writes the noise regulations for the State of New Jersey. Engineer Dotti stated they also write model noise ordinance(s) that municipalities may use. He

indicated the counsel has recently written an off-road vehicle ordinance and they are working on an ordinance for wind turbines.

Engineer Dotti advised he was asked to access the proposed use with respect to the noise standards of the Township. Attorney Nehmad asked if the Township Noise Ordinance is part of the site plan or zoning ordinance that is enforced by the Board. Engineer Dotti stated it is not. He indicated the Noise Ordinance is controlled by the Egg Harbor Township Police Department.

Engineer Dotti stated the site, when it begins operating and ten (10) years into the future has to meet the noise standards in fact, he stated the site always must comply through the life of the project with the noise standards.

Attorney Nehmad asked if the noise control ordinance sets standards for the level of noise permissible? Engineer Dotti stated yes. He indicated you have a day time limit which is 65 dba at the receivers property, not the source property. Engineer Dotti stated sometimes the receivers property and the source property are contiguous sometimes they are not. Attorney Nehmad asked what a "dba" is? Engineer Dotti stated it is a setting on an instrument that has the same frequency as the human ear.

Engineer Dotti stated the day time requirements are for a 65 dba which is from 7:00 a.m. - 10:00 p.m. He advised the night time dba is 50 and the time periods involved are from 10:00 p.m. - 7:00 a.m. Attorney Nehmad asked if Engineer Dotti reviewed the proposed site plan to determine if it can meet the Egg Harbor Township Noise Ordinance? Engineer Dotti stated it was not so much a review as it was an engineering analysis of the site.

Engineer Dotti stated different sound sources make different amounts of sounds at different frequencies. He used himself as an example. Engineer Dotti advised he is a sound source. What is heard depends on the distance you are from him, how much energy he is using to make the sound, the room acoustics, what the sound will bounce off of and if there are any barriers. Engineer Dotti stated this all taken into consideration and then an engineering equation is determined. He advised it is same type of equation used for storm water runoff.

Engineer Dotti advised there is an international standard organization (ISO), whose ISO 9613-2 sets the propagation of sound outdoors. Again, he indicated this standard establishes the source sound and the energy used to put it out, the distance, the terrain, berms, paved areas versus grassed areas and trees, as well as a number of other things.

Attorney Nehmad asked if Engineer Dotti looked at this site and established the noise emitters from this site. Engineer Dotti stated yes, by using a computer program that implements the ISO standards. He stated he used the site plan in a CAD file received from Bohler Engineer, he also used Architect Petrillo's information concerning the roof top equipment data, refrigeration unit data, as well as, information for the trailers that will be on site and the trash compactors. He further noted he also incorporated the geometry of the site and the computer software presented a contour map.

Attorney Nehmad asked if Engineer Dotti has used this same type of analysis on other applications he has worked on? Engineer Dotti stated yes. Attorney Nehmad asked how many years Engineer Dotti has been an acoustical engineer? Engineer Dotti stated he has done

acoustic engineering for 40 years.

Attorney Nehmad asked what were Engineer Dotti's analysis findings? Engineer Dotti referred to Exhibit A16: sound contour map, dated January 10, 2011, advising this map shows the proposed Walmart, its adjacent buildings, the proposed out buildings, including the parking areas, and ponds. This map also shows other uses in the area which include the residential units along Old Egg Harbor Road, a hotel at the intersection of Old Egg Harbor and Fire, and the Black Horse Pike.

Attorney Nehmad stated what Engineer Dotti has referred to as ponds are actually storm water basins. Engineer Dotti stated yes, however, he did note his map does say basins. Engineer Dotti advised all these uses were in his model used within the computer program he stated if the Board will refer to the Countour map they will see a hot pink area on the roof. He stated these items represent the rooftop HVAC and refrigeration equipment. Engineer Dotti stated he received a schedule from Architect Petrillo which provided him with the number of units that would be placed in, the capacity of the unit, and where they would be located, as well as, reviewing the perimeter of WalMart, the adjacent buildings and all the parapet walls and the berm proposed along the rear of the property.

Engineer Dotti advised this was placed into his calculations to establish daytime and nighttime standards. He further noted, that this calculations included everything being on simultaneously. Engineer Dotti explained his results show below a 50 dba at the property line during the daytime hours. He explained the colored contour lines on this exhibit show different sound levels. Engineer Dotti advised he performed a conservative study and a worst case scenario study, again, he stated he can not model more then with everything on which includes all businesses operating, trucks, and all roof top utility units working.

Attorney Nehmad stated that behind the WalMart the contour exhibit shows coloring of yellow and lighter green. He asked what this stands for? Engineer Dotti advised the lower sound levels are cooler colors with coloring go up to reds which are higher levels. He further noted that across Old Egg Harbor Road the applicant is about 40 to 45 dba, which meets the strictest nighttime levels. Engineer Dotti stated the red contour lines on this exhibit fall within the levels on site and do not go off premise.

Engineer Dotti further explained that the analysis is complied for head height, which is a requirement of the State of New Jersey.

Engineer Dotti also indicated he performed an analysis for the second floor residential units that are across Old Egg Harbor Road from this proposal. He indicated the wall previously discussed by Architect Petrillo is not as effective as the berm in the rear of the property is but it helps. Hhe then referred to Exhibit A17: contour plan for second (2nd) floor residential analysis dated January 10, 2011, advising that again with everything being on the applicant will still meets the requirements.

Attorney Nehmad asked Engineer Dotti if he reviews existing noise levels. Engineer Dotti advised he considers sounds of the site which is called ambient, however, he does not consider other sounds because the applicant can not be held accountable for them. Engineer Dotti advised he performed an ambient noise study. He indicated in order to do so he went to the site and set up a series of environmental sound monitors. He referred to Exhibit A18:

environmental sound monitoring results. Engineer Dotti advised these results were based on the monitoring he performed on December 2nd-5th, 2010.

Engineer Dotti advised he set four (4) monitors up. He indicated one (1) was near the hotel and two (2) - four (4) were located along Egg Harbor Road setback at a location comparison with the residential units. He explained the monitors ran 24 hours a day for three (3) days. Engineer Dotti advised through Exhibit A18 that these results show a minimum and a maximum sound level for the three (3) days. He stated right now at 3:00 a.m., in the morning, which is quietest, there are still many sounds above a 50 dba. He stated these sounds are basically the traffic which is the single largest source of environmental noise. Engineer Dotti advised the applicants proposal will not add anymore to this area.

Attorney Nehmad asked in every case with the monitors was the sound level above 50 dba? Engineer Dotti advised that in any given hour during the 24 hour period there will be a high level and a low level. He indicated there were times when the lowest sound level in an hour was below 50 dba, however, in that same hour there were a number of times when the sound level was above 50 dba.

Engineer Dotti stated there are different sources in this area that currently make noise. He stated that even with the proposed shopping center with everything on. There are still sources in this area that make more sound.

Attorney Nehmad asked Engineer Dotti if the proposed berm in the rear of the site and the extended wall that asked for and for which Architect Petrillo provided help the sound levels? Engineer Dotti stated the parapets for the utility equipment, the two (2) wall barriers and the berm will help. Attorney Nehmad asked these will meet the noise ordinance requirements for the Township. Engineer Dotti stated he believes they will meet the standards.

Board Member Aponte asked if Engineer Dotti has been the acoustical engineer from the beginning of the project? Engineer Dotti stated he performed his analysis recently and he was hired within the last few months. Board Member Aponte asked then if the parapet's and buffer, but not the higher wall part of the initial project. Engineer Dotti stated the berm was and the parapet's on the stores. He did however, note that normally the Walmart has the parapets but the other stores do not. He indicated with this particular proposal that is not the case they all have parapets. Engineer Dotti stated after he performed his analysis he felt that bey extending the height of the wall would be a greater help.

Board Member Aponte asked, therefore, when the wall was lower the level of noise was above a 50 dba or 65 dba? Engineer Dotti stated it was above 50 dba and this is why he suggested the height of the wall be extended.

Township Administrator Miller stated the further sound travels it drops its elevation. So if you are sitting and speaking to someone 20' ft. away it would not be at someone's height level as it would be at a lower level or does sound make a constant wave? Engineer Dotti advised there are variables that occur. He indicated, as he is speaking now the sound is radiating outward in all directions, but even if someone were on the floor they could still hear his voice but at a different elevation. Engineer Dotti stated that in relationship to this application there are parapets and berms that are in the way and have an effect on the levels.

Township Administrator Miller stated then if someone were on the sidewalk across the street the sound is reduced because of the berm then someone at a 15' height. He then asked if this is why there are walls as high as people's homes along highways? Engineer Dotti indicated yes. He advised the walls cast an acoustical shadow. He stated that if someone lives close to the wall it works well, however, if someone lives further away it does not work as well, but because they live further away it would be quieter.

Township Administrator Miller stated that someone walking on the WalMart side of Old Egg Harbor Road where the berm is will hear less than someone walking across the street in front of the Town Homes. Engineer Dotti advised he is reviewing Exhibit A16 and from this both sides of Old Egg Harbor Road they are about the same, however, because you are closer it would be louder, but since there is a berm you get a little more shielding. He indicated in Exhibit A16 it shows from the contour line of the berm how the sound runs into the berm and piles up at the peak.

Township Administrator Miller referred to the chart Engineer Dotti had with the bar graphs showing the location of the environmental monitor(s) asking if the development is built a person who lives across the street will still have noise coming from the site but it will not be compounded because of the shopping center? Engineer Dotti stated yes, however, he indicated there are times when everything would run at the shopping center and the dba would be 47 or 48, but most of the time it would be louder. He advised sounds add logarithmically.

Engineer Dotti gave an example: he advised if you have a bank account with \$50.00 in it and you add another \$50.00 you have \$100.00 in your account. However, when you add decibels it is not 50 plus 50 equals 100. It is more 50 and 50 equals 53. Engineer Dotti advised he can provide the math information concerning this should someone want to check. He advised that once there is a certain amount of sound in an area it takes many things to increase it.

Board Member Levy asked Engineer Dotti how many decibels is his speech? Board Member Levy stated Engineer Dotti is speaking about 50 dba's, however, he needs some type of idea or scale what a 50 dba is. Engineer Dotti stated a normal conversation between two (2) people is 65 dba, however, I am actually being louder to project my voice. Board Member Levy stated then, what is being heard from Engineer Dotti more than what will be heard from the proposed development. Engineer Dotti stated yes.

Township Committeeman Cafero asked if there was any type of landscaping Engineer Dotti would like to be planted along the berm. Engineer Dotti stated that unless there is 200' ft. or 300' feet deep wooded area he does not give a recommendation. Attorney Nehmad asked when Engineer Dotti performed his analysis concerning the berm, which rises between 10' ft. to 13' ft. above Old Egg Harbor Road he did look at the trees or shrubs that are being planted? Engineer Dotti stated this is correct.

Attorney Nehmad called Steven Wolfson; Board Solicitor Brown swore in Mr. Wolfson. Mr. Wolfson advised he is a managing partner for the LLC, Egg Harbor Associates. Attorney Nehmad asked if Egg Harbor Associates is related to Wolfson Vericchia Group, Inc. Mr. Wolfson advised it is an affiliate through different partners. Attorney Nehmad asked if Mr. Wolfson company is an authorized agent for WalMart stores in order to process this application. Mr. Wolfson stated yes.

Attorney Nehmad asked Mr. Wolfson what his occupation was? Mr. Wolfson advised he is a developer of community and regional shopping centers. He indicated his partner and himself incorporated the company in 1992. Mr. Wolfson stated prior to 1993 he had developed in Savannah GA, shopping centers and for the past 22 years he has developed in the Carolina's, Georgia, Virginia, but in the last 17 years they have primarily developed in Pennsylvania, New Jersey and he is trying to developed in Delaware.

Attorney Nehmad asked Mr. Wolfson if his company develops, builds and manages the centers or do they flip to others. Mr. Wolfson stated that since Wolfson-Verrichia formed they have not sold any of their centers. He indicated his company manages, leases and does the accounting for their portfolio's. Mr. Wolfson advised his company does their own snow removal, landscaping, etc... He indicated everything is done in-house. Mr. Wolfson indicated his company takes pride in their projects.

Attorney Nehmad asked how many square feet of development does the applicant's company own. Mr. Wolfson stated that between completed projects, acquisitions, and pre-development they have about seven (7) million square feet. Attorney Nehmad again asked if these properties are owned and managed by him. Mr. Wolfson stated yes.

Attorney Nehmad asked how many WalMart anchored centers does Mr. Wolfson have. Mr. Wolfson stated about 15 to 18, through out this area. He indicated the one's developed in the south are not owned by him since they were before 1992. Attorney Nehmad asked if this project "Oak Tree Plaza" will also be owned and managed by his company. Mr. Wolfson indicated he plans to manage the parcel and lease the space as he has done with this other sites. He stated this particular site has taken years to develop.

Attorney Nehmad asked what does Mr. Wolfson see for this development? Mr. Wolfson indicated his company is concerned with the pedestrian's ability to stop at the bus stop, walk into the project safely through the parking lot, shop and then use the bus to leave. He stated many of the projects he has purchased over the last 15 to 18 years this can not be done. He went on to say many of the projects he developed in the early years were not adequate, maybe there was an issue with the landscaping, etc..

Mr. Wolfson stated over the past 15 years what has been suggested by his professionals and by controlling property management it has allowed for a sustainable development. We sustain our development by the type of landscaping we place in, the maintenance of the facility, the type of light bulbs we use it is important to us, as is the architecture.

Attorney Nehmad asked if Mr. Wolfson has retained Mr. Donovan to produce a mural on the building facade? Mr. Wolfson indicated this is correct. He indicated it will be a hand painted mural placed on the facade/wall of the building. Attorney Nehmad asked if the applicant is aware that the tree save plan Mr. Lovallo (Arborist) discussed will also have to be implemented? Mr. Wolfson stated this is correct.

Attorney Nehmad asked if Mr. Wolfson is aware of the connector road within the development? Mr. Wolfson again, stated yes. He referred to **Exhibit A2**: outlining the connector road from the Black Horse Pike to Old Egg Harbor Road with his finger. Attorney Nehmad asked if Mr. Wolfson is aware that his company is granting a road easement to the Township of Egg Harbor so that traffic not only can access "Oak Tree Plaza", but the public can also go through? Mr.

Wolfson stated yes.

Attorney Nehmad further asked if Mr. Wolfson understands it will be his company's responsibility to retain the roadway. Mr. Wolfson stated he is aware that it will be his company's responsibility, since, they own the road, to maintain it, plow, it, landscape the perimeter of it.

Township Administrator Miller asked if the shopping center proposed is conforming to the Township Zoning? Mr. Wolfson stated yes. Township Administrator Miller asked what type of lease does WalMart have with Mr. Wolfson's company. Mr. Wolfson stated the lease is confidential, however, WalMart does make long term commitments. Township Administrator Miller stated maybe five (5) to ten (10) years. Mr. Wolfson stated no.

Township Administrator Miller asked if WalMart were to leave would the store lend itself to other users to occupy the space? Mr. Wolfson stated yes, he explained the store could be cut up to make individual users such as a "Home Goods". He indicated with a proposals you have to look at maybe recreating a space in the future, so the facility would have to lend itself to it.

Township Administrator Miller stated then you will control the property and whatever happens you will be responsible for either bringing in another large user or cut the facility into smaller stores. Mr. Wolfson stated he does not want to absolutely say he will go into site and change. He indicated there are certain controls and leases to this. He explained further by providing an example: Mr. Wolfson advised say PC Bank operates from a site and they decide to go dark, but they are still paying there rent. Mr. Wolfson indicated he then can not move TD Bank into this space. Mr. Wolfson stated he does not want to be disingenuous and say once a tenant goes dark his company can go in and change the space.

Attorney Nehmad stated he knows the terms of Mr. Wolfson lease with WalMart is proprietary, however, Township Administrator Miller asked if the term was five (5) years. He asked if it is longer? Mr. Wolfson stated the commitment with WalMart, depending upon what happens with them, is in the decades.

Attorney Nehmad introduced Sherry Thomas. Board Solicitor Brown swore in Sherry Thomas. Attorney Nehmad asked what Ms. Thomas' occupation is? Ms. Thomas indicated she is the market manager for WalMart, which she indicated means district manager. She advised she is responsible for eight (8) WalMart locations in Southern New Jersey.

Attorney Nehmad asked how long Ms. Thomas has been with Walmart. Ms. Thomas indicated she has been with WalMart for four (4) years. She advised she was hired as a district manager in training. However, she has been in retail for many years. She advised she was a store manager for Bradlees, She was a regional and divisional manager for Comp USA and she was a buyer and assistant store manager for Gimbel's. She noted she has been involved in retail for over 20 years.

Attorney Nehmad asked what stores are she responsible for? Ms. Thomas stated she has Turnersville, Mays Landing, Rio Grande, Vineland Super Center, Millville, Bridgeton, and Pennsville. Attorney Nehmad asked if Ms. Tomas was familiar with the general operations of a WalMart Super Center, such as what is proposed. Ms. Thomas stated yes. Attorney Nehmad asked if she familiar with the number of spaces/docks that are required for a proposed Super Center? Ms. Thomas stated yes. She indicated the Super Centers usually have six (6) docks.

Ms. Thomas stated this proposed center will have three (3) docks for general merchandise and three (3) for food. She noted the Vineland Super Center and Turnersville have six (6) docks. Ms. Thomas further noted she was the district manager for the WalMart stores in Deptford and they also have six (6) docks.

Attorney Nehmad asked if this store is constructed will it effect the Hamilton Township Store? Ms. Thomas no. Attorney Nehmad asked if the Hamilton Township Store also a Super Center with approvals. Ms. Thomas stated yes. Attorney Nehmad asked if this site is constructed will the Hamilton Township Super Center also go forward? Ms. Thomas stated yes. She indicated if you look at the Deptford Stores they are two (2) miles apart and they are very successful.

Attorney Nehmad asked if Super Centers open 24 hours a day? Ms. Thomas stated yes. Attorney Nehmad asked for the stores that are controlled by Ms. Thomas are the centers providing service during the morning hours? Ms. Thomas stated yes. She indicated there are people that shop at 3:00 a.m. in the morning. Ms. Thomas stated many people work shift work, or are in the entertainment business, or in the medical field and are shopping from midnight to 5:00 a.m. in the morning.

Attorney Nehmad asked if deliveries will be taken after 10:00 p.m.? Ms. Thomas stated yes. She indicated there are fresh deliveries that will occur. She indicated it is important that fresh produce and frozen/refrigerator goods are delivered when they can. In order to keep the shelves full with produce and dairy and replenish daily they have to take deliveries at night. Attorney Nehmad asked if most of the deliveries to the site occur between 7:00 a.m. and 10:00 p.m.? Ms. Thomas indicated yes. She indicated for the produce, frozen, and dairy there would be one (1) possibly two (2) trucks after 10:00 p.m. and hopefully they would be done by midnight, however, there are times when weather or mechanical failure would create a later time, but hopefully the deliveries will be from 10:00 p.m. to midnight.

Attorney Nehmad asked when the truck's back into the loading dock it seals into the building. Ms. Thomas stated this is correct. Attorney Nehmad asked how quickly is the truck offloaded. Ms. Thomas stated since the products have to be under a certain temperature they are unloaded within 30 minutes or less then an hour. Attorney Nehmad stated so most of your deliveries to occur before 10:00 p.m.? Ms. Thomas stated yes. Attorney Nehmad stated however, there may be one (1) delivery maybe two (2) between the hours of 10:00 p.m. and midnight? Ms. Tomas stated yes.

Chairman Garth asked if the delivery trucks will enter from the Black Horse Pike? Ms. Thomas stated all the trucks will enter where the Township wants them and they will also leave this way. Chairman Garth stated he would prefer the Black Horse Pike due to the resident's along Old Egg Harbor Road. Ms. Thomas stated she understates and that this requirement will be up to the Board. Attorney Nehmad stated he believes either Engineer Zappala or Engineer Spiegel advised this at the last meeting. Ms. Thomas stated whatever is needed. Attorney Nehmad asked if this condition is acceptable to WalMart for operation purposes? Ms. Thomas indicated yes.

Township Committeeman Cafero asked if what is the population density in order to build a Super Center Store. Do you have so many people living within a certain area? Ms. Thomas stated this was a great question, however, she can not answer. She indicated she is an operator of a store and she does not make those type of decisions.

Board Member Levy asked if the produce is purchased locally? Ms. Thomas stated the corporate buyers do work with New Jersey suppliers, so we do regularly buy New Jersey produce.

Attorney Nehmad asked Chairman Garth if he could move all exhibit boards into evidence (Exhibits A-1 - A - 18). He also stated this would be subject to him cross examining any witnesses Mr. Gasiorowski presents and offer potential rebuttal.

Board Solicitor Brown advised Chairman Garth he would like to open this application to the public. He indicated there is an attorney present for a certain objector, therefore, the Board must allow him to make his presentation. He also stated if it has not been announced. The Board should advise what time the meeting will end. Chairman Garth indicated 10:00 p.m. is fine Board Solicitor Brown announced to the public that the meeting will end at 10:00 p.m. this evening. Chairman Garth also added if anyone speaks this evening and if some else made your point, in order to speed things up you can say yes, I agree with the previous individual, however, he indicated he will not place a gag on anyone.

Motion Aponte/Carman to open public portion: Vote 9 yes.

Jason Hand, 8 Stoney Crrek Drive, Egg Harbor Township, New Jersey, sworn in: advised he copied the Board with concerns. He indicated he is the president of Oxford Village Condo Association. He indicated the biggest concern they have is at the intersection of Hingston Avenue where a road is going through all the way to the Board Horse Pike where there is no traffic light or walkway. Chairman Garth stated there are sidewalks. Engineer Zappala (applicant's engineer previously sworn) stated the applicant has sidewalks along our frontage of Old Egg Harbor Road internal to the site connect to a point in the drive.

Mr. Hand asked if the applicant's traffic expert present? He asked why a traffic light is not at the intersection? Engineer O'Brien (applicant's traffic engineer previously sworn) stated he has reviewed the total traffic volume on the side street and they also looked where the traffic is coming from. He indicated most traffic coming onto Hingston Avenue makes a right turn, therefore, the traffic light would benefit just left hand turns. So we did not believe a traffic signal was necessary.

Mr. Hand questioned even taking into consideration Oxford Village, London Court I and London Court II and pedestrian traffic. Engineer O'Brien stated based on the volume a traffic light is not required at this time. Mr. Hand indicated he does not want to argue, however, this is a heavily traveled road. He asked if Mr. O'Brien went to the site? Engineer O'Brien stated they did go to site. Again, he indicated most traffic coming from Hingston Avenue is going right, since not much is going left, and not many will go straight across the volume will not be enough to warrant a light.

Mr. Hand asked if pedestrian traffic was looked at? Engineer O'Brien again stated even with pedestrian traffic it is not enough volume for a light. Mr. Hand stated so there is no way for a light? Township Administrator Miller stated the County controls traffic lights on County Roads and Old Egg Harbor is a County Road. So if the County wants a light at this intersection then the applicant must deal with it. He further noted that County required them to install a light at Fire and Old Egg Harbor Road's and the State is requiring them to place a light at the Connector

Road and the Black Horse Pike. Mr. Hand stated he wants to place on the record this is a disaster waiting to happen.

Township Administrator Miller asked if Mr. Hand lives on Stoney Creek Drive how can he be president of the Home Owner's Association? Mr. Hand stated because he owns property in Oxford Village. Township Administrator Miller indicated he did not know a property owner could be an officer if they did not physically live at the location. Mr. Hand stated yes, as long as you are an owner of record.

Board Solicitor Brown advised during the last meeting of this application. Mr. Gasiorowski left the meeting early and he stated he had mentioned that Mr. Gasiorowski was the objector to this application and it was discussed. Board Solicitor Brown advised he was discussing this in jest and he wants to make sure the Board understands it was in jest. Township Administrator Miller asked what was said in jest? Board Solicitor Brown stated if you don't remember this is better. Mr. Gasiorowski clarified he was the individual that someone asked, does Mr. Spoiler live in town? It was a comment made in jest and it was taken in jest by the attorney.

Mr. Gasiorowski stated he is an attorney with offices located in Red Bank, New Jersey. He indicated he represents an objector. He advised his client is Village Supermarkets, Inc., who are located in Mountainside, New Jersey. He indicated his client owns property located on English Creek Road, he noted it is the Shop-Rite. Attorney Gasiorowski stated his client are property owners, interested parties and he representing them in opposition to this application.

Attorney Gasiorowski stated with regard to this objection, he is sure the Board will listen to him carefully and take his criticisms and comments with respect to this application into consideration.

Attorney Gasiorowski stated he ordered a transcript of the last meeting, which he went through. He advised he would like to first call Mr. Zappala, the applicant's engineer, to cross-examine. Attorney Gasiorowski asked if Mr. Zappala was associated with Bohler Engineer? Engineer Zappala stated yes. Attorney Gasiorowski indicated he believes Bohler has designed a number of site plans for WalMart throughout the State. Engineer Zappala stated yes. Attorney Gasiorowski asked if there are any other applications, other than this one where Mr. Zappala has been personally involved in the design of. Engineer Zappala stated he has done a couple of applications, not specifically for WalMart, within the State of New Jersey. Attorney Gasiorowski asked then for the developers who are putting WalMart's up/ Engineer Zappala stated yes.

Attorney Gasiorowski asked for the towns in which this has occurred. Engineer Zappala stated Somerdale Borough, which was a Super Center that has just recently went in. Audubon which was for a conventional WalMart store several years ago. Attorney Gasiorowski stated and this one. Engineer Zappala indicated yes.

Attorney Gasiorowski asked if Mr. Zappala was the engineer for the first application or design of this project. Engineer Zappala stated yes. Attorney Gasiorowski stated and based on the information that was provided that application was rejected since the applicant could not receive DOT approval. Engineer Zappala asked whom rejected the application? Attorney Gasiorowski stated the Department of Transportation. Engineer Zappala stated they had questions.

Attorney Gasiorowski stated the Department of Transportation in not only the first plan of this

project but also the present one required a connector road be installed. Engineer Zappala stated yes. Attorney Gasiorowski indicated since this was requested a plan was submitted showing the connector road which is along the easterly side line of the property? Engineer Zappala stated yes.

Attorney Gasiorowski asked if, before the design of the project began, whether a number of years ago or now. Did Mr. Zappala review the Master Plan of the Township of Egg Harbor? Engineer Zappala stated no, not personally. Attorney Gasiorowski asked if Mr. Zappala reviewed the Zoning Ordinance? Engineer Zappala stated yes. Attorney Gasiorowski stated on page four (4) of the transcript Mr. Nehmad stated "this plan will incorporate the best of commercial site planning" and then on page six (6) it indicates "we have the best attributes of a commercial site plan development. This represents good civic design and arrangements for commercial sites of this size."

Attorney Gasiorowski asked if Mr. Zappala remembers these statements? Engineer Zappala stated yes. Attorney Gasiorowski asked if Mr. Zappala would agree that this plan represents the best attributes of a commercial site plan development? Engineer Zappala stated this is a suggestive comment, but he believes there are positive and excellent design attributes to this project. Attorney Gasiorowski asked if there are any negative. Mr. Zappala stated he does not believe so.

Attorney Gasiorowski asked what the total acreage of the site is. Engineer Zappala stated it is a little less than 35 acres. Attorney Gasiorowski advised a 245,000 sq. ft. is proposed.. Engineer Zappala stated yes. Attorney Gasiorowski asked what the square footage is for the existing building? Engineer Zappala stated around 240 to 250,000 sq. ft. Attorney Gasiorowski asked if this is a wash? Engineer Zappala stated basically.

Attorney Gasiorowski asked if there is a conceptual letter of approval from the Department of Transportation? Engineer Zappala stated yes. Attorney Gasiorowski referred to Exhibit O1: letter dated August 4, 2009, from the Department of Transportation sent to Dean Carr of McMahon Associates, from Kenneth Spiegel, Project Engineer for the D.O.T. He asked Mr. Zappala if he has seen this letter. Engineer Zappala stated yes. Attorney Gasiorowski asked if Mr. Zappala has seen any subsequent letter for this project? Engineer Zappala stated he believes there is one, however, he is not sure of the date.

Attorney Gasiorowski asked Mr. Zappala if this subsequent letter dealt with the connector road. Engineer Zappala stated he understands the letter issued after August 4, 2009 was a follow-up letter with respect to the connector road. Attorney Gasiorowski asked if Mr. Zappala had a copy of this letter. Engineer Zappala stated he does not have a copy. Attorney Gasiorowski stated he made an OPRA request to the Board and the only letter provided was August 4, 2009. He asked if the Board had a copy?

Board Solicitor Brown asked if Attorney Nehmad if there is another letter dated after the August 4, 2009? Attorney Nehmad stated he is aware of a subsequent letter and he does have a copy of it, however, he does not understand why this is being discussed. He stated this letter deals with the State Department of Transportation approvals which the Board does not deal with. Board Solicitor Brown asked why Attorney Gasiorowski was bringing this subsequent letter up? Attorney Gasiorowski stated he was not aware there was a subsequent letter. Attorney Nehmad looked through his paper work for the letter.

Attorney Nehmad stated he has only one (1) copy of this letter and he would like it back. Board Solicitor Brown marked this letter Exhibit O-2: State Department of Transportation letter dated December 30, 2010 to Dean Carr of McMahon Associates from Ken Spiegel, Project Engineer for the D.O.T.

Chairman Garth stated this letter is only a few weeks old and it was issued after the Board's last meeting. Board Solicitor Brown stated yes. Attorney Gasiorowski asked for a few moments to review this correspondence, stating it seems this letter was never presented to the Board. Board Solicitor Brown stated this is correct.

Attorney Gasiorowski asked Mr. Zappala if he had the D.O.T. letter from August 4, 2009? Engineer Zappala stated yes. Attorney Gasiorowski stated this letter referenced a specific condition, it being a municipal road must be constructed from Route 70 to Old Egg Harbor. Chairman Garth stated Route 70 is no where near Egg Harbor Township. Attorney Gasiorowski advised he reading exactly what the letter says. Including that the connector road must be owned by the Township of Egg Harbor. Engineer Zappala stated he sees where this is noted.

Attorney Gasiorowski asked Mr. Zappala if he was part of the process to clarify this condition. Engineer Zappala stated no. Attorney Gasiorowski stated it appears the new D.O.T letter dated December 30, 2010, clarifies the D.O.T.'s position with respect to this connector road from their letter dated August 4, 2009. He indicated in paragraph one of the new letter it states "was not intended to require this road way to be owned by the Township of Egg Harbor. The intention of the department is for the new road to be a functional equivalent of a public roadway, which can be done through the granting an easement to the Township of Egg Harbor or dedicating the right-of-way to the Township".

Chairman Garth asked where Attorney Gasiorowski was going with this information? Attorney Gasiorowski stated he is going to the design of the roadway. He asked if Mr. Zappala designed the roadway. Engineer Zappala stated the roadway and its alignment were designed by McMahon Associates in association with his office. Attorney Gasiorowski asked who McMahon Associates were? Engineer Zappala advised they are the applicant's traffic engineers.

Attorney Gasiorowski asked if Mr. Zappala compared the design of this road way to the design standards of the Township? Engineer Zappala stated no. Township Committeeman Carman stated Attorney Gasiorowski is questioning the applicant's engineer on D.O.T. requirements not ours. Attorney Gasiorowski advised the Township does have control of this roadway. Township Committee Carman indicated it has the functionality of a road, however, it is not a road. Attorney Gasiorowski advised he is referring to the requirements of the Township for road design. Township Committeeman Carman stated the Township is not requiring. Attorney Gasiorowski questioned that the Township is not requiring this connector road to be designed to the standards of the zoning? Township Administrator Miller stated yes, because the zoning ordinance does not have design standards for roads.

Board Engineering Representative Watkins stated the letter circulated was not given to his office during review process. So the connector was not looked at as a public road or a public road design. He further noted the connector will not be a municipally owned public road. Attorney Gasiorowski advised the new letter from D.O.T. states it has to be functional equivalent of a

public roadway. Does it not have meet the design standards for a public roadway? Board Engineering Representative Watkins no, again because it is not considered a roadway. Attorney Gasiorowski asked because of the new letter will this be reviewed before the end of the application? Board Engineer Representative Watkins indicated he has to review the new letter before determining.

Attorney Nehmad advised the D.O.T. letter indicates the functional equivalent, it has function as if it were a public road. He indicated he would object to any further questioning. Board Solicitor Brown stated he would suggest Attorney Nehmad allow Attorney Gasiorowski to ask the questions he is, however, he would ask Attorney Gasiorowski to note Attorney Nehmad comments.

Attorney Gasiorowski asked if there were three (3) basins on site? Engineer Zappala stated yes. Attorney Gasiorowski asked where the basins were located. Engineer Zappala advised basin one (I) is located at intersection of Old Egg Harbor Road and Fire Road, basin two (II) is located at Black Horse Pike and Fire Road, and basin three (III) is on the southeaster portion of the site across from the connector road. Attorney Gasiorowski asked what type of basin's are each. Engineer Zappala stated the basins one (I) and two (1) are detention basins but will have some infiltration and basin three (III) is an infiltration and detention basin combined.

Attorney Gasiorowski stated he has listened to testimony, reviewed the plans, and read the reports of the Board Professional's. He stated with basin one (I) does the Township have a requirement that the perimeter of the basin be a four-to one grade. Engineer Zappala stated yes, there is a requirement. He indicated there is a sloped embankment from the top to bottom of the basin. Engineer Zappala stated this requirement is more for residential development so there is a gradual transition because of pedestrian movement.

Attorney Gasiorowski asked if this requirement is so that if someone falls in or goes into a basin during a storm they can walk out. Engineer Zappala stated it could be for maintenance he is not sure why the Township requires.

Attorney Gasiorowski asked if there is a wall to basin one (I). Engineer Zappala stated yes, there are walls (landscaped) with basins one (1) and two (1). Attorney Gasiorowski asked if the walls were inside the basin and what is the height of them. Engineer Zappala stated the walls are within the basin and they are less than three (3') feet. He indicated the top of the basin wall is 44.5 and the invert at the basin bottom is 41 so the basin is three and a half (3 ½) feet at its highest point. Attorney Gasiorowski asked what about basin two (II)? Engineer Zappal stated it will be four (4') foot, three (3") inches.

Attorney Gasiorowski asked in a 50 year storm during how much water would be held in the basins? Engineer Zappala indicated in basin one (I) it would be two (2') feet and in basin two (II) it would be 1.89' ft. Attorney Gasiorowski asked what the numbers would be for a 100 year storm. Engineer Zappala stated basin one (I) would be 2.1' ft and basin two (II) would be 2.17' ft.

Attorney Gasiorowski asked if a child were to go into the basin during a storm other then climbing scaling the wall they only have one area at the end of the basin. Engineer Zappala the proposed wall is shorter then the top of a deck and there is a fence around the perimeter of each basin. He indicated Attorney Gasiorowski is asking a hypothetical question. He indicated the

basins are in accordance with the Township, Department of Environmental Protection and the County Conservation District, which include fencing.

Attorney Gasiorowski stated the fence around basin is so someone can not get in. Engineer Zappala stated it is for safety. Attorney Gasiorowski stated that based upon the size of the property could the basins not be designed with a four-to-one slope around their perimeter? Engineer Zappala indicated there are several ways to design basins. He indicated without knowing what impact this would have on the initial design, he could not answer the question. Attorney Gasiorowski asked if the only impact would be less square footage of impervious surface? Engineer Zappala stated he could not answer since it was not looked at.

Attorney Gasiorowski asked what the volume is that basin three (III) can handle? Attorney Nehmad asked that the record reflect that Attorney Gasiorowski is standing two (2') feet away from the Engineer Zappala. He asked that Attorney Gasiorowski provide some space between them. Chairman Garth advised this is not unreasonable. Chairman Garth asked what does Shop-Rite care about these basins? Chairman Garth stated this is stalling. Attorney Gasiorowski stated Shop-Rite is an interested party. He indicated as a property owner in town the basins that are being proposed should be in accordance with Design Standards.

**** May the record reflect:** may the record reflect someone in the audience began yelling about the depth of Shop-Rite basins, said an unfavorable word and walk out of the courtroom where the meeting was being held..

Attorney Gasiorowski asked what was said? Chairman Garth stated the individual indicated Shop-Rite's basins are 15' ft. deep and then he used an expletive. Township Administrator Miller asked if Attorney Gasiorowski was family with the center Shop-Rite is located in and their basins and design? Attorney Gasiorowski stated he is. Township Administrator Miller asked if Attorney Gasiorowski is going to say those basins are in compliance. Attorney Gasiorowski stated no, he is asking questions with respect to this application.

Township Administrator Miller stated so the relief granted to your client is not an issue with you objecting to the relief with respect to what this applicant is seeking. Attorney Gasiorowski stated no. Township Administrator Miller stated what is good for the goose is good for the gander and if your client received relief why would they object to someone else being treated in the same way they were.

Attorney Gasiorowski stated he does not know when the Shop-Rite application was approved, nor what the standards were since it was back in the 1980's. He indicated he is present tonight for this application and to examine witnesses. Chairman Garth stated every application that comes in has been taken on its own merit and what was needed for he project to be complete for the tenants or whomever. He indicated the man who walked out is correct the Shop-Rite basin(s) are 15' ft. deep.

Board Solicitor Brown suggested the Board allow Attorney Gasiorowski to finish his questions. Board Solicitor Brown stated when he is done the Board can ask whatever questions they would like.

Board Member Levy asked if the proposed basins meet the standards? Board Solicitor Brown stated yes. Board Engineer Representative Watkins indicated there are some waivers being

sought. Chairman Garth stated it would be side slopes and the top of basin width. Attorney Gasiorowski stated he has questions regarding soil conditions.

Board Solicitor Brown advised Attorney Gasiorowski is entitled and his client, as citizens of the United States of America to raise questions as objectors and we can not deny that right. Chairman Garth stated he is not trying to deny him. He just wants to understand where he is going. Attorney Gasiorowski indicated he does not understand why individuals are being difficult with him concerning the examination of the witnesses.

Board Solicitor Brown stated Attorney Gasiorowski's description is inaccurate. He indicated the Board is concerned over the sincerity of the questions and credibility of where you are coming from. He indicated the individuals Attorney Gasiorowski represent, whom the member's know did not comply, thus they do not care about what is being presented tonight. So the Board pointed this out to you. Board Solicitor Brown advised for Attorney Gasiorowski to say he is receiving a hard time he does not agree.

Board Solicitor Brown advised Attorney Gasiorowski to move on and not to argue. Attorney Gasiorowski stated he is not arguing. Board Solicitor Brown stated if he is responding to him then Attorney Gasiorowski is. He asked him to move forward.

Attorney Gasiorowski again asked what the volume of basin three (III). Engineer Zappala stated it is 550,000 cubic feet, which is an eight (8') foot depth. Though he indicated the routed elevation is not eight (8') foot. Attorney Gasiorowski what does routed volume mean? Engineer Zappala it means the height of a 100 year storm as it relates to the basin.

Attorney Gasiorowski asked on the perimeter of the basin, how many sides are walls? Engineer Zappala indicated the basin is almost four (4) sided but there is an access ramp of which is between 15' to 20' ft. in width. Attorney Gasiorowski asked if the eight (8') foot wall runs along the southwesterly direction? Engineer Zappala stated it is the northwesterly direction. He advised it runs clockwise as you view it on Exhibit A-2.

Attorney Gasiorowski stated there will be cars and trucks that go along the connector road. Engineer Zappala stated cars will go through, however, trucks would only go through a certain portion of the road. Attorney Gasiorowski stated he believed Ms. Serry Thomas discussed truck traffic. He asked what is the intent of the operator with respect to tractor trailer traffic coming to and from site. Engineer Zappala stated all tractor trailer traffic would come off the Black horse Pike. They will go in a southerly direction and follow signs in order to access the side of WalMart and buildings A and B. He advised there will be no tractor trailers coming or leaving the site along the connector road intersection of Hingston Avenue and Old Egg Harbor Road.

Attorney Gasiorowski asked what the distance is between the wall of the detention basin (III) and the curb line of the connector road. Engineer Zappala stated from scaling off of Exhibit A-2 it appears to be 14' to 15' ft. from the face of the wall to the face of the curb. Attorney Gasiorowski asked in a 50 year storm how deep would the basin be? Engineer Zappala advised it would be 5' ft. Attorney Gasiorowski asked what a 100 year storm would be? Engineer Zappala stated 6' ft.

Attorney Gasiorowski asked if Mr. Zappala's office designed the basins. Engineer Zappala stated yes. Attorney Gasiorowski asked if Mr. Zappala knows what the soil conditions are that

exist? Engineer Zappala stated yes. Attorney Gasiorowski asked what studies were used? He asked if this is an infiltration detention basin? Engineer Zappala indicated this basin will infiltrate, as well as, detain water. He noted that based on the soils condition this would be a dry basin.

Attorney Gasiorowski asked where in the studies did they deal with the water recharge? Engineer Zappala he indicated there was much testing and this information was provided in the storm water management report. Attorney Gasiorowski indicated he did review, however, he stated he is asking Mr. Zappala what determination did he make and what were the soils conditions and why were the soils conditions considered in order to propose an infiltration basin?

Engineer Zappala advised studies were conducted by CMX Engineers and were witnessed by the Township. He advised CMX Engineering is a geo-technical consultant. Attorney Gasiorowski thus stated the testing was not done by Mr. Zappala's firm. Engineer Zappala stated this is correct. Attorney Gasiorowski then indicated that Mr. Zappala can not give testimony as to how the testing was done or the findings.

Attorney Nehmad Objected. He indicated Attorney Gasiorowski knows that Engineer Zappala has the right to rely upon information performed by engineer's in the field. Board Solicitor Brown indicated Attorney Gasiorowski did not say he wasn't entitled to this information he asked what was relied on.

Attorney Gasiorowski asked what reports were relied on in order to provide information that the basin (III) will work as an infiltration detention basin? Engineer Zappala stated he relied upon his own information for the detention part of it but on the infiltration portion of it he indicated he relied on the studies done by CMX Engineer. Engineer Zappala indicated CMX performed the subsurface investigations and the infiltration testing which was witnessed by the Township Engineer. He further noted this was done at the location of each storm water basin proposed at site.

Attorney Gasiorowski asked again that Mr. Zappala did not perform any independent testing. Engineer Zappala stated no, however, he further noted that in his 20 years of civil engineering experience there were five (5) times the amount of analysis on this basin (III) then what is seen with an infiltration basin.

Attorney Gasiorowski asked Mr. Zappala if he gave consideration with the danger of a car going off into the basin (III)? Engineer Zappala advised this should be directed to McMahon Associates the traffic engineers.

Attorney Gasiorowski asked Mr. Zappala with respect to basin (III), could he not have designed this basin with a 4 to 1 sope? Engineer Zappala indicated this is an alternative, however, it was not studied. Attorney Gasiorowski asked if the parking fields on the northwesterly side, are the basins connected or do they work alone? Engineer Zappala advised they are separate basins that connect to the Fire Road storm system.

Attorney Gasiorowski asked as the design engineer if Mr. Zappala review the requirements of the zoning for property size and make a determination as to the buffers around the property? Engineer Zappla indicated yes, he reviewed the zoning for the property size and he further noted the buffer depends on the what is adjoining, abutting or what is on opposite side of street.

Engineer Zappala advised they are showing a 50' ft. buffer where there is abutting residential and there is a 20' ft. buffer around the project based upon the parking requirements.

Attorney Gasiorowski handed Mr. Zappala Exhibit 03: what he referenced as the zoning ordinance asking him to take a look at it. Attorney Nehmad advised what has been handed to the witness is Section 94-8 of Township's site development ordinance. Township Administrator Miller stated so it was not the zoning ordinance that was handed to Engineer Zappala. Attorney Nehmad stated this is correct.

Attorney Gasiorowski stated he stands correction. He asked if Mr. Zappala is aware of section 94-8, which deals with buffers. Engineer Zappala stated yes. Attorney Gasiorowski referred to item J-2 of ordinance 94-8. He asked if it does not outline that parcels greater than 40,000 sq. ft. have a buffer requirement of 75' ft.? Engineer Zappala stated he understands this section has been amended and the site plan that has been submitted to the Township showing the buffers is adequate. Attorney Gasiorowski asked when this ordinance was amended. Engineer Zappala stated he was not sure.

Attorney Gasiorowski stated he has no further questions for Mr. Zappala. Township Administrator Miller stated he does have a question. He stated the distance of the wall face on basin (III) and the curb is about 14' ft. to 15' ft. Engineer Zappala stated this is correct. Township Administrator Miller asked if there is any landscaping between the curb and the wall and is there a fence? Engineer Zappala indicated there is a fence between the curb and the wall and there is a large amount of landscaping such as shade trees.

Township Administrator Miller asked what the height of the fence is and what is the distance of the landscaping between the fence and the face of the curb? Engineer Zappala indicated there is 10' ft. between the face of the curb and the fence, so this area is where the landscaping will go.

Attorney Gasiorowski indicated he has one (1) more question? He asked Mr. Zappala if he is familiar with shopping center which is on English Creek Road where the Shop-rite is? Mr. Zappala: stated no.

Board Solicitor Brown asked if there were any other individual's whom Attorney Gasiorowski wanted to speak with. Attorney Gasiorowski advised he would like to speak with the traffic consultant.

Board Solicitor Brown asked the Traffic Consultant to come forward. Attorney Gasiorowski asked if he is an associate with McMahon Associates and if he is a civil engineer? Traffic Engineer, Ken O'Brien indicated yes he is associated with McMahon, he is a civil engineer and he specializes in transportation engineering. Attorney Gasiorowski asked if he designed the road way proposed? Traffic Engineer O'Brien stated he did not design the roadway. He worked with others in his firm on the design of the road way. Attorney Gasiorowski asked who designed the road way? Traffic Engineer O'Brien stated he worked with Dean Carr. Attorney Gasiorowski asked if this is the individual whom is referred to in the both the letters from the Department of Transportation? Traffic Engineer O'Brien stated yes. Attorney Gasiorowski advised he is aware how engineering firms are. He indicated different people work on the same project. Therefore, before you gave this plan to Bohler Associates you signed off on the roadway design? Traffic Engineer O'Brien stated yes.

Attorney Gasiorowski asked when designing the road did Mr. O'Brien compare it to a public roadway as mandated by the Township of Egg Harbor? Traffic Engineer O'Brien stated no, because it was a privately owned road. It would not be a publicly owned road. Attorney Gasiorowski stated that when this road was designed the letter of August from the Department of Transportation was outstanding. Traffic Engineer O'Brien indicated through the coordination with Department of Transportation, it was his understanding the road would be owned and maintained by the developer.

Attorney Gasiorowski he indicated the new letter indicates the roadway is to be the functional equivalent of a public road, is it? Township Engineer O'Brien indicated he believes it is. It connects two (2) public roads and allows for the motoring public to travel on it. Attorney Gasiorowski asked how the road deviates from the standards of a municipally owned or public roadway? Traffic Engineer O'Brien stated he will not because it is a private road not a public. Attorney Gasiorowski asked if the connector road was always intended to be a private roadway? Traffic Engineer O'Brien stated yes, this is his understanding.

Attorney Gasiorowski asked if Mr. O'Brien has any knowledge of how noise is treated for cars coming in and out, of what is advised as a private roadway? Traffic Engineer O'Brien indicated he is a traffic Engineer not a noise or acoustic expert.

Attorney Gasiorowski stated he had no further questions. Board Solicitor Brown asked if there was anyone else Attorney Gasiorowski would like to speak with. Attorney Gasiorowski asked for Mr. Dotti. Board Solicitor Brown called Mr. Dotti.

Attorney Gasiorowski stated he is aware of Mr. Dotti's methodology since he and Mr. Dotti have appeared on other Walmart applications. Engineer Dotti stated this is correct. Attorney Gasiorowski stated one (1) comment addressed by Mr. Dotti indicated the noise coming from the site meets to the performance standards. Engineer Dotti stated the noise standard is a performance standard. Attorney Gasiorowski further went on to say that if someone were to complain six (6) months from now about the noise coming from site they would have to make a complaint to the Township? Engineer Dotti indicated it is his understanding Egg Harbor township would have had to send someone to the Rutgers Course to meet the enforcement measures.

Attorney Gasiorowski asked if Mr. Dotti knows if there is such a person qualified in Egg Harbor Township. Engineer Dotti indicated he does not. Attorney Gasiorowski stated when someone is sent to the Noise Standard Institute at Rutgers to learn about enforcement, what is taught? Engineer Dotti he stated they are taught about the calibration of an instrument and taking measurements of ambient noise, which are done at certain times, they would also have to measure humidity, temperature and wind speeds along with several other items. He indicated there is actually a form you follow

Attorney Gasiorowski stated this is a hand-held device and it measures the noise. Engineer Dotti stated it is a sound level meter for which you would take a reading and it will give you the A-weight sound pressure at that point in time. Attorney Gasiorowski asked where this measurement would be taken from?. Engineer Dotti stated they stand on the property and maybe further back on the property. He indicated this would then measure the ambient noise and the complain source so the person taking the measurements can do the math.

Attorney Gasiorowski asked if Engineer Dotti did anything to design this project as an acoustical engineer? Engineer Dotti stated yes. He indicated he suggested adding the barrier walls along the loading dock area.

Attorney Gasiorowski stated based on previous information that Engineer Dotti provide he indicated he went throughout the site taking measurements, he contacted manufactures and obtained literature concerning the dba's , etc...He asked where this information is. Engineer Dotti stated it is within his computer. Attorney Gasiorowski asked if this information could be printed out of the computer. Engineer Dotti stated yes. Attorney Gasiorowski asked on the architectural plans that were submitted was there a detail was there a detail of the mechanicals to be placed on the roof? Engineer Dotti stated yes.

Attorney Gasiorowski asked if Mr. Dotti uses a model computer program or if he uses a patented computer program? Engineer Dotti stated he uses a commercial program that is called "Soundplan". Attorney Gasiorowski stated the information you place in this program is based upon the accuracy of the information you place into it? Engineer Dotti stated this is correct. Attorney Gasiorowski if a hand held device was used during this testing and when were they done? Engineer Dotti advised he did use a hand held device, however, he does not recall the dates.

Attorney Gasiorowski asked if Mr. Dotti kept notes with respect to these test. Engineer Dotti stated yes.

Attorney Gasiorowski asked how many test were done? Engineer Dotti indicated he is not sure what the total is, however, he did perform four (4) test which were explained via Exhibit A-18. Engineer Dotti indicated there are 35 different sources on top of the WalMart, there will be seven (7) or eight (8) sources from the two (2) adjacent commercial stores. There will be two (2) from the bank and the remaining pad sites will have between two (2) to three (3) different sources.

Attorney Gasiorowski asked if the units used in the testing of site is the same as the hand held device? Engineer Dotti indicated the units used only measure dba. He indicated the instrument used to measure equipment sounds measure at different frequency bands. He indicated it is a more exotic instrument. Attorney Gasiorowski asked what this devise does. He asked if the device is on site for long periods, does it compute a printout showing ambient sound? He asked what it does.

Board Solicitor Brown stated this question has been asked twice. Engineer Dotti indicated he used four (4) measurement locations and the instruments that took the measurements there were the only sound level instruments on site.

Attorney Gasiorowski asked if there is a difference between sound measurements on a private roadway within a site plan as compared to a public roadway? Engineer Dotti stated in Egg Harbor Township they have there own state-approved noise regulations. He indicated there is no difference.

Attorney Gasiorowski indicated he had nothing further for Mr. Dotti.

Chairman Garth advised it is 10:00 p.m. Attorney Nehmad asked what the continuation date of this hearing will be. Chairman Garth advised it will Tuesday, February 22, 2011. Board Solicitor Brown advised the next meetin gof the Board will be on Tuesday, February 22, 2011.

He indicated the applicant will not be required to re-notice or re-publish.

Attorney Gasiorowski stated he will not need to cross-examine Mr. Petrillo (Architect), however, he would like to refer to his exhibits. Board Solicitor Brown advised Mr. Petrillo is being released tonight and he understands he will not have to be present at the next meeting, however, Attorney Gasiorowski does want his exhibits here. Attorney Gasiorowski indicated he will make copies of Exhibits 01-04 and will provide them to the Board office before the next meeting.

Motion Carman/Aponte to continue public hearing to the next regular meeting of the Planning Board which will be held on Tuesday, February 22, 2011, at 6:30 p.m. and the applicant will not be required to re-notice. Vote 9 Yes: Aponte, Carman, Eykyn, Garth, Kearns, Levy, Lisa, Cafero, Miller.

MEMORIALIZATION OF RESOLUTION:

1. **SD 03-10**
Gro-Mart

Minor Subdivision
1423/3
6227 Delilah Road

Motion Lisa/Kearns to memorialize resolution granting requested checklist waiver(s), design waiver(s) #2 and #4, and conditional minor subdivision approval. Vote 8 yes: Aponte, Carman, Eykyn, Garth, Levy, Lisa, Cafero, Miller

2. **SPPF 33-94 (Amended)**
Sam's Real Estate Business Trust ("Sam's")

Amend. Preliminary/Final Major Site Plan
2115/3
1025 Black Horse Pike

Motion Lisa/Kearns to memorialize resolution granting requested checklist waiver(s) #1-12 and 14, variance relief: §225-56A(33): Parking spaces:670 spaces required; 563 spaces existing; 553 spaces proposed, amended conditional preliminary and final major site plan approval. Vote 8 yes: Aponte, Carman, Eykyn, Garth, Levy, Lisa, Cafero, Miller

The next regular meeting of the Planning Board will be held on Tuesday, February 22, 2011, 6:30 p.m., prevailing time.

Motion Carman/Miller to adjourn at 10:05 P.M. Vote 9 Yes: Aponte, Carman, Eykyn, Garth, Kearns, Levy, Lisa, Cafero, Miller.

Respectfully submitted by,

Theresa Wilbert, Secretary

