

AGRICULTURE DEVELOPMENT BOARD  
COUNTY OF CAPE MAY

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In the Matter of

County Farmland Overview

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REGULAR MEETING  
February 27, 2023  
Commissioners Meeting Room  
William E. Sturm Administration Building  
4 Moore Road  
Cape May Court House, New Jersey 08210

*Proceedings electronically recorded. Due to inadequate recording devices used throughout proceedings, transcript provided to best of transcriber's ability.*

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CSR REPORTING SERVICES  
1125 ATLANTIC AVENUE  
ATLANTIC CITY NJ 08401

1 MATT: Statement pertaining to  
2 the Open Meeting Act. This is a notice read  
3 pursuant to the requirements of the Open  
4 Meetings Act. At least 48 hours in advanced  
5 notice of this meeting has been provided by  
6 delivering the same in writing to the county  
7 clerk and the clerk of the Board of chosen  
8 freeholders to be posted on the bulletin  
9 boards and delivering a copy of the notice  
10 to the press of Atlantic City. Roll call?

11 BARB: Natali.

12 MR. NATALI: Present.

13 BARB: Jamie.

14 JAMIE: Present.

15 BARB: Matt.

16 MATT: Present.

17 BARB: Sue.

18 SUE: Here.

19 BARB: Bob.

20 BOB: Here.

21 BARB: (Indiscernible

22 00:00:56).

23 MR. BATISTINI: At this  
24 point, this is going to be a continuation of  
25 the application regarding block 723, Lot 37.

1 With respect to the application for a right  
2 to farm, the property is located in the R  
3 Residential Zoning District.

4 At this time we're going to  
5 ask the applicant's attorney Collin Bell to  
6 come up and initiate. This is going to be  
7 the second portion of the application. The  
8 first portion with regard to determining  
9 whether or not it meets the requirements of  
10 a commercial farm has already been resolved  
11 and voted on.

12 At this point, we're moving  
13 forward with the SS AMPs. Mr. Bell.

14 MR. BELL: Thank you, Mr.  
15 Batistini. Thank you members of the board  
16 for your time and convening once again for  
17 hopefully the last time on this matter.

18 As Mr. Batistini said, the  
19 commercial farm determination, you've  
20 already made, there was a challenge to that.  
21 You voted not to reopen that, we're here  
22 just to determine whether or not the SS AMP  
23 for this particular farm should be granted.  
24 I know you're very familiar with the  
25 property at this point. It's a fully

1 preserved farm. It's been farmed for over 50  
2 years. What this SS AMP is, is now solely  
3 for a wine production facility essentially  
4 to continue to grow the grapes they're  
5 already growing, expand slightly the amount  
6 of grapes they're already growing, take the  
7 existing pole barn, which has already  
8 existed and permitted by the municipality,  
9 and convert that not into a tasting room,  
10 into a wine production bottling, and storage  
11 facility only for any sales that would occur  
12 to be offsite along with cultivating in,  
13 again, in the same facility fruit trees they  
14 might plant and associated byproducts,  
15 grapevine, wood grapes, seed oil, grape skin  
16 flour, vinegar, byproducts of wine, and  
17 fruit wine production.

18 This SS AMP does not ask for  
19 a tasting room. It does not ask for a  
20 salesroom. It does not ask for onsite  
21 commercial tasting. It does not request  
22 permission for special occasion events or  
23 on-farm direct marketing activity, and I  
24 submit to you the dash should eliminate any  
25 concerns about traffic, noise, people, music

1           gatherings.

2                       Essentially they're going to  
3           grow grapes, make those grapes into wine,  
4           bottle it, and sell it offsite. That's what  
5           the application is. That's consistent with  
6           the use that's already happening now.

7                       They're already growing grapes.  
8           They're just now going to make those grapes  
9           into wine instead of shipping those grapes  
10          offsite to be made into wine.

11                      We anticipate you're going to  
12          hear opposition, which of course is  
13          everybody's right to come forward and be  
14          heard during a proceeding like this. I  
15          think a lot of what you're going to hear is  
16          about fears about what might be done in the  
17          future, which I submit to you is not a proper  
18          consideration for the board. If there's  
19          some change in the future, they're going to  
20          have to come back to you or to the  
21          municipality for permission to do anything  
22          different.

23                      I'd submit to you our  
24          application is going to be on what this  
25          specific proposed use is. You might hear

1 about pesticide use. I think as farmers, you  
2 understand how that all works but you're  
3 going to hear testimony that there's been  
4 multiple complaints by neighbors to the DEP.  
5 The DEP has conducted investigations.  
6 They've never found any wrongdoing  
7 whatsoever. They found that everything is  
8 in compliance with regulations.

9                   You're also going to hear  
10 maybe some concerns about whether or not  
11 this is a viable operation. Again, that's  
12 not really, I submit a valid concern.  
13 Whether or not they make good wine is not  
14 something that I think is proper for the  
15 board to consider. That would be not giving  
16 someone a zoning variance for a restaurant  
17 because you don't think the chef is a good  
18 chef.

19                   I'd submit to you on what  
20 we're going to submit in terms of evidence  
21 from our professionals. You're going to  
22 hear that this is a very standard wine  
23 production proposal that complies with  
24 generally accepted agricultural management  
25 practices.

1 I will, before I call  
2 witnesses, tell you exactly what we're  
3 asking for, which is contained in our  
4 proposed resolution that we submitted, what  
5 we're asking you to find, and what  
6 conditions we've already proposed beyond  
7 that approval.

8 First, we're asking for  
9 approval to retrofit the existing pole barn  
10 into a wine production and storage facility.  
11 We're asking you to find that the  
12 cultivation, harvesting of grape wines and  
13 tree fruit, and the production and packaging  
14 of those agricultural products into wine and  
15 associated byproducts is a generally  
16 accepted agricultural management practice in  
17 New Jersey.

18 We're asking you to find  
19 again that the development of a wine  
20 production and bottling facility by  
21 retrofitting the existing pole barn is  
22 consistent with generally accepted  
23 agricultural management practices.

24 We're asking you to find that  
25 converting that pole barn into a wine

1 production and bottling facility does not  
2 implicate any health, safety, or welfare  
3 issues and that the applicants have a  
4 legitimate farm based reason for doing so.  
5 We're asking you to find that the production  
6 cultivation, harvesting, and storage of wine  
7 grapes and tree fruit, including the  
8 application of appropriate pesticides and  
9 fertilizer is an appropriate use at this  
10 farm and specifically, we've incorporated  
11 two preexisting generally accepted  
12 agricultural management practices in terms  
13 of the use of fertilizer and pesticides into  
14 our application.

15 First, we're asking you to  
16 approve the application of appropriate  
17 pesticides and fertilizers consistent with  
18 the Rutgers Agricultural Experiment Station  
19 2019 commercial great pest control  
20 recommendations for New Jersey. That is a  
21 document published by Rutgers for use by  
22 grape farmers in New Jersey. We're asking  
23 that we be allowed to, as part of this SS  
24 AMP that be approved, and also the SADC  
25 has already approved a generally accepted



1 agricultural management practice for  
2 commercial tree farm production as an AMP  
3 2A76-2.6. We're asking you to approve as  
4 part of this approval, those techniques  
5 already adopted by the SADC as generally  
6 accepted agricultural management practices.

7 I think you heard testimony  
8 before in the exhibits are in evidence that  
9 there's approved conservation plans at the  
10 state local level for this farm. We're  
11 asking you to approve the farm to continue  
12 to engage in the practices under those  
13 approved conservation plans.

14 Ultimately, the production,  
15 bottling, packaging, and storage of wine on  
16 the farm for sale, offsite, or online for  
17 shipping offsite not on the premises. Along  
18 with the production, like I said before, of  
19 the wine byproducts and the storage in the  
20 existing pole barn of supplementary and  
21 complimentary agricultural products such as  
22 branded wine glasses, wine accessory shirts,  
23 hats, similar promotional items that will go  
24 along with the wine.

25 That is all we're asking for

1 in this application. The application has  
2 some conditions one, and these are things  
3 that we're agreeing to and we think that it  
4 should be conditions of your approval of  
5 this application, that all of the  
6 construction in the pole barn to convert it  
7 to a wine production bottling facility. B,  
8 in accordance with applicable construction  
9 and building code standards subject to  
10 inspection for compliance for code  
11 requirements by Upper Township. We think  
12 Upper Township has the right to inspect the  
13 construction, make sure that it complies  
14 with the building codes. That all the wine  
15 production, bottling, and storage being  
16 compliance with all ABC regulations. It  
17 should be, that's the law. That should be a  
18 condition that you place on the approval,  
19 that the farm comply with all of the  
20 applicable ABC laws and regulations.

21 I think this is important for  
22 everybody, if there's a substantial change  
23 or deviations from the provisions of this SS  
24 AMP in the future, that the applicants or  
25 anybody else, any aggrieved party be able to

1 return to the board to seek the appropriate  
2 belief. That is the substance of what this  
3 application is.

4 Mr. Batistini, do I need to  
5 have our expert requalified again, or --

6 MR. BATISTINI: I don't think  
7 so. This board's already heard him before,  
8 but if you want to bring them up, I'll swear  
9 them in and I'll ask the board, but I don't  
10 think he needs to be requalified.

11 (Mr. Orlando sworn)

12 MR. BATISTINI: Could you tell  
13 us your name and address and what you do?

14 MR. ORLANDO: Good morning,  
15 everyone. My name is Vincent Orlando. I'm  
16 a partner in the firm of Engineering Design  
17 Associates, located in the Greenfield  
18 section of Upper Township. I'm a licensed  
19 professional engineer, licensed professional  
20 planner, licensed landscape architect, and  
21 certified municipal engineer and I hold all  
22 those licenses in the state of New Jersey.

23 MR. BATISTINI: This board  
24 has seen Mr. Orlando before. Is that  
25 correct?

1 BOARD: Yes.

2 MR. BATISTINI: You recognize  
3 him as a professional in his field?

4 BOARD: Yes.

5 MR. BATISTINI: Thank you,  
6 Mr. Orlando, you may continue. Mr. Bell as  
7 well.

8 MR. ORLANDO: Thank you, sir.  
9 I'm going to refer to the exhibit for our  
10 site plan specifically. Sheet three.

11 MR. BATISTINI: Mr. Orlando,  
12 this is 2010/2023 last revised?

13 MR. ORLANDO: That's correct.

14 MR. BATISTINI: Thank you.

15 MR. ORLANDO: As Mr. Bell has  
16 indicated from our last presentation of this  
17 board hence has been revised. If the board  
18 recalls, we had a case room, we had parking,  
19 we had lighting, we had a whole lot of  
20 things going on with this site.

21 The applicant had decided to  
22 dramatically peel back this site plan just  
23 to include what the presentation here today  
24 is, is the growing the grape and production  
25 of wine within the existing pole barn. The

1 property will use the driveway, which is the  
2 residential driveway off of Bayaire Drive,  
3 and they'll continue to use that driveway  
4 for the home and for the production room.  
5 There are two existing fields or three  
6 existing fields, one here on the west-only  
7 portion of the site, two in the back area  
8 and as part of this application, we are  
9 expanding the field to the east as shown on  
10 the plan.

11 One of the things that this  
12 application does, we have existing buffers  
13 on site roughly 12 and 15 feet on here.  
14 This buffer along the north side varies from  
15 approximately 22 feet to 25 feet.

16 The buffer on the west side  
17 or the south side is approximately 30 feet.  
18 That's a vegetated buffer that currently  
19 exists. The buffer on the north side, we  
20 intend to increase the 30 feet. We're  
21 proposing a six-foot high fence for the  
22 first three properties with some planting  
23 and some shade trees along the Warner Metal  
24 trees along that side. The fourth property  
25 Lot 46 currently has the fence and Lot 47

1 has an existing buffer consisting of trellis  
2 and some grapevines so that the buffer on  
3 the north side, we're proposing to enhance  
4 with some fencing and some ornamental trees.

5 Upper township ordinance  
6 calls for a 10-foot buffer in a residential  
7 zone. We're a minimum of 30 foot along this  
8 side. These buffers will remain as is. I  
9 did have an opportunity to speak to one of  
10 the representatives for Upper Township, and  
11 we've indicated that we will show on the  
12 plan the exact dimensions of the buffers  
13 specifically on the plan so that in the  
14 future those numbers are solidified so  
15 there's no encroachment on those buffers.

16 Again, it'll be 30 foot on  
17 the other side and the buffers will remain  
18 here, which I think its 15 and 15.8 and then  
19 28 feet.

20 MR. BATISTINI: Mr. Orlando,  
21 on those buffers, you say the buffers for  
22 the north and of the south all going to  
23 remain at 30 feet?

24 MR. ORLANDO: Yes. The  
25 buffer on the north side currently ranges

1 from 22 to 25 feet. We will increase that  
2 to 30 feet as said on the plan.

3 MR. BATISTINI: It's north  
4 and south?

5 MR. ORLANDO: North and  
6 south.

7 MR. HALPERN: Sorry to  
8 interrupt. We don't want to increase that.  
9 We're talking about the south side without  
10 (inaudible 00:15:37).

11 MR. ORLANDO: North side  
12 remains the same.

13 MR. HALPERN: Yeah, it's to  
14 stay the same.

15 MR. ORLANDO: I'm sorry, I  
16 misspoke. Buffers on the north side will  
17 remain the same, and they are from 22.1 feet  
18 to 25.4 feet on the north side. The south  
19 side will be 30 feet, and those buffers  
20 currently are to the existing grapevine.  
21 We don't want to pull any grapevine from  
22 that area, but they'll be duly noted on the  
23 plan to show what those buffers currently  
24 exist at.

25 MR. BELL: What did you say,

1 Mr. Orlando, what was the buffer required in  
2 this zone?

3 MR. ORLANDO: Well, in the R  
4 zone it's 10 feet. Access to the site, like  
5 I indicated, will be off of Bayaire. Those  
6 activities will include the Halperns coming  
7 and going to their home. They maintain the  
8 farm. They work the farm, they harvest the  
9 grapes. Any byproduct that's relieved will  
10 go by pickup or maybe a small box truck.  
11 There are no large vehicles that are in the  
12 site and it'll be used in Bayaire just says  
13 all, any commercial projects, FedEx delivery  
14 trucks, there's a mechanical shop in  
15 the area. They'll use that current road.

16 There are no limitations to  
17 the road and the only access to this  
18 property will be from Bayaire. There will  
19 no be no access from Allendale.

20 MR. BELL: Now, you said  
21 restrictions, certain streets like Allendale  
22 in the township are restricted by ordinance  
23 from commercial traffic, right?

24 MR. ORLANDO: That's correct.  
25 They have a five-ton limit.



1 MR. BELL: Bayaire is not one  
2 of those restricted streets?

3 MR. ORLANDO: That is correct.

4 MR. BELL: I want to go back  
5 to, can you go back to the first page here,  
6 now you have this chart here? Can you  
7 explain to the members of the board the  
8 zoning information that required existing  
9 proposed and whether a variance would be  
10 required if this was before a planning or  
11 zoning board?

12 MR. ORLANDO: I looked at the  
13 zoning for the R zone and how it pertains to  
14 the project in question and I've outlined  
15 for the board's consideration, the  
16 requirements will currently exist and what  
17 currently proposed and all those  
18 requirements are met or exceeded. Under the  
19 R zone, there are no variance being sought.

20 MR. BELL: In other words, if  
21 this was an application before planning or  
22 zoning board, there would be no requirement  
23 for any bulk variances?

24 MR. ORLANDO: I believe so.

25 MR. BELL: Now, let's talk

1 about the buffering. I want to go back  
2 there. Did you consider what the municipal  
3 requirements for buffering would be?

4 MR. ORLANDO: Well, we looked  
5 at the requirements under the yards are at  
6 10 feet and we currently see that, but we  
7 wanted to take into account some of the  
8 concerns on the north side so that's why  
9 we're proposing fencing along Lots 43, 44  
10 and 45 with the establishments or  
11 environmental trees as indicated. 46  
12 currently has a fence and Lot 47 currently,  
13 in my opinion, has adequate buffer with the  
14 trellis and grapevine.

15 MR. BELL: Along the south  
16 side here, this is, this is fully wooded,  
17 right?

18 MR. ORLANDO: Yeah, so the  
19 south side currently has existing vegetation  
20 along that entire property line which will  
21 not be removed as part of this application;  
22 it'll remain.

23 MR. BELL: Now, you talked  
24 about trucks and access. What would the  
25 proposed usage be noticeably different from

1 the current usage in terms of traffic?

2 MR. ORLANDO: They could be  
3 exactly the same. There will be no increase  
4 in traffic to the current standards that Mr.  
5 Halpern currently uses the property for.

6 MR. BELL: This revised plan,  
7 the dimensions of the property haven't  
8 changed at all since.

9 MR. ORLANDO: No.

10 MR. BELL: The areas where we  
11 had proposed growing and that activity  
12 remained the same, right?

13 MR. ORLANDO: The area for  
14 the activities for grapes the outbound  
15 property has not changed. They're exactly  
16 as was proposed the last time we were here.

17 MR. BELL: Do you have the  
18 schematic with the actual proposed wine  
19 production facility? Can you just outline  
20 for the members of the board, what we're  
21 proposing to actually occur inside the  
22 building?

23 MR. ORLANDO: If you look at  
24 the proposed floor plan, which is on sheet  
25 three or four, you see a small office, you

1 see a storage area, you see a production  
2 area, and you see a restroom. Those are the  
3 components of the existing metal building,  
4 won't be any change to that, they'll  
5 specifically for production and wine  
6 storage.

7 MR. BELL: There's no tasting  
8 area proposed.

9 MR. ORLANDO: There's no  
10 tasting -- there's no seating. All that has  
11 been removed from the plant.

12 MR. BELL: There's no  
13 proposed area for customer parking.

14 MR. ORLANDO: There is none  
15 that has been eliminated from the plan.

16 MR. BELL: What about  
17 lighting that would be for customers and  
18 that thing?

19 MR. ORLANDO: All that has  
20 been removed existing lighting for the  
21 senior family home will remain as if there  
22 won't be any lighting for the metal storage  
23 building. The only addition we do have is a  
24 small trash enclosure for cartons and  
25 debris, things of that nature.

1 MR. BELL: Do you have an  
2 opinion as to whether or not the proposed  
3 application and what's proposed on the site  
4 plan is consistent with the general  
5 agricultural purpose of wine production and  
6 wine grape and associated fruit tree  
7 production and wine production plant?

8 MR. ORLANDO: I think this is  
9 a perfect example of what we believe is a  
10 compromise to come in to grow our grapes,  
11 Mr. Halpern grow his grapes and produce  
12 wine. All the things that were brought up  
13 at the last hearing, traffic, lighting,  
14 tasting rooms, events, noise, eliminated  
15 from the plan.

16 I believe in my opinion that  
17 this is a very good compromise that the  
18 applicant is coming forth in good faith to  
19 grow his grapes and produce wine to a small  
20 degree.

21 MR. BELL: Any of the board  
22 members have questions for Mr. Orlando?

23 MR. NATALI: Do you know how  
24 big the size of the production in terms of  
25 numbers of cases that are going to be

1 produced?

2 MR. BELL: I'm going to have  
3 Mr. Halpern testify to that in just a  
4 minute.

5 MR. NATALI: Okay. What  
6 about power? Is this going to need  
7 three-phase power or is that -- well, I'll  
8 just wait if -- okay.

9 MR. BELL: Any other  
10 questions for Mr. Orlando? Mr. Batistini,  
11 you want to swear in --

12 (Mr. Halpern sworn)

13 MR. BATISTINI: What's your  
14 name and address and your position as well,  
15 please?

16 MR. HALPERN: I'm Mike  
17 Halpern. I live at 8 Bayaire Road in  
18 Marmora. I'm the owner and operator,  
19 co-owner and operator of Engine One  
20 Vineyards LLC, and Ocean City Winery.

21 MR. BATISTINI: Thank you.

22 MR. BELL: Now, before we get  
23 into some other topics, see if you can  
24 address Mr. Natali's questions --

25 MR. HALPERN: -- with the

1 board.

2 MR. BELL: Yeah, sure.

3 Whatever you need.

4 MR. HALPERN: All right. I  
5 have a description of what we think we're  
6 going to be able to produce on-site. I know  
7 it's a little hard to see and I apologize.  
8 Copies are sitting on my desk at home. It's  
9 just about how it went this morning.

10 We work under the business of  
11 Engine One Vineyards LLC. We've been in  
12 business 25 years now, and we've been  
13 selling wine grapes to wineries in New  
14 Jersey since 1999 or 2000, roughly. I think  
15 was our first crop that made any money.

16 We are two components. We  
17 have the what should have been, and we'll be  
18 titled the Ocean City Winery in Marmor and  
19 then we run our E-1 fields at Fairfield  
20 Township. These farm are, as we've  
21 mentioned before, preserved land. They were  
22 preserved roughly at the same time. This  
23 one, we were the owners of when we preserved  
24 it so we're familiar with the process.

25 UNIDENTIFIED: Can you speak

1 into a microphone, please, because we may  
2 need record points.

3 MR. HALPERN: Yeah, you want  
4 me to come back there?

5 UNIDENTIFIED: Sure, yes.  
6 Stand here. I'll see it.

7 MR. HALPERN: Happy to do it.

8 MR. BATISTINI: We're going  
9 to mark that as exhibit one, Engine One  
10 Vineyards 5 --

11 MR. HALPERN: Farm management  
12 unit, whatever you like.

13 MR. BATISTINI: Farm poster.

14 MR. HALPERN: All right. I  
15 think that and I did some reference some  
16 Cornell studies that out of our three to  
17 four acres, we should be able to produce  
18 nine tons of grapes. This is in Fairfield  
19 Township. It's a combination of French and  
20 American.

21 The American are far more  
22 productive than the French. I did some  
23 averaging, and I think nine tons is  
24 certainly within range. It matches what we  
25 get out of our Fairfield Township French



1 grapes. About four harvests a year, that's  
2 all the grapes we have and so that moves  
3 pretty quickly. It leaves a couple of tons  
4 at a time.

5 t's done on the back of my  
6 truck, over the small trailer. I believe  
7 following the metrics that will produce  
8 about 1,350 gallons of wine and you'll note  
9 on the chart, I footnoted the reference I'm  
10 using. It is a Cornell study. It matches  
11 my experience with selling to other wineries  
12 and that produces about 6750 bottles of  
13 wine, that falls into the range of something  
14 you can hand bottle, by the way. A lot of  
15 places do. That certainly is manageable.

16 I think the revenue is pretty  
17 decent off of that, I'll let you come up  
18 with a bottle price and multiply it  
19 yourself. I think that's where we are now.

20 In other terms of the stuff  
21 in E-one and Fairfield Township has about a  
22 10-ton historical average and that covers  
23 everything, drought, dealers, good years,  
24 bad years, et cetera. Little different type  
25 of harvest. It's five max and frankly, that

1 right now we're selling them to New Jersey  
2 wineries. If we decided to move back into  
3 our production facility with that, it's  
4 another 7,500 bottle.

5 It's pretty considerable,  
6 there's your, -- I'm sorry Mr. Natali,  
7 that's your answer as to the number of cases  
8 for our location and total capability.

9 MR. BELL: I want to talk a  
10 little bit about traffic at your facility.  
11 Can you tell me what type of traffic you  
12 have now and whether that traffic will be  
13 similar or different under the proposed  
14 activities under this SSA AMP?

15 MR. HALPERN: The current  
16 traffic is essentially our residence, as  
17 we've mentioned, and some movement of  
18 equipment about once a week in the summer,  
19 and sometimes every 10 or so days, I do move  
20 equipment to the other farm, and that  
21 involves a trailer and probably a mower or  
22 tractor, depending on what I'm doing so  
23 that's a round trip.

24 MR. BELL: Wait, when you say  
25 a trailer, what are you pulling the trailer

1 with?

2 MR. HALPERN: My pickup.  
3 Same truck we use for just about everything.  
4 We manage to move all of our equipment that  
5 way. As I said, we do most of our harvests  
6 right out of the back of the pickup or a  
7 smaller trailer. We own two trailers and we  
8 use both of them.

9 There's not much that I see  
10 in addition. I'm not sure, I think we may  
11 be the only ones that know this, we harvest  
12 four times. I don't think anybody saw it or  
13 knew what we were doing because we're in and  
14 out to do that and it leaves fairly quickly.

15 MR. BELL: Besides your truck  
16 pulling your own trailer, any other  
17 commercial traffic?

18 MR. HALPERN: Well, most of  
19 our stuff comes interstate through either  
20 UPS or FedEx. I would say the vast majority  
21 of what we order, depending on volume and  
22 size comes that way. Everything else I pick  
23 up and bring back in myself.

24 MR. BELL: Would that be any  
25 21 different under this proposed SS AMP?

1 MR. HALPERN: I see some more  
2 material coming in, but it's not a weekly  
3 thing. I would imagine that as we get to  
4 harvest season and we need to do produce, do  
5 bottling, we may have to make some pickups  
6 externally to bring in cases of bottles, et  
7 cetera but it's not a lot of cases.

8 For instance, this week we  
9 had a delivery of our trellising. That's  
10 very rare. Once you're trellised, you never  
11 have another trellising delivery unless  
12 you've done something terribly wrong. That  
13 was an example of one truck in and out and  
14 we won't have a return for doing that.

15 To answer your question, I  
16 think it's going to be a minimal increase in  
17 traffic.

18 MR. BELL: In terms of  
19 transporting bottles offsite, how do you  
20 anticipate moving one out?

21 MR. HALPERN: I think it can  
22 go in either my SUV, which is large enough  
23 to carry enough to outlets, or on the back  
24 of my pickup or we may pick up a small  
25 enclosed trailer to do that.

1 MR. BELL: Just for -- so the  
2 record is clear. When you mentioned a  
3 Cornell study, what exactly were you  
4 referencing?

5 MR. HALPERN: A Cornell study  
6 includes metrics for field metrics of ST  
7 yield, and it talks about what you get out  
8 of Vinifera, which is French, and what you  
9 get out of Vitis Riparia, which is basically  
10 a native, and it talks about volume and what  
11 you can expect per acre in terms of tonnage,  
12 what you can expect per ton in terms of  
13 gallons.

14 MR. BELL: Can you tell the  
15 board -- I know we addressed it at prior  
16 applications and his DEP licensure is in the  
17 record already, but can you tell the board  
18 generally what types of fertilizer and  
19 pesticide you use?

20 MR. HALPERN: Yeah, nothing  
21 is general, right? I have it done pretty  
22 specifically. As you mentioned, I've had a  
23 private certified pesticide. I've been a  
24 private certified pesticide applicator since  
25 turn of the century so 1999, 2000

1 continuously.

2 My current license expires in  
3 '24. I have a paraquet handling  
4 certification, although we're not using  
5 paraquet currently; that expires in '26.  
6 That's a new federal requirement to have  
7 that. We follow both the records and the  
8 Cornell University guidelines for vineyards.  
9 They're very complete.

10 They contain what they'd like  
11 you to apply and when, how many days, what  
12 you look for, talk about diseases, et  
13 cetera.

14 They're my best source for  
15 finding out what's new in the industry so we  
16 do that. Let's see.

17 Every year we create an IPM,  
18 which is an Integrated Pesticide Management  
19 plan and that gets adjusted yearly based on  
20 weather. This year was interesting, the  
21 year before, too much rain and you have to  
22 make adjustments and I make adjustments by  
23 scouting.

24 I'm in the field all the time  
25 looking at the plants and interestingly

1 enough, this year we had a big change to our  
2 plan because we found monarch butterflies  
3 and we noticed them feeding. Then we  
4 started looking around the property, and it  
5 turns out one of our larger trees had a  
6 colony every night, returned monarchs.

7 This is a stewardship of the  
8 land issue. Monarchs are a little bit rare  
9 and we immediately stopped and made the  
10 decision not to spray anymore insecticides.  
11 It's all noted in my logs. From the moment  
12 we figured out where they were, we didn't  
13 spray again.

14 It was a little bit  
15 uncomfortable for some of the tick issues  
16 that we have but the butterflies won that  
17 one in 2022, and this was all filed with  
18 both the feds and the state. We had nine  
19 sprays spray applications. We used a  
20 combination of nine different products over  
21 three and a half month, a little less period  
22 of time.

23 We used -- let's see, of  
24 those nine, three are micro nutrients.  
25 They're not regulated, but we still buy

1 labeled product. Six are considered organic  
2 products and four sprays and this is the  
3 first time we've been able to do this.  
4 We're solidly organic only. As I said,  
5 that's a material that we have to submit all  
6 the time for doing that.

7 Let me do this first. We  
8 don't use nitrates. We've been accused of  
9 that repeatedly in public sessions that I'm  
10 damaging wells, I have all the labels.

11 I can leave them here. None  
12 of them, there are no nitrates supplied, so  
13 I don't use massive amounts of nitrogen.  
14 Makes wine taste like green pepper. It's  
15 not a really desirable flavor.

16 Interestingly enough, the  
17 soil is terrible. We have limited nitrogen,  
18 and so it's tempting, but we don't do it.  
19 There's no over-the-counter used, have never  
20 bought an over-the-counter product. I have  
21 a label and a receipt for everything.  
22 Everything is labeled for grapes. You guys  
23 are farmers, you know that. Others don't  
24 know that.

25 It has to be labeled or you



1 can't use it. That's the law. By the way,  
2 if you go out and buy a big bag of turf  
3 builder, you get 50 pounds of turf builder,  
4 which most of the lawns in my neighborhood  
5 are large enough to need more than that, 15  
6 pounds of that is straightened nitrate.  
7 That's 15 pounds more than I've ever put on  
8 my field, ever, so, interesting.

9 All right. Can I keep going  
10 a little bit?

11 MR. BELL: Yeah, you can get  
12 into that. Also, tell the board the type of  
13 equipment you use.

14 MR. HALPERN: That's where I  
15 was headed actually. As part of the  
16 adjustments, we're no longer using weed  
17 sprays. I have a Buffalo in-row cultivator,  
18 fancy little piece of equipment cost about  
19 10 grand that rolls through the field and as  
20 it comes up to a vine, it has a sensor, it  
21 moves it out so I don't want to end up  
22 killing Robin's plants, and we're able to  
23 cultivate and we've done that now, I think  
24 two years, two seasons running.

25 We've been cultivating, which

1 works well. We have our second and this  
2 one's a new one, CIMA sprayer, that's a 42  
3 for those who know the product. It is  
4 highly selective. You can pick directions,  
5 sides, nozzles, et cetera, pressure, and it  
6 has a low pressure so inside the tank, it's  
7 at 30 PSI, less than two atmospheres.

8 It is also uses 30 percent  
9 less liquid volume. To me, it's just the  
10 perfect way to do this because it's  
11 stunningly adjustable, and I can pick where  
12 I'm going with it. Not that this is part of  
13 spraying, but every square inch of my field  
14 and my farm is under a surveillance system,  
15 an industrial one, and therefore we are able  
16 to review, watch what we're doing, et  
17 cetera.

18 Robin spots for me, we do  
19 everything via radio and so if something is  
20 going the wrong direction, she stops me  
21 immediately for what we're doing. Those are  
22 the additions.

23 MR. BELL: I think the board  
24 is familiar with this, but you actually, you  
25 live on a house on the farm?

1 MR. HALPERN: Yeah, this is  
2 our house, and my grandkids come there. I'm  
3 not excited about putting something out that  
4 will cause a problem, and I'm certainly not  
5 interested in poisoning the well.

6 MR. BELL: Now, has your farm  
7 been the subject of any complaints and  
8 investigations by the DEP regarding  
9 pesticide use?

10 MR. HALPERN: Yes. We've --  
11 and I think we've submitted it as part of  
12 the package. We've been -- I would say a  
13 dozen or more, probably closer to 20 fairly  
14 serious complaints that have all been  
15 reviewed.

16 We've had onsite inspections  
17 and we've gotten what I believe to be a  
18 clean bill of health in both usage, et  
19 cetera. I think the fact that we follow the  
20 label carefully and that I'm very careful  
21 with how we do stuff is really important.  
22 To date, we seem to be clear, the goal is to  
23 always be clear and if there's a correction  
24 and we need to make it, we make it  
25 immediately.

1 MR. BELL: For the record,  
2 that was our exhibit B was a record of  
3 various anonymous complaints, DEP  
4 investigations, and DEP investigation  
5 results and those were all complaints,  
6 anonymous complaints from people who say  
7 they live in the area, correct?

8 MR. HALPERN: Yes, correct.  
9 Well, the area extends apparently out to 300  
10 plus feet, but yes, in the area.

11 MR. BELL: You said the DEP  
12 came to the site?

13 MR. HALPERN: Yes, they did.

14 MR. BELL: What did they do  
15 while they were there?

16 MR. HALPERN: They made an  
17 inspection of our facility. They looked at  
18 my sprayer, they checked to make sure we  
19 were storing and locking up chemicals  
20 correctly, and that our building was marked  
21 appropriately. I'm sorry, they got copies  
22 of logs and any other information.

23 MR. BELL: Was there any  
24 findings of any practice that you had done  
25 incorrectly?

1 MR. HALPERN: I think just  
2 the only thing I hadn't done in a timely  
3 fashion was notify the fire department, and  
4 we corrected that immediately.

5 MR. BELL: Any issue with any  
6 of the quantities or fertilizers or  
7 chemicals that you use?

8 MR. HALPERN: No. We're  
9 following the label to well, exactly. There  
10 were no label violations.

11 MR. BELL: Talk about any  
12 noise that would be created in the  
13 operation. Would it be any different than  
14 what's going on right now, if this SS AMP  
15 where it be approved?

16 MR. HALPERN: I don't think  
17 so. I think that the machinery we use a  
18 tractor and a sprayer that moves there.  
19 We've been using one of those for, gosh,  
20 now, six, seven years, this SS AMP won't  
21 change it. I mentioned earlier that I think  
22 we can hand bottle most of this.

23 The crushes I need are tiny  
24 compared to larger organizations and I'm  
25 thinking we crush maybe four times a year,

1 and you can buzz through a ton or two of it  
2 fairly quickly, and we'll close the doors.  
3 I do have a pesticide concern. I just want  
4 to raise it, if you don't mind.

5 MR. BELL: Sure.

6 MR. HALPERN: I worry about a  
7 few things with pesticide. I worry about  
8 what's being sprayed around me. We had a  
9 huge Roundup burn. We don't use Roundup,  
10 but very clearly must have been a landscaper  
11 trying to fix a problem, burned a big chunk  
12 of my field. That worries me.

13 Lawn fertilizers worry me,  
14 and not so much fertilizers because I'm so  
15 deplete of nitrogen, but I do worry about  
16 weed killers. The stuff that I don't use  
17 and would never use around grapes. Other  
18 people do, some of them spray in. We try to  
19 be careful and notice if we're having a  
20 problem.

21 Also, it's unregulated the  
22 material that's being applied around us, and  
23 you don't need a license for it. Also, I  
24 have a bit of a concern, and this is just a  
25 caution that the state sprays, the county

1           sprays pretty extensively. They spray the  
2           end of my field when they use a helicopter,  
3           I don't get a vote in that, and I'm  
4           comfortable that they know what they're  
5           doing for things like mosquitoes, but I'm  
6           telling you, this is just an opinion.

7                         I apologize for doing it  
8           here. Spotted lanternfly is coming. We had  
9           a huge infestation that we'd never seen  
10          before at the other farm. In order to cure  
11          that, the state and the county have already,  
12          and the local authorities have already said  
13          they're going to use chemicals to do that so  
14          that's coming.

15                        MR. BELL: Anything else  
16          about this application you think is  
17          important for the board to know?

18                        MR. HALPERN: Well, in  
19          general, our plan is not to disrupt. We're  
20          careful with how we do it. We're careful on  
21          timing. We log everything. I think we get  
22          accused of following the rules all the --  
23          the time. Not a bad thing.

24                        I think this is about as  
25          minimal impact as we can do and we've

1 actually moved this farm away from the  
2 borders when it was a tree farm. I got tons  
3 of pictures. It grew right up to the  
4 neighbor's property line. By the way, tree  
5 farms use chemicals, too.

6 MR. BELL: Anybody, members  
7 of board. Any questions for Mr. Halpern?

8 MR. NATALI: This is going to  
9 be a manual bottling line. I take 600 cases  
10 is incredibly small, so you plan to use a  
11 manual bottling line?

12 MR. HALPERN: I think to  
13 begin with. We will and I'm hopeful that by  
14 the time, if we ever need to do larger, I'm  
15 beginning to see third-party bottlers that  
16 will, you either go to them or they come on  
17 site. I think there's lots of ways to  
18 expand without spending a hundred thousand  
19 for a bottling line.

20 MR. BELL: Any other  
21 questions?

22 MR. HALPERN: Thank you.

23 MR. BELL: Members of the  
24 board, again, just to summarize the scope of  
25 our application here, I think we've



1 addressed a lot of the concerns that were  
2 raised in terms of eliminating the tasting  
3 room, eliminating the request for approval  
4 for on-farm direct marketing activities,  
5 eliminating the request for special occasion  
6 events, eliminating the request for members  
7 of the public to be able to come on the farm  
8 and park and engagement activities.

9 This is a strictly, at this  
10 point, agricultural operation where we're  
11 going to only add taking the grapes we're  
12 already growing and making those grapes into  
13 wine onsite instead of selling them to  
14 another winery to make into their own wine.  
15 This is a fully preserved farm, or that  
16 you've already determined to be a commercial  
17 farm that has been farmed for 50 or 60 years  
18 now.

19 What my clients are here to  
20 seek is the protection of an SSA AMP so that  
21 they can continue to farm this land as it  
22 was intended at the time that it was  
23 preserved by Cape May County with, and this  
24 is the last point I wanted to add and this  
25 is an exhibit that we included with our most

1 recent submission.

2 With the approval and  
3 encouragement of Upper Township, Exhibit W  
4 with our submission is the Cape May or is  
5 the Upper Township resolution supporting and  
6 finding that it was in the best interest of  
7 the township to approve the application of  
8 purchase of the development easement for  
9 five point -- what they called 5.22 acres on  
10 this property to ensure that it would  
11 continue in agricultural use.

12 That's what this plan will  
13 allow my clients to do, while still what we  
14 believe addressing all of the concerns that  
15 were previously raised about impacts on the  
16 neighborhood. We believe the SS AMP is  
17 important so that they have that protection  
18 so they can continue to do what they're  
19 doing and we'd ask you respectfully. too.

20 MR HALPERN: Sorry, I'm just  
21 following your list. Let's talk about the  
22 threats, please. The SS AMP, you want me  
23 to?

24 MR. BELL: Yeah, go ahead.  
25 Mr. Halpern will tell you, I think briefly

1 about some of the issues that have occurred  
2 and why we feel the grant of an SS AMP is  
3 important for his protection of the farm.

4 MR HALPERN: Thank you, and I  
5 think I'm probably the better one to do this  
6 unless you want to bring Robin up. We have  
7 experienced a level of harassment that goes  
8 beyond the DEP. I have a half a dozen state  
9 police reports.

10 We've read in the newspaper  
11 that the neighbor's intent is for, well, the  
12 individual was quoted, was to have us move  
13 out of the neighborhood. I've received  
14 death threats that we've documented. I've  
15 gotten phone calls and texts.

16 Not so long ago, my wife was  
17 harassed in the neighborhood by someone who  
18 asked her to not walk there and suggested  
19 that since she was a criminal, perhaps she  
20 should leave the neighborhood.

21 This has been really tough  
22 and right now the only protection I have is  
23 I go back to the state police each time.  
24 That's getting to be tiring. I'd like very  
25 much to have an avenue through an approved

1 SS AMP.

2 Thank you. Sorry.

3 MR. BELL: That's okay. Then  
4 the last point I wanted to make is, and I  
5 think you'll hear about this, and we talked  
6 about it last time under the Van Hollander  
7 decision, which is in a legal case that  
8 says, you're not bound by the municipal  
9 regulations if you approve an SS AMP, but  
10 it's something that you should consider.

11 That's why if Mr. Orlando's  
12 testimony told you that we wouldn't need a  
13 bulk variance, that we have a greater buffer  
14 than is required by the municipal zoning  
15 ordinance that the street we're using for  
16 access is not a street that restricts  
17 commercial traffic.

18 We've done our absolute best  
19 here to comply with and address each of  
20 those concerns which are something you can  
21 consider, but you're not bound by, and I  
22 think the approval of this application would  
23 be in the spirit of both those regulations  
24 and the purposes of the SS AMP to preserve  
25 the agricultural use. Thank you.

1 MR. BATISTINI: Any other  
2 questions from the board? Nope. All right.  
3 At this time, we're going to open it up to  
4 the public. I know we have some attorneys  
5 here first and I'm going to take them into  
6 the attorneys in this order if it's okay.

7 Mr. Corrado, who I understand  
8 represents the Township of Upper, and then  
9 Mr. King who represent several of the  
10 neighbors.

11 Thereafter, each of you who  
12 are not represented by counsel, you're more  
13 than welcome to come up and also make your  
14 own public comments. I ask that during  
15 public comment, we keep this civil, we try  
16 not to point fingers and call people's  
17 names.

18 Just put on the record what  
19 your concerns are so that the board here who  
20 has lots of experience in all different  
21 agricultural aspects, but they'll listen to  
22 you and they will chime in accordingly if  
23 they so desire.

24 At this time, Mr. Corrado, if  
25 you'd like to come up if that's okay with

1           you.

2                           MR. CORRADO: Thank you, Mr.  
3           Batistini, members of the board. My name is  
4           Frank Corrado. I represent Upper Township  
5           in this matter. Let me make a few brief  
6           opening remarks, and then I'm going to ask  
7           Tiffany Morrissey, who is the Upper Township  
8           planner to testify about this application.

9                           Let me start with what the  
10          township agrees with Mr. Halpern about.  
11          First of all, we agree that this is a proper  
12          right-to-farm application and that it is  
13          properly before this board and not the Upper  
14          Township land use board.

15                          We also agree that the  
16          proposed activity, which is you've heard  
17          from Mr. Bell and Mr. Orlando, and Mr.  
18          Halpern is limited now to growing grapes and  
19          manufacturing wine is a generally acceptable  
20          agricultural process under the right to farm  
21          act that is suitable for an SS AMP  
22          application.

23                          We agree with Mr. Bell and  
24          Mr. Orlando that despite the fact that this  
25          is not a matter for the local land use

1 board, this board should take into account  
2 local land use standards when it evaluates  
3 whether to approve this SS AMP application  
4 We disagree to some extent if there were no  
5 Right to Farm Act and this had to come  
6 before the Upper Township Land Use Board.

7 We believe that some  
8 variances would be required. For example,  
9 if you look at Mr. Orlando's chart here, it  
10 says, for example, that minimum lot frontage  
11 in the center residential zone is 140 feet,  
12 and existing is 30.65 feet, which is much  
13 less than 140 feet and therefore, they would  
14 need a variance.

15 Similarly, they would need a  
16 lot width and a lot depth variance.

17 Additionally, Mr. Orlando  
18 has, I think, properly in this case, but  
19 yeah, it's a judgment call, he's applied the  
20 zoning chart for the zoning information for  
21 the Center Residential District. If this  
22 were in an agricultural district, there'd be  
23 other variances, for example, a 40-foot  
24 setback would be a necessary set of a  
25 10-foot setback for the buffers.

1                   In general, the point of  
2                   pointing out that variances might be  
3                   necessary when you have to go for a variance  
4                   before a local land use board, and some of  
5                   you probably know, you must demonstrate that  
6                   there is no substantial detrimental effect  
7                   on the surrounding community, the  
8                   surrounding neighborhood.

9                   We think Upper Township  
10                  thinks that's the key to this whole  
11                  application. This application should be  
12                  approved in a way that protects the  
13                  surrounding residential neighborhood.

14                  I'm going to ask Ms. Coviello  
15                  to come up and testify, Ms. Morrissey,  
16                  excuse me, to come up and testify about some  
17                  things that Upper Township thinks can be  
18                  made conditions of this application that  
19                  would protect the surrounding neighborhood.

20                  So, Tiffany, do you want to  
21                  come up? You want to swear her in, Mr.  
22                  Batistini?

23                  MR. BATISTINI: Yes. Ms.  
24                  Morrissey, is it?

25                  MS. MORRISSEY: Yes, it's



1 Morrissey.

2 (Ms. Morrissey sworn)

3 MR. BATISTINI: Can you tell  
4 us your name, your address, the position  
5 that you hold with whatever company and have  
6 you appeared before this board before?

7 MS. MORRISSEY: Not this  
8 board, no.

9 MR. BATISTINI: Mr. Corrado,  
10 if you have a chance just --

11 MR. CORRADO: I will, I'll  
12 qualify her.

13 MR. BATISTINI: Thank you.

14 MS. MORRISSEY: My name is  
15 Tiffany Morrissey, and that's spelled M-o-r-  
16 r-i-s-s-e-y. I have my own consulting firm,  
17 which is Tiffany A. Coviello, PPLLC. I got  
18 remarried, never fixed it. I am the owner  
19 and sole practitioner.

20 I am a licensed professional  
21 planner in the city of New Jersey, as well  
22 as a member of the American Institute of  
23 Certified Planners with a Master's of City  
24 Planning from the University of Pennsylvania  
25 and my address is Seven Equestrian Drive in

1 Galloway, New Jersey.

2 MR. CORRADO: Do you serve in  
3 professional capacities for other boards,  
4 land use board, or other boards throughout  
5 South Jersey, Ms. Morrissey?

6 MS. MORRISSEY: Yes, I am the  
7 consultant for Upper Township as their  
8 planning consultant, as well as other  
9 municipalities including Buena Vista  
10 Township, Morris River Township, the  
11 Borough, Woodbury Heights, Upper Freehold  
12 Township, Mullica Township, and several  
13 others throughout New Jersey.

14 MR. CORRADO: How long have  
15 you been doing that?

16 MS. MORRISSEY: For over 20  
17 15 years.

18 MR. CORRADO: In your  
19 professional capacity, have you appeared in  
20 front of land use boards where you aren't  
21 serving as their consultant to support land  
22 use applications and testify as to the  
23 planning and zoning aspects of those  
24 applications?

25 MS. MORRISSEY: Yes, I have

1 on many, many occasions throughout many  
2 municipalities, both south-central and  
3 Northern New Jersey.

4 MR. CORRADO: I would ask  
5 that the board accept Ms. Morrissey as an  
6 expert in land use planning and zoning.

7 MR. BATISTINI: Does the  
8 board accept Ms. Morrissey?

9 BOARD: Yes.

10 MR. BATISTINI: Thank you,  
11 Mr. Corrade.

12 MR. CORRADO: Ms. Morrissey,  
13 do you agree with Mr. Orlando that no  
14 variances are required on this application?

15 MS. MORRISSEY: No.

16 MR. CORRADO: Let me rephrase  
17 that question. If there were no Right to  
18 Farm Act and this application had to go  
19 before the Upper Township land use board, do  
20 you agree with Mr. Orlando's analysis that  
21 no variances would be needed?

22 MS. MORRISSEY: No, I do not.

23 MR. CORRADO: Would you  
24 explain to the board why, please?

25 MS. MORRISSEY: Yes. So this

1 property is in the Township's R rural  
2 residential zone. The zoning district was  
3 amended in 2006, 2007 and at that time,  
4 agricultural use was not any longer a  
5 permitted use in this zoning district. The  
6 proposed agricultural use became  
7 non-conforming and any change to that  
8 agricultural use would be a use variance for  
9 a non-conforming use.

10 MR. CORRADO: With respect to  
11 area and bulk variances, do you think that  
12 there would be certain variances necessary

13 MS. MORRISSEY: Based on the  
14 plan as submitted, the lot itself does not  
15 meet the requirements of the R zone in terms  
16 of the setback, let me make sure I get it  
17 right, the lot frontage, which 140 feet is  
18 required and they have 30 feet, the lot  
19 width, 140 feet is required, and they have  
20 30.65 feet and lot depth is 175 feet, where  
21 there's 136 feet noted on the plans. They  
22 would not meet those requirements as to the  
23 bulk requirements of lot size and dimensions  
24 in the R zone.

25 MR. CORRADO: If this were in

1 if the agricultural standards, as opposed to  
2 the residential standards, were applied to  
3 this application because it is an  
4 agricultural use if you testified, would  
5 additional variances be necessary?

6 MS. MORRISSEY: Yes, in terms  
7 of the ag zone. When you have an  
8 application that submits for a use variance  
9 for a use that's not permitted, the  
10 underlying zoning doesn't necessarily apply.  
11 You want to look at the site and make sure  
12 it functions and is appropriate and  
13 sometimes it's appropriate to look at other  
14 zones where that use is permitted.

15 In Upper Township, there is  
16 an agricultural zone where agricultural uses  
17 are permitted. Additional variances that  
18 would be noted would be they require a front  
19 yard setback of 80 feet, a side and rear yard  
20 setback of 50 feet, or excuse me, a side  
21 yard setback of 50 feet and a rear yard  
22 setback of a hundred feet.

23 Additionally, the  
24 agricultural zone requires a buffer of 40  
25 feet. This property wouldn't meet those

1 standards and in evaluating an application  
2 for use variance, if this were before the  
3 zoning board, in terms of the negative  
4 criteria, some of the things that would be  
5 looked at is what would be required  
6 elsewhere.

7 In terms of the 10-foot  
8 buffer elsewhere, we would require a 40-foot  
9 buffer for an agricultural use and that's  
10 somewhat consistent with your SS AMP  
11 standards in that you want to look at what  
12 the impacts are in the surrounding area.

13 One of the other factors that  
14 would be evaluated is in the R zone, the  
15 residential lot size requirement is 40,000  
16 square feet. The residential uses  
17 surrounding this property are undersized at  
18 10,000 square feet so where you have larger  
19 lots, you have greater setbacks between  
20 structures and the other properties here,  
21 these lots are smaller, so you have more  
22 density in a tighter area.

23 For that reason, buffering  
24 becomes important, but the buffering also  
25 has to allow for reasonable use of the

1 property as well.

2 MR. CORRADO: To summarize  
3 all this, for any variance in New Jersey the  
4 applicant must show that there is no  
5 significant detrimental effect on the  
6 surrounding neighborhood or the surrounding  
7 area. Is that correct?

8 MS. MORRISSEY: Correct.

9 MR. CORRADO: All of the  
10 points that you're making here go to the  
11 issue of whether there is an impact, a  
12 substantial detrimental impact on the  
13 surrounding area, correct?

14 MS. MORRISSEY: Correct.

15 MR. CORRADO: What we are  
16 asking the board here to do today is  
17 consider the impact on the surrounding area  
18 when it evaluates the SS AMP, correct?

19 MS. MORRISSEY: Correct.

20 MR. CORRADO: All right.  
21 Now, you've reviewed the plans that have  
22 been submitted by Mr. Halpern, correct?

23 MS. MORRISSEY: Yes, I have.

24 MR. CORRADO: You have  
25 listened to the testimony here today,

1 correct?

2 MS. MORRISSEY: Yes, I have.

3 MR. CORRADO: Now, do you  
4 have, in your professional opinion, do you  
5 have any suggestions or if this board were  
6 to approve an SS AMP, what conditions do you  
7 think would be appropriate to attach to that  
8 approval to ensure that the surrounding  
9 neighborhood is protected?

10 MS. MORRISSEY: There are two  
11 items that come to mind. The plan does  
12 provide for outdoor storage, and that  
13 outdoor storage has a limitation shown on it  
14 and we'll go back to that sheet. Sorry.

15 MR. ORLANDO: I know booby  
16 traps (inaudible 00:59:02).

17 MS. MORRISSEY: You did.  
18 Good job. Try that again. The outdoor  
19 stairs is shown on the northeastern side of  
20 the pole barn, and there is the limit of  
21 areas. There's also a six-foot fence  
22 proposed along that property line.

23 Now, this goes towards the  
24 residential on Bayaire. The condition that  
25 I think would be appropriate is to ensure



1 that that is the limit of outdoor storage,  
2 that that outdoor storage area does not  
3 expand.

4 If there is a need in the  
5 future for additional outdoor storage, that  
6 outdoor storage should be more central to  
7 the site so it doesn't fit closer to any  
8 residential properties to ensure that  
9 there's protection of those residential  
10 properties, if in the future they need more  
11 outdoor storage for any other equipment.

12 MR. CORRADO: Anything else?

13 MS. MORRISSEY: The other  
14 condition that we think is appropriate, they  
15 do provide a six-foot fence, you can see  
16 along the northern property line and it was  
17 described by the engineer to go along Route  
18 42, 43, 44, and 45.

19 We believe that it would be  
20 appropriate to extend the fence to the end  
21 of the property and then again, on the  
22 southern property line so that all  
23 residential properties are protected.

24 We recognize that there might  
25 be some existing vegetation on the southern

1 property lines; that existing vegetation  
2 isn't necessarily on the farm property. We  
3 think it's appropriate to have that fencing  
4 all the way around, not necessarily along  
5 the rear property line, because I believe  
6 that doesn't impact anyone at all. Then if  
7 a property owner doesn't want the fence,  
8 because they like to look at the vineyards,  
9 then they can say they don't want the fence  
10 and that can be noted on the plan that the  
11 fence is required for those lots that would  
12 like that fencing.

13 MR. CORRADO: There was some  
14 discussion during the direct testimony of  
15 the applicant about dimensioning the site  
16 plan and to make sure that it conforms that  
17 the distances shown here are made manifest,  
18 if you want to comment on that, please.

19 MS. MORRISSEY: Yes, and so  
20 the other aspect is that we think the plan  
21 should have the clear dimensions of the  
22 location of the fields as they are currently  
23 and you heard that in the testimony of Mr.  
24 Orlando, the plans might show 30 feet, but  
25 they're a little bit closer on the northern

1 property line.

2 We just want to make sure  
3 that what's there and what's staying is  
4 clearly depicted on the plan so that if  
5 years down the line there's a question,  
6 there's no issue as to where the fields are  
7 currently.

8 MR. CORRADO: You've reviewed  
9 the landscaping plan here?

10 MS. MORRISSEY: Yes, I have.

11 MR. CORRADO: Are you  
12 satisfied with that in terms of its impact  
13 or its mitigating effect upon the  
14 surrounding neighborhood?

15 MS. MORRISSEY: The  
16 landscaping that's proposed is much less  
17 than would be required under the Upper  
18 Township ordinance, but we believe, given  
19 the size of this property and the need to  
20 ensure that the vineyards are actually  
21 appropriate and function, that what's  
22 provided for the landscaping in the area  
23 they provided is sufficient on this site.

24 MR. CORRADO: Provided that  
25 the conditions that you've talked about are

1 made conditions of this approval, are you  
2 okay with the proposed buffers that this  
3 application proposes?

4 MS. MORRISSEY: Yes, we  
5 recognize that while the R zone is 10 feet  
6 and the agricultural zone requires 40 feet  
7 that compromise of the 30 feet, I believe  
8 they said on the southern property line and  
9 that 23 to 26 feet on the northern property  
10 line is appropriate given the shape and size  
11 of this lot to allow functionality.

12 There is a smaller area up  
13 here by Lots 30, 28, 35, and 36, that'll be  
14 less than, I think it's around 15 feet, but  
15 that those buffers are appropriate given the  
16 existing conditions of the property and the  
17 size and shape of the property.

18 MR. CORRADO: Finally, you  
19 heard the testimony of Mr. Orlando and Mr.  
20 Halpern about the traffic and noise that  
21 would accompany this SS AMP if approved,  
22 assuming that that testimony is accurate and  
23 correct. Do you agree or do you believe  
24 that that would not pose a problem for the  
25 surrounding neighborhood?

1 MS. MORRISSEY: In my  
2 professional opinion, the traffic that they  
3 have described with his pickup truck, his  
4 SUV, the trailer attached is not much  
5 different than you would normally see in a  
6 residential neighborhood.

7 Whether you have landscapers  
8 coming to your property, FedEx, or UPS  
9 deliveries, we all get numerous Amazon  
10 deliveries in box trucks. At that scale and  
11 that frequency, I don't think it creates a  
12 substantial impact.

13 MR. CORRADO: Thank you, Ms.  
14 Morrissey. Any questions from the board  
15 about Ms. Morrissey's statement? Mr.  
16 Natali, I'm sorry.

17 MR. NATALI: I don't know if  
18 you're familiar with the master plan in  
19 Upper Township, but I did notice that --

20 MR. CORRADO: She wrote the  
21 Upper Township --

22 MR. NATALI: Oh, okay.

23 MS. MORRISSEY: In part. It  
24 depends on which version.

25 MR. NATALI: I noticed that

1 when New Jersey passed the Right to Farm  
2 laws, there was one in '83, and then another  
3 one in '98, the large municipalities of Cape  
4 May, so Lower Township, Middle Township,  
5 Dennis Township, they all passed right to  
6 Farm Act that strengthened the State Act,  
7 but Upper Township never did that.

8 Is there some reason for  
9 that?

10 MS. MORRISSEY: That I can't  
11 answer. That's a governing body question as  
12 to why they did or didn't pass that. The  
13 recent master plan reports that I've worked  
14 on, didn't address that. 2006, 2007, they  
15 did remove agricultural from this area, but  
16 they still have an agricultural zone and  
17 they're also subject to pinelands in part,  
18 which would also have some of their own  
19 agricultural protections.

20 MR. CORRADO: Of course, as  
21 I'm sure you know, the Right to Farm Act has  
22 been held by the State Supreme Court to  
23 preempt local zoning in form.

24 MR. NATALI: Some of them  
25 went a little bit --

1 MS. MORRISSEY: Took that  
2 extra step further.

3 MR. NATALI: Yeah.

4 MR. CORRADO: Any other board  
5 members have any questions?

6 MR. BATISTINI: I just have  
7 some clarifications, if that's okay.

8 MR. CORRADO: Yeah, go ahead.

9 MR. BATISTINI: In regard to  
10 the outside storage, what are you looking  
11 for the applicant to do? It just proposed  
12 2.5, well, 12.5 feet by 50 feet, what is it  
13 that you're looking for the applicant to do?  
14 Just agree that that's as big as it's going  
15 to be to outline it?

16 MS. MORRISSEY: There's two  
17 sheets here, and the first sheet is sheet  
18 304, and that's the entire site and it has  
19 this dotted line that says basically it's  
20 the limit of -- of disturbance area from  
21 where the outdoor storage would be proposed.  
22 Then on the second sheet, sheet 404, it  
23 doesn't have that same dimension.

24 We just want to make sure  
25 that it's clearly labeled the size of that

1 after storage area so that if it does grow,  
2 it doesn't get closer to the residential,  
3 but if they need more equipment for some  
4 other items in the future, that it really  
5 focus internal to the site.

6 This plans sheet 404 as to  
7 show those lines that you see on 304, and  
8 they're not to mention, so we just wanted to  
9 mention that on the (inaudible 01:06:25)  
10 carries.

11 MR. BATISTINI: Mr. Bell, do  
12 you have any issue with that request?

13 MR. ORLANDO: No, I think  
14 we'll clearly never on the plan, but just so  
15 the record is clear, our proposal is to  
16 provide  
17 outside storage to the north of the metal  
18 building in that area, immediate area.

19 MS. MORRISSEY: Yeah, but  
20 there's a step back to the property line  
21 with that dotted line, and we want that to  
22 just be noted.

23 MR. ORLANDO: That limited  
24 disturbance is what that for the septic.  
25 That area is currently used for storage to



1 the property line, but we're not making any  
2 changes there.

3 MR. BATISTINI: The storage  
4 area that you're proposing, Vince, Mr.  
5 Orlando, how far is that going to be from  
6 the property line to the north?

7 MR. ORLANDO: It'll be the  
8 fence line. The fence line is approximately  
9 a foot and a half onto our property so  
10 storage is probably to, the property line is  
11 27.6 feet, so that'll be about 26 feet by  
12 the length of the building, which is 65  
13 (inaudible 01:07:49) 73.

14 MR. BATISTINI: The proposed  
15 set, and maybe I'm just reading it wrong, it  
16 says 12 and a half feet by 50. Is that  
17 still what you're looking for?

18 MS. MORRISSEY: That was the  
19 prior iteration of the plan that has  
20 something like that listed on.

21 MR. BELL: That was a prior.

22 MS. MORRISSEY: Because you  
23 were fencing that in and now you put the  
24 fence on the property line.

25 MR. BATISTINI: I'm just

1 looking at sheet 204. This is existing  
2 conditions. Is Upper Township requesting  
3 that there'd be a buffer at all between the  
4 proposed outside storage and the property  
5 line?

6 MS. MORRISSEY: We were just  
7 requesting that they not get any closer to  
8 the residential property line, then --

9 MR. CORRADO: Mention this  
10 and that it is not moved.

11 MS. MORRISSEY: You're right,  
12 it does say 12 feet by 50 on existing  
13 conditions.

14 MR. ORLANDO: Before that,  
15 that's what existed.

16 MS. MORRISSEY: I guess maybe  
17 just to clarify, so you are actually right  
18 off the property line now.

19 MR. ORLANDO: Off the  
20 property line, yeah.

21 MS. MORRISSEY: Can I ask,  
22 what's stored in that area? What outdoor  
23 storage?

24 MR. ORLANDO: Yeah, mostly  
25 equipment, bins, stuff.

1 MS. MORRISSEY: Nothing that  
2 would be taller than a six-foot fence?

3 MR. HALPERN: No.

4 MS. MORRISSEY: Then the  
5 fence can act as an adequate buffer and as  
6 it's not something that's going to impact  
7 the residential.

8 MR. CORRADO: That fence is  
9 made of wood, but it's a solid material,  
10 correct, Mr. Orlando?

11 MR. BELL: It's a solid  
12 fence, right?

13 MS. MORRISSEY: I'm right  
14 about there.

15 MR. ORLANDO: We'll depict it  
16 on the plan and we'll indicate on the plan  
17 that there will be no material stored there  
18 greater than, than six feet.

19 MS. MORRISSEY: Perfect.

20 MR. CORRADO: Good, and the  
21 fence is a solid fence, correct?

22 MR. ORLANDO: It's a solid  
23 fence.

24 MR. SCHUMAN: Are you getting  
25 ahead of yourself? We'd have to say that's

1 -- if we could hypothetically pass it  
2 without any of that. Am I correct?

3 MR. CORRADO: We're asking  
4 for those conditions.

5 MR. SCHUMAN: You are asking  
6 for it?

7 MR. CORRADO: The Township of  
8 Upper.

9 MR. SCHUMAN: I know what  
10 you're asking for. Always asking for the  
11 world. But what I'm saying is we don't have  
12 to go that route.

13 MR. BATISTINI: Here's what  
14 I'm trying to accomplish by asking these  
15 questions. If the applicant is okay with  
16 what is being requested by Upper Township, I  
17 think that might be a better route for this  
18 board.

19 Instead of just saying, let  
20 there be some divisiveness between the  
21 parties. It may be as I go down and ask the  
22 next question that the applicant says, no,  
23 I'm not doing that. I'm just trying to weed  
24 through what we can all agree upon.

25 MR. SCHUMAN: Yeah, well, I'm

1 just trying to figure out, because I think  
2 he's gave up more than enough as it is.

3 MR. BATISTINI: Let's also be  
4 clear that there are other people,  
5 potentially may have the same comments and  
6 if we can remove those comments to reduce  
7 the possibility of more appealable items, we  
8 should probably try to do that. That's what  
9 I'm doing.

10 This is what will typically  
11 happen in any type of land use or other type  
12 of hearing. You try to let the neighbors  
13 work it out and to the extent they can,  
14 great and if they can't, then that'll be  
15 your decision. If they're going to work it  
16 out, let them work it out.

17 MATT: We're just asking them  
18 to dimension something that you could scale  
19 anyway?

20 MR. BATISTINI: That's all  
21 we're asking, for the fence. We're going to  
22 get to the buffers in a second and just see  
23 if the applicant is willing to do it. If  
24 the applicant is willing to do it, great,  
25 then that's not something you have to

1 discuss or do.

2 If the applicant says I'm not  
3 doing it, then it comes back to you and then  
4 you guys ultimately decide what you want to  
5 do or just whittling away some of the rift  
6 between the neighbors and the municipality.

7 MS. MORRISSEY: The role here  
8 is because we want to make sure that the  
9 plan specific, one of the main points of  
10 some of the comments is to make sure the  
11 plan is very clear so that if you do approve  
12 it and everything is resolved here today in  
13 a couple of years or a couple months,  
14 someone has a question, we have something to  
15 look at that gives clear answer so they  
16 don't have to come back for interpretation.

17 That's the bulk of our  
18 comments from the township. In addition to  
19 making sure that the homeowners that live  
20 here on these smaller lots have some level  
21 of protection and that's why we also added  
22 that if they don't want a fence, we like to  
23 see it fenced, but if they don't want it,  
24 make sure before we finalize the plans that  
25 it says.

1 Lot 47 didn't want a fence,  
2 so there's no fence here so we don't come  
3 back and someone buys Lot 47 and says there  
4 should be a fence there. We just want to  
5 give the residents the opportunity to have  
6 that protection.

7 MR. CORRADO: We understand  
8 that to summarize the Township's position,  
9 we certainly believe this new proposal is an  
10 improvement over the previous proposal, but  
11 we also want to make sure that to the  
12 extent, it is a farm, it's been a farm as  
13 Mr. Bell said for 70 years but it's located  
14 in the middle of a residential district.

15 The township wants to make  
16 sure to the extent possible, that the effect  
17 of this new proposal on the surrounding  
18 neighborhood is minimal. That's where the  
19 township is coming from.

20 MR. BELL: On that one, we  
21 can't agree that with dimension is the  
22 storage area and not store anything higher  
23 than six feet in that dimension.

24 MR. BATISTINI: There's  
25 another dimensional where they're just

1 acting you to identify on the plans the  
2 dimensions of the existing buffers. I'm  
3 assuming that's not a problem.

4 MR. BELL: That's not a  
5 problem.

6 MR. BATISTINI: That leaves  
7 the last request and that is fencing. I  
8 don't think I heard fencing plus ornamental.  
9 I heard just fencing with respect to the  
10 north and the south. Any comment by the  
11 applicant, what they're willing or not  
12 willing to do?

13 MR. BELL: That's something  
14 we can agree to, we're going to ask for  
15 approval of the buffers on our plan with the  
16 fence and ornamental trees that we depicted.

17 MR. ORLANDO: To understand  
18 our position, the first three lots where  
19 we're putting fence, we agree. The next lot  
20 has a fence, and the fifth lot has a berm  
21 with elevated vineyards, so they're  
22 protected. On the south side, it's wooded.

23 Personally, I don't think we  
24 should come in and take woods down to put up  
25 a fence. There's woods on our property.



1 It's been buffered like that for forever and  
2 I think by Mr. Halpern and putting in the  
3 three properties, 500-foot fence, 40-foot  
4 fence would be adequate.

5 MR. BATISTINI: Are those  
6 fences going to be solid? What's the make?

7 MR. ORLANDO: Solid wood  
8 fence.

9 MR. BATISTINI: Thank you.

10 MR. CORRADO: That concludes  
11 your application --

12 MR. BATISTINI: That answers  
13 my questions in terms of --

14 MR. CORRADO: Well, you all  
15 have heard the township's request and as  
16 you've said, you get the big bucks. That's  
17 why you get the big bucks. You have to make  
18 the call. Thank you very much.

19 MR. BATISTINI: At this time  
20 I'd like to ask Mr. King to come up if  
21 that's okay with you.

22 MR. KING: Good morning,  
23 everyone. My name is Richard King with the  
24 law firm of King Barnes. I represent  
25 several of the neighbors who still have some

1 concerns.

2 I do agree certainly that  
3 this application is very different than the  
4 last one and it is an improvement. There's  
5 no doubt about that.

6 There still remains some  
7 concerns and some requests that we have and  
8 in some ways, we do differ with the  
9 township.

10 Although we're grateful for  
11 the things the town has done, this is  
12 supposed to go before a planning or zoning  
13 board of the municipality. It's not because  
14 of the Farm Act so that no one individual  
15 can really speak for that board. That while  
16 we respect Morrissey and Mr. Corrado and  
17 thank them, there's some areas where we  
18 disagree.

19 First, I'd like to address  
20 the issue that you have all seemingly  
21 decided which is the fact that this is a  
22 commercial farm and although we understand  
23 that there was a decision in May of 2022  
24 that this is a commercial farm, I would like  
25 to revisit a fact that has come up after

1 that hearing that relates to that issue if I  
2 could because we do want a complete record  
3 on this when the time comes.

4 MR. BATISTINI: Put your  
5 objection --

6 MR. BELL: The commercial  
7 farm and the eighth grade is old and decided  
8 we went up on appeal. It came back down.  
9 We had another vote. I respectfully  
10 submitted that that issue is, has been  
11 decided again, just for the SS AMP. We have  
12 a right to appeal after this is done. I  
13 asked the board certainly for the sake  
14 of time to -- let's stick to what the issue  
15 before the board is today.

16 MR. KING: I note the  
17 objection and -- but there is things that  
18 have happened since the last determination.  
19 There was no resolution passed. It is part  
20 of the same application. The appeal didn't  
21 deny it. The appeal said we're not going to  
22 deal with it until there's a resolution.

23 Although I don't expect to  
24 revisit all of those issues since the last  
25 hearing, there has been a specific

1 determination by the County Tax Board that  
2 this does not meet the eligibility  
3 requirements for farm assessment.

4 That decision was mailed to  
5 the applicant on June 20th, 2022 after our  
6 last meeting. Also long after the March  
7 determination that was made by the board.  
8 This is probably the third time they've been  
9 denied their tax eligibility.

10 I want to present to the  
11 board so we have a complete record, the  
12 definition of commercial farm that says that  
13 they have to satisfy the eligibility  
14 criteria for differential property taxation  
15 pursuant to the farmland assessment and the  
16 judgment that was issued by the county, that  
17 they don't meet that standard. That matter  
18 is presently pending before the Superior  
19 Court.

20 I don't understand the tax  
21 court, I think that is a division of  
22 superior court, but I stand corrected if  
23 it's not. They have not yet made a  
24 determination on their appeal so it would  
25 seem imprudent to move forward as if this

1 were a commercial farm when that matter is  
2 pending in the Superior Court.

3 I'd like to make those two  
4 documents part of the record.

5 MR. BATISTINI: The board is  
6 going to totally make this decision as to  
7 whether or not you want to reopen the issue  
8 of the commercial farm. You've heard Mr.  
9 King say that there is other evidence that  
10 he has provided or wants to provide to this  
11 court, or I should say to this board.

12 This board has on two  
13 occasions already said that they would not  
14 be reopening the commercial farm. This  
15 board has also advised on those two  
16 occasions that the record is preserved and  
17 if Mr. King wants to go ahead and utilize  
18 those documents or any additional documents  
19 he can do so upon the appeal.

20 What I'll ask this board is  
21 this board looking to reopen the commercial  
22 farm aspect, whether or not this property is  
23 defined to be the commercial farm.

24 Now, I will say this on the  
25 record again, that Mr. King has an ability

1 to appeal this decision. He also has the  
2 decision being whether it's a commercial  
3 farm and he also has the ability to appeal  
4 the SS AMPs that are being sought by the  
5 applicants.

6 My suggestion to you would be  
7 one appeal, meaning that let's just continue  
8 to move forward. Mr. King's ability to  
9 appeal is not in any way hampered because we  
10 have not issued a final resolution. When we  
11 do issue a final resolution, Mr. King can  
12 come in and still make those presentations  
13 to the state, what I'll call the state  
14 agricultural board because that's where an  
15 appeal would go first.

16 Polling from the board, is  
17 this something that you want to reopen or  
18 not?

19 BOARD: No.

20 MR. KING: Mr. Batistini,  
21 just out of prudence can I at least make of  
22 record the two documents that I wanted to?  
23 I have it on here, I don't even have it in  
24 the record. I'm not sure when I would be  
25 able to do that.

1 MR. BELL: Well, it turned  
2 the no in from the ACD it's going to get  
3 assigned to administrative law judge's going  
4 to (inaudible 01:22:00). I don't mind  
5 marking it for identification.

6 MR. BATISTINI: That's fine  
7 with me. Mark it for identification.

8 MR. KING: The first document  
9 that I'm marking for identification is a  
10 memorandum of judgment which found that the  
11 farmland eligibility criteria were not met  
12 by the applicant.

13 MR. BELL: What's your date  
14 on that, Mr. King?

15 MR. KING: That is a mailed  
16 June 20th, 2022. The other document is  
17 really not even -- I don't even have to put  
18 in, but it was copies of the definition of  
19 commercial farm that said commercial farm  
20 means satisfying the eligibility criteria  
21 for differential property taxation pursuant  
22 to the Farmland Assessment Act. That's in  
23 ordinance, so that doesn't even need to be  
24 entered as an exhibit. Let's take notice of  
25 that.

1 MR. BATISTINI: We'll mark  
2 that as -- where would you like me to mark  
3 it, Mr. King?

4 MR. KING: A general marking.

5 MR. BATISTINI: We'll do  
6 watch one. What do you want me --

7 MR. KING: O-1.

8 MR. BATISTINI: O-1, that's  
9 fine. All right. We're going to mark O-1 as  
10 the Cape May County Tax Board appeal in  
11 regard to a memorandum of judgment.

12 MR. KING: It's also a copy  
13 of the appeal and the answer to the appeal.  
14 Let's put that -- I'm sorry, Mr. Bell, you  
15 should get a copy, I'm sorry.

16 MR. BELL: Thank you, Mr.  
17 King.

18 MR. KING: Okay, thank you.

19 MR. BATISTINI: We're going  
20 to move forward to the current --

21 MR. KING: I have two copies  
22 for the attachments, Mr. Corrade.

23 MR. BATISTINI: Mr. King, you  
24 may proceed.

25 MR. KING: Thank you. One of



1 the challenges to dealing with this today is  
2 that two of the most important aspects of  
3 the plan that needed to be considered in our  
4 preparation and analysis is traffic  
5 circulation and the buffers but the  
6 testimony you've heard today is that the  
7 plan doesn't contain the actual measurements  
8 of the buffers.

9 We're hearing that now and  
10 correcting that, putting the measurements in  
11 later, I guess would be appropriate but  
12 that's supposed to be in there so that we  
13 can look at the measurements of the buffers.

14 The plan as it sits now does  
15 not have that information. I think it would  
16 be prudent to have that information before  
17 the board in advance of the meetings so that  
18 we can review it and address it in our  
19 presentation to have them put on after this  
20 approval is sort of an after-the-fact thing,  
21 particularly since they're so critical  
22 because buffers and setbacks are very  
23 different things.

24 I think they're a little  
25 conflated in the applicant's presentation,

1 but buffers and setbacks are very different.  
2 Also, in terms of traffic circulation, there  
3 really isn't a traffic circulation plan and  
4 I would actually, I'd like to ask Mr.  
5 Orlando a couple of questions about that  
6 Bayaire Avenue location because as you  
7 recall when we were here before entering  
8 through Bayaire was a major concern of the  
9 applicants.

10 When we were here before, it  
11 was going to be connected to Route 9 if you  
12 recall.

13 Now they've taken that away  
14 from Route 9 and placed it onto Bayaire,  
15 which will direct all of the traffic to the  
16 residential neighborhood, which is a big  
17 deal.

18 As I sit here now, I cannot  
19 tell from the plan where that traffic is  
20 actually driving off of Bayaire into the  
21 facility. There's no real road indicated.  
22 I'd like to go have Mr. Orlando address that  
23 particular section of his plan so that we  
24 can understand where these vehicles are  
25 actually going.

1                   Again, I reiterate that the  
2                   traffic and roadway circulation, which is a  
3                   prime consideration of any site plan because  
4                   they're not going to the municipal board,  
5                   you are the site plan analysis because it's  
6                   not getting the typical reviewer would get  
7                   before the engineers and members of the  
8                   public and the board attorney that would go  
9                   on in a site plan analysis before the  
10                  township.

11                  As the site plan reviewers,  
12                  you're reviewing a site plan that has no  
13                  buffer numbers in it, and in my opinion  
14                  which is not as a professional planner, but  
15                  just my opinion as an attorney, there really  
16                  isn't a traffic circulation plan here. If  
17                  Mr. Orlando could address that area near  
18                  Bayaire and exactly where the road is.

19                  MR. ORLANDO: I'll address  
20                  both of your comments. Mr. King. First, the  
21                  plan is drawn to scale and the thing, what  
22                  the township asked for and I agreed to, is  
23                  to show the dimensions to the scale drawing  
24                  for the buffer.

25                  It's 22.8, 25.6, and 30 foot,

1 and the dimensions here, so the plan is  
2 drawn to scale. Anybody could scale that  
3 dimension. I think the town wants those  
4 20 dimensions on the plan, which we've  
5 agreed to.

6 The second issue is the  
7 location of the driveway. If you look at  
8 the site plan, you'll see that the driveway  
9 is shown it's right where the indication  
10 where it is today, the driveway is not  
11 changing, it's utilized for the residential  
12 use. There is no changes to the surface.  
13 It's located on the site plan and the  
14 survey, which is the vacated portion of  
15 First Avenue --

16 MR. KING: Mr. Orlando, can I  
17 interrupt you just a little more detail on  
18 that? Where are you saying the driveway is  
19 like on which part of it? I see something  
20 that says edge of pavement that runs down  
21 the middle of the shaded portion that is on  
22 lot eight so the edge of pavement, obviously  
23 that's not the roadway or the driveway.

24 MR. ORLANDO: The driveway is  
25 in that existing location so it's clear the

1 driveway that everybody sees today is the  
2 same driveway. It's not changing, it's  
3 shown on the edge of pavement of our  
4 property. It falls within that shaded area  
5 for the roadway.

6 MR. KING: How wide is it?  
7 How wide is the roadway you're proposing out  
8 of a residential neighborhood into this  
9 commercial facility? It would be typical to  
10 have the width of a roadway into a  
11 commercial facility on the site plan or a  
12 commercial facility in advance of the  
13 hearing.

14 MR. ORLANDO: The roadway is  
15 shown on the survey, it shows on the --

16 MR. KING: What exhibit is  
17 that?

18 MR. ORLANDO: It shows  
19 shifted area, it shows that on our property,  
20 so the roadway's probably about 20 foot wide  
21 going into the facility --

22 MR. KING: Hold on. Oh, wait,  
23 can we just not blow by that, it's 20 foot  
24 wide.

25 MR. ORLANDO: It's about 20

1 foot wide.

2 MR. KING: On which property  
3 is that 20 feet?

4 MR. ORLANDO: It's on our  
5 property. It's within that current  
6 easement.

7 MR. BATISTINI: Could you  
8 tell me what page you're looking at?

9 MR. ORLANDO: Look at page  
10 two.

11 MR. KING: What does it mean  
12 where it says edge of pavement?

13 MR. ORLANDO: That's the edge  
14 of pavement onto our property. The other  
15 edge is roughly on the vacated portion of  
16 First Avenue.

17 MR. KING: The other part of  
18 the vacated portion is actually on Lot 43,  
19 is it not?

20 MR. ORLANDO: Correct.

21 MR. KING: The access way on  
22 off of Bayaire will go through Lot 43 in  
23 part?

24 MR. ORLANDO: It's  
25 totally on our property. The other side of

1 the driveway is the property line.

2 MR. KING: Your testimony is  
3 that where it says edge of pavement, there's  
4 20 feet between the edge of pavement and the  
5 property line?

6 MR. ORLANDO: No, it's  
7 probably more like 16 feet.

8 MR. KING: Your testimony is  
9 that there's 16 feet between the edge of  
10 pavement at its shortest distance between  
11 the edge of the pavement and the property  
12 line, your testimony is that that's 16 feet?

13 MR. ORLANDO: About 16 feet.

14 MR. KING: Where the word is  
15 under monument, you think that's 16 feet  
16 there?

17 MR. ORLANDO: I think it's  
18 about 16.

19 MR. KING: Using your scale,  
20 can you scale that out the line under the  
21 word monument to that point?

22 MR. ORLANDO: I'm looking for  
23 monument, but I don't see the word monument.

24 MR. KING: I'm sorry. It  
25 said monument previously.

1 MR. ORLANDO: I'm scaling it  
2 probably around 12 feet.

3 MR. KING: This commercial  
4 facility, do you think that the commercial  
5 vehicles that use this, what we're calling a  
6 roadway or driveway, your testimony is that  
7 they will not utilize any part of Lot 43 to  
8 access this facility?

9 MR. ORLANDO: Yes, that's  
10 correct.

11 MR. KING: They'll go through  
12 this 12 foot area?

13 MR. ORLANDO: That is  
14 correct.

15 MR. KING: How are you  
16 demarcating that?

17 MR. ORLANDO: I believe that  
18 there's already been coned off.

19 MR. KING: You use cones for  
20 entrances to this commercial facility.

21 MR. ORLANDO: It's already  
22 coned off on the property line.

23 MR. KING: On this site plan,  
24 there's actually no path drawn where  
25 vehicles, where vehicles will actually enter



1 this roadway is there. I've seen a lot of  
2 your site plans. Is this traditionally how  
3 you would designate the entranceway of a  
4 commercial facility?

5 MR. ORLANDO: This is an  
6 existing driveway, Mr. King. It's been  
7 utilized for five years. It's the same  
8 driveway that's been used to harvest to --  
9 for this facility, not changing in any way.

10 MR. KING: Well, that pathway  
11 though that you're talking about, that  
12 existing roadway, I see that on your plan,  
13 it stops right as it hits the shaded area,  
14 evaporates, doesn't it?

15 MR. ORLANDO: It does.

16 MR. KING: That's because it  
17 ultimately crosses into Lot 43, isn't it?

18 MR. ORLANDO: I do not know.

19 MR. KING: You'd agree with  
20 me though, that there's no path for the  
21 actual access way drawn here?

22 MR. ORLANDO: No, I wouldn't  
23 agree with that.

24 MR. KING: Well, where is it?

25 MR. ORLANDO: I would say

1 that the driveway, it shows on the property  
2 in that located area is situated on our  
3 property and we're only used a driveway on  
4 our property.

5 MR. KING: It's your  
6 testimony that your site plan for this  
7 commercial use is going to involve cones,  
8 directing parties to use one side of a road  
9 and not another so that they can enter a  
10 12-foot area into this commercial facility  
11 with commercial agricultural vehicles.

12 MR. ORLANDO: Well, there's  
13 not commercial agricultural vehicles. It's  
14 the pickup truck and a trailer, the record  
15 is cleared.

16 MR. KING: I thought he  
17 testified that on certain parts of the year,  
18 different machineries brought onto the  
19 property.

20 MR. ORLANDO: Through which  
21 pickup truck and his trailer --

22 MR. KING: Only his pickup  
23 truck and trailer?

24 MR. ORLANDO: Yes.

25 MR. KING: Is there a

1 condition that the only vehicles that  
2 they'll use for this use is a commercial  
3 pickup truck and a small trailer?

4 MR. ORLANDO: Let me talk to  
5 the applicant, but that's my understanding  
6 of the testimony.

7 MR. KING: What size will the  
8 FedEx trucks come to be that do his online  
9 sales?

10 MR. ORLANDO: Well, they're  
11 not in the online sales.

12 MR. KING: Actually,  
13 specifically says in there there's going to  
14 be online sales. He's going to have mugs  
15 and t-shirts and non-alcoholic wine for  
16 online sales. It's in the application.  
17 Mr. Halpern, is that in your application?

18 MR. HALPERN: Let me check if  
19 it's okay to talk --

20 MR. BELL: Yeah.

21 MR. HALPERN: Yeah, that's in  
22 our application.

23 MR. KING: That's all. Thank  
24 you. I reiterate for the board, and I'm  
25 sorry for the torturous process, but this is

1 the site plan review and it's very atypical  
2 to have a site plan review for a commercial  
3 facility nestled inside a residential area  
4 that doesn't clearly delineate the access  
5 way for the commercial vehicles to enter the  
6 commercial facility.

7 To use up the planning board  
8 role and place of this board, that's one  
9 thing, but to then abandon all the  
10 traditional site plan elements on the plan  
11 that we're supposed to have in advance is  
12 very challenging and inappropriate.

13 It's also very difficult to  
14 believe that all the traffic for this  
15 commercial facility is going to stay on the,  
16 first of all, I don't think cones are really  
17 a fantastic planning mechanism for a  
18 long-term approval of a commercial facility,  
19 but that they're going to have cones to make  
20 sure that this doesn't cross into what is a  
21 residential property Lot 43, which is not  
22 until this conversation been made a part of  
23 this application, it's done. The next item.

24 MR. BATISTINI: Mr. Bell, if  
25 I may ask you a question would it be an

1 appropriate condition of approval that  
2 entering egress and ingress, let him stay on  
3 his property?

4 MR. HALPERN: Why don't I  
5 trust this? Yes, of course.

6 MR. BATISTINI: You can't go  
7 on somebody else's property to get into your  
8 property and can't do it anyway and vice  
9 versa.

10 MR. BELL: Can't do it  
11 anyway, he will not trespass.

12 MR. KING: Mr. Batistini, I  
13 appreciate that as a conditional solution.  
14 Again, that should be before, we should have  
15 an opportunity to see the plan that proposes  
16 where that traffic's going to go. I'm  
17 looking at a Google Earth picture with  
18 pickup truck parked on the other side of the  
19 road and a path that runs on the left side  
20 of that road into the winery. I do  
21 need to have, it should be on the plan  
22 before we come here so that we know the  
23 ingress and egress on a commercial facility  
24 not trying to measure millimeters on the  
25 width of the access way on the fly. That's

1 not really appropriate for a commercial  
2 facility and this is an approval for a  
3 commercial facility.

4 The next item that we would  
5 like to address is the buffering. Buffering  
6 is different than setback. Setback is how  
7 far the use must remain from the side yard,  
8 whereas the buffering is the visual and  
9 other impact upon the adjacent parcels.

10 The Township of Upper has  
11 specific ordinances that address a  
12 circumstance when a commercial use abuts a  
13 residential use. They have an entire  
14 ordinance section for that very issue.

15 I would like to introduce my  
16 planner to address that and other concerns  
17 that we have regarding the landscape buffer  
18 presented here. Ms. Barbara Woolley-Dillon,  
19 can you state your name, spell it, and  
20 please go over your credentialing?

21 MR. BATISTINI: Let me swear  
22 her in. What was your name?

23 MS. WOOLLEY-DILLON: Yes,  
24 it's Barbara Allen, A-l-l-e-n Woolley, W-o-  
25 o-l-l-e-y Dillon. Everybody makes the

1 common mistake of calling me Dillon. I am  
2 not related to Kevin Dillon nor married to  
3 him. It's just a common thing that's  
4 happened for a long time.

5 (Ms. Woolley-Dillon sworn)

6 MS. WOOLLEY-DILLON: I do.  
7 By the way, the spelling on Dillon is D-i-l-  
8 l-o-n and my address is 5856 Route 9,  
9 Tuckerton, New Jersey. I am a licensed  
10 professional planner who has my own firm.  
11 It's my same name Barbara Allen  
12 Woolley-Dillon, PPA, ICP

13 MR. BATISTINI: Have you  
14 appeared before this agricultural board  
15 before?

16 MS. WOOLLEY-DILLON: I do not  
17 believe so.

18 MR. BATISTINI: Can you give  
19 us a little bit more, if you wouldn't mind?

20 MR. KING: Did you say your  
21 education? I was busy looking in my  
22 briefcase.

23 MS. WOOLLEY-DILLON: No, I  
24 did not.

25 MR. KING: Do that.

1 MS. WOOLLEY-DILLON: I have  
2 an undergraduate degree in planning. It's an  
3 urban studies with an urban planning option  
4 from Rutgers University. I also have my  
5 Master's or an MCP, Masters of City Planning  
6 from the University of Pennsylvania.

7 MR. KING: How long have you  
8 been practicing in the field of planning and  
9 zoning?

10 MS. WOOLLEY-DILLON: Gosh,  
11 I'm almost embarrassed to say probably about  
12 25 years now. I've been fully licensed as a  
13 professional planner since 1998 with the  
14 AICP, or I'm sorry, 1995 with the AICP and  
15 1998 with the NJPP.

16 MR. KING: Have you addressed  
17 farmland issues before?

18 MS. WOOLLEY-DILLON: Yes. I  
19 actually worked for Burlington County Office  
20 of Land Use Preservation for their farmland  
21 division and believe it or not, I had a bit  
22 of an unusual situation. My masters was  
23 actually farmland preservation. They had  
24 two choices of the program. They could have  
25 put me in regional planning or city



1 planning. They chose to put me in city  
2 planning, but I had a focus on farmland  
3 preservation and agricultural preservation  
4 due to the fact that I grew up in  
5 Pennsylvania and I actually grew up in a  
6 farm as a child. I have this unusual  
7 getting into city planning thing.

8 MR. KING: Is there any other  
9 information you think you would know Mr.  
10 Batistini to qualify Ms. Woolley-Dillon?

11 MR. BATISTINI: Does the board  
12 have any questions? Does the board qualify  
13 Ms. Woolley-Dillon? Is that a yes?

14 BOARD: Yes. You may  
15 continue.

16 MS. WOOLLEY-DILLON: Thank  
17 you.

18 MR. KING: Can you address  
19 some of the concerns you have regarding the  
20 application as presented to extend you from  
21 the survey?

22 MS. WOOLLEY-DILLON: Yes, in  
23 looking at the application, I was part and  
24 parcel to the original first application  
25 that came through. Everybody is correct in

1 that. This I think does represent a  
2 continued improvement, but I do have some  
3 concerns. First and foremost is  
4 circulation. I think Mr. King was very  
5 succinct in pointing out the issues that we  
6 have.

7 This is coming off of a  
8 residential street, Bayaire Road. If worse  
9 comes to worse, they're going to be coming  
10 off of first to that terminus or cul-de-sac.

11 In looking at this, one of  
12 the things in doing plan review for  
13 municipalities and having been a municipal  
14 planner for several municipalities, if it's  
15 not on the paper, it's awfully difficult to  
16 enforce. I know that we talked about, and  
17 it was discussed that they would provide  
18 traffic cones going into the site, traffic  
19 cones get knocked over, wind storms happen,  
20 rainstorms, snowstorms, they get moved,  
21 things get relocated. I just think it's  
22 going to be awfully difficult.

23 The other concern that I'm  
24 having is there was talk about FedEx  
25 deliveries. I'm not sure if the board is

1 aware.

2                   There's a difference between  
3 a home FedEx delivery and a commercial.  
4 Home FedEx deliveries are in the little  
5 truck with the dog on it, the little puppy  
6 on it. It's a much smaller vehicle.

7                   For a commercial operations,  
8 they're typically in a much larger vehicle  
9 because it's the economy of scale and they  
10 put the commercial operation on more of a  
11 box truck-type setup.

12                   There is a bit of a  
13 difference in looking at it and I am not a  
14 traffic engineer. However, in looking at  
15 the site, I also noticed where they placed  
16 the trash receptacle. It's going to be very  
17 difficult to access, especially coming off  
18 of Bayaire road. There are concerns with  
19 that.

20                   I don't believe the applicant  
21 talked about the number of employees that  
22 were going to be on the site other than  
23 himself and his wife. It's unclear to me if  
24 they need additional parking spaces and if  
25 they need them, where would the employees

1 park if this is going to be the case.

2 In just looking at it, the  
3 site circulation is a little challenging and  
4 planners can look at those issues and I am  
5 not entirely comfortable with what is on the  
6 plan and has been submitted to this  
7 committee. The other issue that I have has  
8 to do with landscaping.

9 Obviously, we want to  
10 preserve as much of nature as possible and  
11 we want to have happy neighbors. In looking  
12 at what the ordinance requires, there is a  
13 difference between buffering and landscaping  
14 and Ms. Morrissey was kind enough to point  
15 out what the requirements are for an  
16 agricultural zone, it's 40 feet.

17 That's a pretty substantial  
18 buffer. It's almost twice what they've got  
19 and over two and a half times what they're  
20 going to propose on the other side of the  
21 property. I also looked at the fence  
22 they're proposing.

23 I did see an issue again with  
24 which Ms. Morrissey provided that the  
25 fencing doesn't go the whole way down the

1 northern property line, but there's also  
2 going to be a part where the neighbor  
3 that's on Lot 43 is going to be able to see  
4 that off-street parking space, that loading  
5 area. It's not shielded. They're going to  
6 see that. There's no shielding of that and  
7 that's more of a commercial-type operation.

8 I think you're also going to  
9 have a challenge in looking at the neighbors  
10 that are located across Bayaire to the east  
11 of First Avenue. They're also going to be  
12 able to see that off-street loading space.

13 I think it's a bit challenged. They have  
14 not addressed that and there is going to be  
15 an impact to the surrounding neighborhood.

16 MR. KING: In Upper Township  
17 where this is located, you would agree that  
18 this would require a use values, wouldn't  
19 you?

20 MS. WOOLLEY-DILLON:  
21 Absolutely, for two reasons. Agriculture is  
22 not permitted in this zoning district.  
23 There's also another part of the ordinance  
24 that calls out for accessory uses that  
25 processing of any product grown on the site

1 is not permitted. It would actually require  
2 two use variances at minimum and the  
3 expansion of the existing nonconforming use  
4 in front of the municipal zoning board.

5 MR. KING: Would you agree  
6 that a use variance is an indication that  
7 the use that's present is not considered by  
8 the master plan to be compatible with the  
9 nearby uses?

10 MS. WOOLLEY-DILLON: Yes, and  
11 we recognize that existing nonconforming  
12 uses have a right to exist. They have  
13 certain values, but when you're introducing  
14 new things to them, new nonconforming uses,  
15 it requires that super majority of the  
16 voting board members or five out of seven  
17 affirmatively approve it.

18 There's a much more onerous  
19 burden of proof. You have to talk about  
20 site suitability, the surrounding  
21 neighborhood, the character of that  
22 neighborhood. Was this envisioned, was this  
23 anticipated? Has the area changed? Will it  
24 be compatible with what's in the surrounding  
25 neighborhood? Then you Obviously have to

1 talk about the zone planning zoning  
2 ordinance.

3 I do understand that the  
4 SADC, those rights, and the regulations do  
5 supersede the local municipality, but these  
6 are the things that the local municipality  
7 and the neighbors would be considering if  
8 this were in front of the zoning board and  
9 in effect, because they're in front of you  
10 seeking affirmation of this, you are serving  
11 instead.

12 MR. KING: The fact that  
13 there are incompatible uses against one  
14 another, adjacent to one another, has Upper  
15 Township -- do they have any particular  
16 ordinances that address appropriate  
17 landscaping between residential and  
18 non-residential uses?

19 MS. WOOLLEY-DILLON: Yes,  
20 they do. Landscape buffers are in Section  
21 20.8 of their ordinances and they have a  
22 couple of different kinds. There are  
23 general, there's a nuisance landscape  
24 buffer, there's also a filtered buffer and  
25 then there's a wind break or heavy screening

1 buffer.

2 The one that I think was most  
3 commonly referred to is the nuisance buffer  
4 and it's the general where you have those  
5 incompatible land uses and they give  
6 standards such as evergreen trees and this  
7 is for every hundred linear feet -- bless  
8 you --

9 MR. KING: Can you say that?  
10 I sneezed over your number there.

11 MS. WOOLLEY-DILLON: For  
12 every hundred linear feet of the buffer area  
13 measured at the longest line, you're  
14 supposed to put the, or install the  
15 following materials, evergreen trees, double  
16 alternating shade trees, four also with  
17 ornamental trees there would be three and  
18 then shrubs. That's a lot of plant  
19 material and that's just for the nuisance  
20 buffer.

21 MR. KING: It says nuisance,  
22 it doesn't necessarily mean it's a nuisance.  
23 That is a short term for what in the  
24 ordinance. I think it talks about  
25 residential, nonresidential.



1 MS. WOOLLEY-DILLON: Where  
2 you have an incompatible edge between two  
3 different uses, not even zoning districts,  
4 the different uses and that's what's  
5 occurring here. We do have an edge or a  
6 hard edge where there was a Christmas  
7 tree farm here and now it's proposed to be a  
8 winery.

9 I would say based on the  
10 discussion that they've had about their  
11 pesticides, their use of equipment, et  
12 cetera, four times a year, this is going to  
13 be a little bit different from the Christmas  
14 tree farm. A little bit more intense. I  
15 would say that that would be the minimum  
16 buffer that would be asked for. Then you go  
17 into the filtered buffer. The one that I  
18 would suggest would be for the windbreak or  
19 the heavy screening. What this is, the  
20 reason why I'm suggesting it is when you  
21 look at the types of agricultural uses, we  
22 have a lot of different changing  
23 circumstances with our soils and climate  
24 conditions.

25 We have a lot more drought

1 conditions that happen now. We have a lot  
2 less rain that comes in. Things get very  
3 heated up and we are a windy community. We  
4 are near the shore. Upper Township is right  
5 on the mainland.

6                   What happens is if you have  
7 some drier conditions, depending on the  
8 variety of grape that they're growing, these  
9 soils may not be watered every day. There  
10 is a propensity for dust to carry over the  
11 property line and go onto an adjoining  
12 property.

13                   I would recommend as a  
14 professional planner, as somebody who has  
15 dealt with the preservation of farms being  
16 very near and dear to me, that they would  
17 look at a windbreaker heavy screening.

18                   This would provide the  
19 additional protection that would be  
20 requested of the surrounding property items.  
21 It's a little bit more vague in language,  
22 but it allows for a lot more latitude and  
23 request additional screening, and what it is  
24 looking at is a double staggered row of  
25 dense evergreen plants shall be specified.

1 Then this is obviously to be resolved with  
2 the municipal professionals to their  
3 satisfaction.

4 MR. KING: Your  
5 recommendation as a land use planner, given  
6 all the circumstances to be that a wind  
7 breaking buffer should be installed in the  
8 buffer area that they've described?

9 MS. WOOLLEY-DILLON: Yes.

10 MR. KING: Is there any real  
11 good reason not to do that?

12 MS. WOOLLEY-DILLON: None  
13 that I can think of in my professional  
14 opinion.

15 MR. KING: Is there anything  
16 else you'd like to address regarding  
17 concerns regarding the application?

18 MS. WOOLLEY-DILLON: No, the  
19 only thing that I would maybe like to add is  
20 that the development has had an impact on  
21 the neighborhood. We expect existing  
22 nonconforming uses to go out of their  
23 lifespan at some point in time. This  
24 obviously has not happened.

25 They've changed the crop

1 here, they're changing what's happening.  
2 There's now processing on the plan. We  
3 would respectfully request that you as the  
4 agricultural board consider what we're  
5 requesting with additional buffers and the  
6 challenges that we're having with the site  
7 circulation.

8 MR. KING: Thank you. I'd  
9 like to call certain of my clients to speak  
10 and express their concerns.

11 MR. BATISTINI: Of course.

12 MR. KING: I would ask  
13 everyone to try to depersonalize your  
14 comments as much as possible, express the  
15 impact that the proposal has on you, and why  
16 you think the additional landscape buffering  
17 would be helpful to you. If you could focus  
18 your comments on that.

19 First, I'm going to call Ms.  
20 Rae Jaffe. When you come up, please state  
21 your name, spell it, give your property  
22 address, and then Mr. Batistini is likely to  
23 swear you in, correct, Mr. Batistini?

24 MR. BATISTINI: Correct.

25 MS. JAFFE: My name is Rae

1 Jaffe, R-a-e J-a-f-f-e. I live at 5  
2 Gardners Lane in Beasley's Point.

3 (Ms. Jaffe sworn)

4 MS. JAFFE: I do. I have a  
5 handout for the board. I would like them to  
6 see (inaudible 01:52:08). This speaks to  
7 the density of the neighborhood surrounding  
8 the farm. It's color-coded to show the  
9 property to directly adjoin his on all  
10 corners. Also, the green line designates  
11 the 200-foot notice area.

12 MR. BATISTINI: Did you say  
13 you had another -- is it just this one and  
14 another one? Thank you.

15 MS. JAFFE: Yeah. (Inaudible  
16 01:53:28). I know they speak about the  
17 lot size and density, but unless you  
18 actually go there and look at it, you really  
19 don't get the correct sense of how close the  
20 neighbors are to its property.

21 MR. BATISTINI: We're going  
22 to identify these as the picture will be O-2  
23 and the map will be O-3. I'm wondering if  
24 we should take a 10-minute break before we  
25 get in any further. Allow some people to go

1 to the men's room, ladies' room, and so  
2 forth. Why don't we take a 10-minute break  
3 and reconvene at 1:10? Sound like a plan?

4 (Recess taken)

5 (Proceedings resume)

6 MR. BATISTINI: On the  
7 record. At this point, I'm going to ask the  
8 board members just to say their names for  
9 the record and that they're present.

10 MR. SCHUMANN: Robert  
11 Schumann.

12 MS. WHEELER: Sue Ann  
13 Wheeler.

14 MR. STILES: Matthew Stiles.

15 MR. HAND: JP Hand.

16 MR. NATALI: Alfred Natali.

17 MR. BATISTINI: These were  
18 all The same board members that were here at  
19 the beginning of the application hearing.

20 BOARD: Yes.

21 MR. BATISTINI: Mr. King,  
22 please continue. I missed the address of  
23 Ms. Jaffe.

24 MS. JAFFE: 5 Five Gardners  
25 Lane, Beasley's Point.

1 MR. BATISTINI: Thank you,  
2 Ms. Jaffe.

3 MS. JAFFE: You're welcome.

4 MR. BATISTINI: You may  
5 continue.

6 MS. JAFFE: This neighborhood  
7 is subjected to bimonthly spraying on Mr.  
8 Halpern's property during the growing  
9 season. Mr. Halpern uses a tractor with a  
10 fan sprayer attached to apply his chemicals,  
11 and that's in the picture that I passed  
12 down.

13 He can be seen dressed in a  
14 hazmat suit while sitting in a closed cab  
15 tractor. His wife can be seen outside of  
16 the tractor wearing a respirator while she  
17 often watches him. Although Mr. Halpern  
18 claims that what he is spraying is  
19 permissible by law, we question the safety  
20 of his application method regarding the  
21 close proximity to the neighbors, and the  
22 fact that he takes all these precautions to  
23 protect himself while applying these  
24 chemicals whose drift can clearly be seen  
25 going onto the neighbor's properties and the

1 odor has been detected as far as Route 9.

2 One of the neighbors who was  
3 jogging on Route 9 got hit with the drift,  
4 and she is here now, Carol Ruff in the back.  
5 He should have to put in an application  
6 exclusion zone or AEZ as required by law.  
7 That refers to the pesticide application  
8 equipment that must be free of all persons,  
9 not just workers, but all persons other than  
10 appropriately trained and equipped handlers  
11 during pesticide applications.

12 This is clearly not happening  
13 on this property. Just to address the DEP  
14 that did come down and read his records and  
15 said that he is doing everything to the  
16 letter of the law, I'm one of the people who  
17 called the DEP and I gave my name as did  
18 many other neighbors. Why they said they  
19 called anonymously, I don't know. Also,  
20 requested to find out what he was spraying,  
21 and it took until the end of September until  
22 I could even get copies of that.

23 You can understand, I hope  
24 why it's very disturbing to us when we are  
25 subject to the drift and the spray and we



1 are not protected in any way.

2 At the very least, Mr.  
3 Halpern should be a responsible neighbor and  
4 put in -- I have a 20-foot buffer, but some  
5 people say 30, some say 40 consisting of  
6 trees space so that their canopy will catch  
7 any drift before it reaches the neighbor's  
8 properties. Something we feel a fence would  
9 not be able to sufficiently handle.

10 We are also concerned with  
11 chemical seepage into the ground,  
12 potentially contaminating the water to our  
13 wells and unfortunately, the potential  
14 harmful effects from what Mr. Halpern is  
15 doing may not be seen in the immediate  
16 future.

17 However, that doesn't mean  
18 that we will not suffer the consequences  
19 from his actions. We are all too familiar  
20 with mesothelioma from working with  
21 asbestos. The harmful effects of cigarette  
22 smoking, all things that represented is not  
23 being harmful, that it turned out to have  
24 dark consequences for many of those exposed.

25 On the map that I handed out,

1 it shows the red dots that signify all the  
2 school bus stops around this property and  
3 two of them are at the entrances to Mr.  
4 Halpern's property where school children get  
5 on and off the school bus, and the yellow  
6 designates the density of the houses around  
7 his property, which is shown in red.

8 The green line is everyone  
9 within the 200-foot notice and that  
10 consisted of 41 houses, 41 houses that are  
11 close to this.

12 I guess it's a bottling event  
13 now. Thank you very much.

14 MR. KING: Thank you, Ms.  
15 Jaffe.

16 MS. JAFFE: You're welcome.

17 MR. KING: Jeanette Thonsen,  
18 are you out there? Come on down. Say your  
19 name and where you live.

20 MS. THONSEN: Hello, my name  
21 is Jeanette Thonsen, T-h-o-n as in Nancy,  
22 s-e-n. I live at 3 Lake Corson lane in  
23 Marmora. I believe I'm Lot 27 directly  
24 adjacent to the Halpern's vineyard.

25 MR. BATISTINI: What was that

1 address? I'm sorry.

2 MS. THONSEN: 3 Lake Corson  
3 Lane.

4 MR. BATISTINI: Thank you.

5 MR. KING: You're adjacent to  
6 the compound?

7 MS. THONSEN: Yes. My  
8 backyard backs right up to the vineyard.

9 MR. BATISTINI: She needs to  
10 be sworn in.

11 (Ms. Thomsen sworn)

12 MR. KING: Is what you just  
13 testified to, is that true?

14 MS. THONSEN: Yes.

15 MR. KING: You heard us  
16 discuss the ordinance in Upper Township that  
17 provides for insulation of trees in the  
18 buffer between residential and commercial  
19 zones?

20 MS. THONSEN: Yes.

21 MR. KING: Is that something  
22 that you believe would be beneficial to you  
23 and your neighbors if those trees were  
24 required?

25 MS. THONSEN: Yes, my husband

1 and I built our house there 37 years ago,  
2 and at that point, it was still a Christmas  
3 tree farm and there was never a problem with  
4 the owners then. We associated back and  
5 forth. We put a tree buffer there, we  
6 planted cypress trees in the back, and  
7 actually one just died and we had to take it  
8 down so now we have a big opening to the  
9 vineyard.

10 It was always important that  
11 we have that natural barrier there rather  
12 than a fence because the natural barrier  
13 just was looked nicer. We have a pool in  
14 our backyard, and so my backyard is a  
15 sanctuary. It's beautiful, it's quiet, it's  
16 calm. I just have a lot of concerns about  
17 the vineyard turning into a commercial  
18 operation where he's only talking about  
19 bottling, hand bottling so many bottles of  
20 wine at this point.

21 MR. KING: Do you believe  
22 that installation trees in the buffer zones  
23 would more closely recreate what was there  
24 previously that you bought and accepted it  
25 as present?

1 MS. THONSEN: Yes, and I also  
2 think it would help with the noise and when  
3 he does the applications and that type of  
4 thing. It would just keep an extra natural  
5 barrier so that we didn't get any of the  
6 overspray or anything like that.

7 MR. KING: Thank you. Next,  
8 Doreen Gallagher.

9 UNIDENTIFIED: She wants more  
10 trees, but the guy wants us to take these  
11 trees out and put up a fence.

12 (Ms. Gallagher sworn)

13 MR. BATISTINI: Please tell us  
14 your name and your address.

15 MS. GALLAGHER: Doreen  
16 Gallagher, 11 Bayaire road, Beasley's Point.  
17 I purchased my home, Bayaire in 2008. It  
18 seemed the perfect place for me to retire  
19 close to my family. Bayaire is  
20 approximately 32 feet wide, not 50 feet as  
21 shown on the plan, and we have no sidewalks.  
22 Most of the homes were built with one car  
23 garage or driveway.

24 Today, most families have two  
25 cars, so when they have company, everyone

1 needs to park on the street, which then  
2 makes Bayaire a one-way street. Bayaire is  
3 unique in the fact that we have the  
4 residents of Homestead Court, which must use  
5 Bayaire to access Route 9.

6 Bayaire has now doubled the  
7 amount of residents using one small street,  
8 which has a very dangerous curb when you're  
9 making a left turn heading south on route  
10 nine, because of a curve there and you can't  
11 see the coming traffic.

12 There are children on  
13 Bayaire, they ride their bike play ball in  
14 the street, and take the bus to and from  
15 school.

16 The bus stop at Bayaire in  
17 Homestead, which is the entrance driveway to  
18 the farm. Traffic is just one of several  
19 concerns which will cause irreparable harm  
20 to our small family neighborhood. Thank  
21 you.

22 MR. KING: Thank you, Ms.  
23 Gallagher. Next I would call Maria. I'm  
24 going o mess it up. Busc, B-U-S-C. I did the  
25 best I could.

1 MR. BELL: Get two out of  
2 three. That's pretty good.

3 MR. KING: Must be in the Hall  
4 of Fame.

5 MS. BUSC: Come on Richard,  
6 help me up.

7 MR. KING: Yes, ma'am.  
8 (Inaudible 00:10:43).

9 MS. BUSC: There we go.

10 MR. KING: State your name,  
11 address, and we'll swear you in.

12 MS. BUSC: Maria Busc, 6  
13 Gardners Lane.

14 (Ms. Busc sworn)

15 MR. BATISTINI: What would you  
16 like to tell us today?

17 MS. BUSC: Good afternoon,  
18 and thank you for the opportunity to express  
19 my concerns. Some of this might be a bit  
20 redundant, I apologize for that. I hope  
21 that all members of the board had time to  
22 visit our residential neighborhood to  
23 understand why many are opposed to this  
24 commercial venture.

25 If you are unable, please

1 reference the highlighted map. The Halperns  
2 do not exist in a vacuum. It is surrounded  
3 by single-family homes on rather small lots,  
4 many on the Bayaire side, even less than  
5 one-quarter of an acre. Please reference  
6 board one.

7 For the record, this is an  
8 overhead view of the section of Marmora from  
9 south to north, Randolph to Seaview, and  
10 west to east. From Frederick Avenue to the  
11 Garden State Parkway, the Halperns' property  
12 is shaded in red. Note the proximity to the  
13 elementary school. You can see that right  
14 here.

15 This neighborhood is full of  
16 young families with children. Also, note on  
17 board two for the record, this is a tax map  
18 of Upper Township Sheets 27, 01, 02, 03 and  
19 sheets 28, 28/01, 28/02. There are five  
20 school bus stops in the surrounding area.  
21 Two located at or within feet of the  
22 Halperns' entrances on Bayaire and Route 9.  
23 Now you're saying you're not going to enter  
24 on Route 9. So that's a moot point, but you  
25 can see the infamous cones at the Bayaire



1 entrance, which is right here, and here's  
2 the school bus, which we just talked about  
3 this at Homestead at the entrance to Mike's  
4 property.

5 MR. BATISTINI: We're going  
6 to identify these as poster board number one  
7 will be 03 --

8 MR. KING: 04.

9 MR. BATISTINI: I'm sorry,  
10 and poster board number two will be 05.

11 MS. BUSC: Bayaire Road is  
12 approximately 32 feet wide with no  
13 sidewalks. I measured this myself. I'm not  
14 sure why this is illustrated on the plan as  
15 50 feet. As often as the case residents  
16 park in front of their homes, effectively  
17 making this a one-way street. Children ride  
18 their bikes and walk to the bus stops in  
19 school here, people walk their dogs and  
20 exercise on our residential cul-de-sac  
21 streets. This is just not the place  
22 for commercial vehicles that will likely  
23 miss the small entrance on Route 9.

24 Well, we took that out of  
25 here and use Bayaire to turn around. The

1 mere fact that over 40 properties within the  
2 200-foot notice shown on the red line on  
3 board two, illustrates that this is just not  
4 the proper location for a commercial  
5 venture, especially one involving alcohol.

6 Another concern for me is the  
7 application of pesticides, fungicides, and  
8 herbicides. Science and common sense would  
9 suggest that chronic exposure should be  
10 avoided. A proper buffer line of trees as  
11 mandated by Upper Township may help limit  
12 aerial exposure to the surrounding  
13 properties.

14 The seven ornamentals spaced  
15 over 50 feet apart only on the Bayaire side  
16 is not close to being sufficient. This  
17 whole property requires buffers.

18 The existing trees on  
19 neighboring properties were not planted for  
20 this use. Most properties here, not by  
21 choice, have well water, and only time will  
22 tell what the long-term effects of any  
23 pesticide uses has on health, especially on  
24 the children who bathe, drink, brush their  
25 teeth and play pools filled with well water.

1 I would not want that on my conscience.  
2 The possibility that as a commercial  
3 venture, we could be exposed to restricted  
4 use pesticides is frightening. Another  
5 reason why this is just not the proper  
6 location.

7 The Halperns have rights to  
8 use their land for their grape growing  
9 venture, but not at the expense of the  
10 health and safety of the other residents.  
11 This non-commercial venture should be put  
12 under the jurisdiction of Upper Township who  
13 can enforce proffer buffers and prohibit  
14 commercial traffic. All property owners  
15 here have the right to feel secure and  
16 peacefully enjoy their properties. Thank  
17 you for listening.

18 MR. KING: The next person I  
19 ask you to consider a testimony is Andrew  
20 Shaw.

21 MR. SHAW: Good afternoon.  
22 (Mr. Shaw sworn)

23 MR. BATISTINI: Tell us your  
24 name and address, please.

25 MR. SHAW: Andrew Shaw, 6

1 Lake Corson lane.

2 MR. BATISTINI: What would  
3 you like to tell us?

4 MR. SHAW: I live in the  
5 house on the corner of Lake Corson lane and  
6 Allendale and as I leave my house in the  
7 morning, the front door looks down Allendale  
8 through the clearing to the vineyard.

9 There's a gate there now.  
10 I'm relieved to know that commercial traffic  
11 will not be on our residential street. I  
12 have a handout that I made, but you've  
13 already seen it because it's up on the board  
14 there.

15 We heard some information  
16 from Upper Township regarding the buffer  
17 zones, and typically the performance  
18 standard would be for all sites between  
19 dissimilar uses, residential and commercial  
20 or two rows of evergreen's space, 10 feet or  
21 14 feet apart.

22 Additionally, there's some  
23 other performance standards regarding noise.  
24 Noise levels for commercial and industrial  
25 enterprises shall be designated and operated

1 in accordance with regulations established  
2 by DEP as they're adopted and amended.  
3 Odors shall not be discernible at the lot,  
4 line, or beyond to such an extent that they  
5 become a nuisance. Vapor, no use shall  
6 produce smoke ash, dust, fumes, vapors,  
7 gases, or other forms of air pollution,  
8 which could cause damage to the health of  
9 any person, animal, or vegetation, or, which  
10 could cause excessive soiling.

11 I understand that Mr. Halpern  
12 is appealing to you for his SS AMP, and I  
13 would ask that you consider some of these  
14 standards from Upper Township in your  
15 decision. Also, I understand from the  
16 regulations that it's permissible for  
17 wineries to bring juice in from other  
18 locations and bottle that at their facility,  
19 and to the extent that you would be  
20 providing an approval.

21 My guess is that there  
22 wouldn't be any limit on how many gallons he  
23 could run through his bottling operation or  
24 how they would be delivered, or if they  
25 would have to be grown on the site and

1 that's a concern for commercial use next to  
2 a residential property. I would ask you to  
3 consider that in your decision-making. I'm  
4 not against farmers. I'm not against farms.  
5 This is a commercial operation here. I  
6 would ask you to please be considerate of  
7 the residents in the neighborhood, and thank  
8 you very much for your time.

9 MR. KING: Are there any  
10 other members of my group that aren't on my  
11 list but would like to speak?

12 AUDIENCE: Yeah.

13 MS. KEMINOSH: My name is  
14 Carolyn Keminosh. I'm at one Bayaire road.  
15 I'm the first house on the street.

16 (Ms. Keminosh sworn)

17 MR. BATISTINI: Thank you.

18 MS. KEMINOSH: Thank you. My  
19 concern most would be reiterating a lot of  
20 what people have said, the original proposal  
21 that went in specifically said the entrance  
22 and exit would be off of route nine, well,  
23 suddenly, which we all knew it's really  
24 coming down a commercial business traffic  
25 coming down a residential road that's less

1 than 32 feet wide, no sidewalks and we all  
2 walk in the street and we walk our dogs.

3 A few years ago, I was up  
4 early in the morning, there's not much  
5 activity going on and when I stepped off of  
6 my yard with my dog, a car heading west on  
7 Route 9, which was exiting Bayaire, hit my  
8 dog, couldn't see him because there was a  
9 car parked out in front of my house so the  
10 visibility was blocked. He just happened to  
11 step out ahead of me on the leash, and he  
12 was hit. He did not die, fortunately, but  
13 it did limit his lifespan because that hit  
14 was wounded -- injured fairly well.

15 It's hard for me to fathom  
16 how our street that's residential can be  
17 used for commercial business.

18 I did a map of all the  
19 farmlands that are here, and I'd like to  
20 enter those, all of the commercial farmlands  
21 that have been preserved and are producing  
22 different types of produce or cattle and  
23 then their size. I have their size as well  
24 as which ones they are.

25 There is nothing in this

1 county that not one of the farm uses a  
2 residential road to enter into a commercial  
3 business. Not one. They're all  
4 substantially larger from, the closest one  
5 was at 40 acres, and then they just expanded  
6 another 68. We're talking, it's  
7 questionable that I'm going with the  
8 county's assessment, if it were under five  
9 acres, you have to be making more than  
10 50,000 a year on the property. If it's over  
11 five acres, it's a minimum of 2,500.

12 We're on record, or the  
13 Halperns are on record saying they're making  
14 2,500. It's a five-acre farm. It's also on  
15 record that it's not by the county and Upper  
16 Township assessment.

17 My concern is the health and  
18 safety of our neighborhood and our children,  
19 and just to be able to enjoy where we live  
20 and there's all my handouts. That's it.

21 MR. BATISTINI: Thank you.  
22 We're going to identify this as O-6 and it  
23 is a --

24 UNIDENTIFIED: I just got the  
25 one they are using.



1 MR. BATISTINI: The map of  
2 farms. It's three pages altogether. It  
3 looks like its three pages altogether.

4 MR. KING: You're making the  
5 three, in one exhibit?

6 MR. BATISTINI: Yeah, I'm  
7 making the one exhibit. We are number of  
8 main focus of farms is one page, Cape May  
9 County open space. Farmland Preservation is  
10 another page and list of wineries in Cape  
11 May County is the third page.

12 MR. KING: Excuse me.

13 MS. EDWARDS: Hi, my name is  
14 Heidi Edwards. H-e-i-d-i E-d-w-a-r-d-s.  
15 And I live on 17 Bayaire Road.

16 MR. BATISTINI: Hold on.  
17 Wait. Ms. Edwards. Hold on one --

18 MS. EDWARDS: Sorry about  
19 that.

20 MR. BATISTINI: No, we're  
21 good.

22 (Ms. Edwards sworn)

23 MR. BATISTINI: Thank you.  
24 Ms. Edwards, what would you like to tell us?

25 MS. EDWARDS: Hi. I have

1 lived in my home on Bayaire for 32-plus  
2 years. My husband and I have raised our  
3 three children here. Obviously, we love our  
4 neighborhood. I love my neighbors, and I'm  
5 not the type to complain.

6 I have never complained about  
7 a teacher, a coach, a neighbor, or attended  
8 committee meetings to make a beef. I guess  
9 I'm now categorized as part of the nasty  
10 neighbors that has from the beginning  
11 opposed the use of the farm as a commercial  
12 enterprise, especially one that could  
13 possibly serve alcohol in the middle of a  
14 residential neighborhood.

15 I do not believe that this  
16 parcel of land meets the requirements of  
17 the Right to Farm. I do not believe that  
18 they have the required five point acres of  
19 land. I just cannot imagine that all the  
20 land is considered farmable except the  
21 footprint of the house.

22 Should it not be reasonable  
23 to think that the front lawn from the front  
24 porch to the mailbox and the side  
25 surrounding the house, one side was a

1 driveway at one time, then was taken out,  
2 and the other side contains machinery for  
3 the house should be considered part of the  
4 personal use of the property and not  
5 commercially farmable.

6 I would like to bring  
7 attention to the full responsibility of this  
8 board. If this application is approved, you  
9 will now be the enforcement officers. You  
10 will take the place of our Upper Township  
11 representatives. You'll take over zoning  
12 enforcement and policing.

13 I hope you're up to this  
14 task. Who will look into the buffer zones  
15 that are on the first set of plans that you,  
16 the board was comfortable knowing the  
17 existing buffers were at 30 feet, who will  
18 come and measure to make sure that they meet  
19 what you envisioned when you made that prior  
20 decision with the buffers being at 30 feet  
21 and that the numbers on the current plans  
22 are correct, or if there are numbers.

23 I lack faith in the applicant  
24 because he allowed inaccurate numbers to be  
25 submitted to you to make the farm seem

1 bigger than it is. Why would the applicant  
2 allow misinformation? Because they are  
3 trying to fit a square peg in a round hole.  
4 First, the farm is not big enough to be a  
5 commercial farm, and second is located and  
6 surrounded by an existing residential  
7 neighborhood. My house stood before he  
8 requested a change of use on this property.

9 I worry that the board will  
10 approve this application for a bottling  
11 plant and that in a few years as planned  
12 that this will turn into a winery that the  
13 Halperns desired and have not given up on  
14 per Mr. Halpern's own words. Will the  
15 Halperns ever meet the requirements of three  
16 acres of farming? Who will check? Why is  
17 the application not using Route 9 as a  
18 driveway?

19 Has anyone checked into the  
20 NJDOT application? In October 2021, we were  
21 advised that it was 75 percent complete and  
22 would be approved soon. Was that more  
23 misinformation? Now Bayaire will be the  
24 entrance for the bottling facility and then  
25 the winery that is desired. Within a few

1 years, Bayaire Road cannot accommodate any  
2 more traffic than a residential neighborhood  
3 period. In the 30-plus years, we have  
4 lived in this quiet residential  
5 neighborhood.

6 We've made changes to our  
7 house. We applied for building permits,  
8 hired contractors, had inspections, received  
9 approvals all through our township office,  
10 and doing what is required and asked, I do  
11 not understand how and why this oversight  
12 will not be required to a farm that does not  
13 meet the township guidelines as a commercial  
14 farm, this measurement is so close. Should  
15 we not hit pause and have a third party make  
16 sure the applicant's measurements are  
17 correct, especially since we were misled on  
18 the first set of plans? This is so  
19 important to our quiet existing  
20 neighborhood.

21 I'm not in opposition to  
22 farming. I am opposed to the commercial  
23 venue that will come after the bottling  
24 facility is approved. This plan does not  
25 work in the small neighborhood for all the

1 reasons we have addressed. I would like to  
2 thank our township for allowing us to voice  
3 our concerns and watching out for our  
4 neighborhood. I hope you will not usurp  
5 their insight into how to govern their  
6 neighborhoods. Thanking -- thank you for  
7 allowing me to speak my heartfelt concerns.

8 MR. BATISTINI: Thank you,  
9 Ms. Edwards.

10 MR. KING: Anyone else?

11 MR. BATISTINI: Any other  
12 member of the public would like to comment  
13 on this application? Yes, ma'am. Ma'am,  
14 will you state your name and address?

15 MS. NEISS: My name is  
16 Natalie Neiss. I am Block 476, Lot 29,  
17 Block 456 Lot 1301, 456, 1302. All in Upper  
18 Township, Cape May County.

19 (Ms. Neiss sworn)

20 MR. BATISTINI: What are the  
21 street addresses for those blocks? You  
22 might have said them, but I missed what the  
23 street address was.

24 MS. NEISS: 1 I have to put  
25 them on here?

1 MR. BATISTINI: I'd like to  
2 know, yes.

3 MS. NEISS: 759 Route 50,  
4 Petersburg, Woodbine by mailing.

5 MR. BATISTINI: Proper  
6 spelling of your name?

7 MS. NEISS: N-e-i-s-s.

8 MR. BATISTINI: Your first  
9 name again was, I missed it. I'm sorry.

10 MS. NEISS: Natalie.

11 MR. BATISTINI: You're on  
12 Route 50 and that address was?

13 MS. NEISS: 759 R-o-u-t-e 50  
14 Woodbine, W-o-o-d-b-i-n-e, New Jersey 08270.

15 MR. BATISTINI: Thank you.  
16 What would you like to tell us?

17 MS. NEISS: I question what  
18 the alternative to the Upper Township  
19 Halpern Grape Farm acquired in 2005 with  
20 deed of easement is at this point. I would  
21 go on to request to know Upper Township  
22 master planners in 2007, 2011, who they  
23 were, because they were not Tiffany  
24 Morrissey.

25 I don't know if they can

1 answer that. There are numerous parks  
2 throughout Upper Township for children to  
3 play, for children to bike, for people to  
4 walk their dogs, for people to exercise that  
5 our tax dollars pay for. There were a lot  
6 of subdivisions put in early where there  
7 were tight lots.

8 I'm not exactly sure what  
9 year this subdivision went in, but quarter-  
10 acre lots by today's standards, a  
11 residential lot is one acre with 140-foot  
12 frontage. The fact that this is a farm and  
13 continually farmed more than sixteen years,  
14 the laws, Right to Farm laws in 1983, 1998 I  
15 assume they apply.

16 In 2005, this farm, the  
17 Halpern farm was preserved farm before the  
18 Halperns' purchased it. It was preserved by  
19 the New Jersey state, by the Cape May  
20 County, and the Upper Township by  
21 Resolution. In my opinion, in 2005, Upper  
22 Township had their time to consider  
23 lighting, buffering traffic, and all these  
24 people that have been in their homes for  
25 prior, well, some of them I heard say



1 thirty-two, thirty-three years, they had the  
2 opportunity to go out and get involved in  
3 the township and be concerned with what was  
4 going on in their Bayaire Road or Allendale  
5 road. Also on Route 9.

6 I respectfully request to  
7 know who the clients are on Mr. King's list.  
8 He is a partner to Jeff Barnes, who is our  
9 Upper Township zoning and board solicitor.  
10 He's here today representing, I think seven  
11 people. I'm not sure how many are on the  
12 list. Andrew Shaw, I believe, came under  
13 that list. He testified today and I thought  
14 Mr. Batistini when you opened, you said  
15 people represented by attorneys and then  
16 people not represented by attorneys. Andrew  
17 Shaw is on the planning or zoning board in  
18 Upper Township presently, to my knowledge.

19 MR. BATISTINI: Ms. Neiss,  
20 are you for or against the application?

21 MS. NEISS: I request that  
22 the application for the SS AMP be granted,  
23 and I object to my Upper Township Cape May  
24 tax dollars paying for Mr. Corrado and  
25 Tiffany Morrissey and I find it not

1 reasonable that this has been carried out as  
2 long as it has. It's an enormous cost to  
3 the taxpayers and probably to Mr. Halpern as  
4 well, the fact that he bought a preserved  
5 farm.

6                   Again, I'm not sure what the  
7 alternative is, if they don't want the  
8 farming, maybe they could all sell their  
9 homes and move elsewhere, or -- thank you.

10                   MR. BATISTINI: Thank you.  
11 Any other member of the public have  
12 anything?

13                   MR. KING: One written  
14 statement.

15                   MR. BATISTINI: That's the  
16 DOT statement.

17                   MR. KING: A written  
18 statement subject --

19                   MR. BATISTINI: There's a  
20 written statement by Karen and Yassen, oh,  
21 man. R-e-i-s-c-h-k-e, maybe. Typically, I  
22 don't know how this board does it or has  
23 done it in the past, but this would be  
24 hearsay. It's a document that is brought  
25 before us, but the person that's making the

1 statement is not here for cross-examination,  
2 we wouldn't consider that in a legal  
3 courtroom. We wouldn't consider it to be  
4 part of opposition at a land use hearing.  
5 Is it this board's practice to accept these?

6 BOARD: No.

7 MR. BATISTINI: No, I don't  
8 think you could do it. We're not going to  
9 accept this written comment. Next, the  
10 young man in the blue. Oh, man. What is  
11 your name and address?

12 MR. HODUKAVICH: My name is  
13 Thomas Hodukavich, H-o-d as in David u-k-a-v  
14 as in Victor i-c-h. I am at 5 White Pine  
15 Lane, Petersburg.

16 MR. BATISTINI: White Pine  
17 Lane.

18 (Mr. Hodukavich sworn)

19 MR. BATISTINI: What would you  
20 like to tell us?

21 MR. HODUKAVICH: Very briefly,  
22 I grew up on a farm in Delaware. My dad was  
23 a farmer. I farmed with him for a few  
24 years. I have a Bachelor of Science degree  
25 in plant science from the University of

1 Delaware. I'm also an attorney in the state  
2 of Delaware. I moved to Upper Township in  
3 2004, been living there since then.

4 And one of the things that we  
5 and my ex found attractive about Upper  
6 Township was the combination of the  
7 residential neighborhoods and the rural  
8 character of many of the areas in Upper  
9 Township. I live right around the corner  
10 from the famous Sunflower Farm there.  
11 That's one of the thing appealing things  
12 about Upper Township.

13 I've heard the testimony and  
14 I understand the concerns that have been  
15 raised. Overall, with my agricultural  
16 background and that's what brought me from  
17 childhood -- childhood to adulthood was the  
18 product of a farm. I encouraged the board  
19 to look favorably upon the application to  
20 the extent possible. Thank you.

21 MR. BATISTINI: Thank you.  
22 Any other member of the public? Mr. King?

23 MR. KING: I defer to the  
24 member, Mr. Batistini. I defer to the member  
25 of public. I did want to say something in

1 closing from attorney. Thank you, sir.  
2 Obviously, my colleague, if we get an  
3 opportunity as well, I expect. You always  
4 want to tell the board what you want, and  
5 then give your testimony, then say what you  
6 want again. I just want to make clear what  
7 we're really requesting at this hearing,  
8 we're not necessarily requesting that you  
9 rule that they can't have a farm. We have  
10 two primary concerns, and we're asking you  
11 to take this under advisement so that those  
12 issues can be clarified and you can make a  
13 better-informed decision.

14           The first is the entrance way  
15 off Bayaire. As you can see in the  
16 testimony of my clients, that is a critical  
17 issue. In fact, the last time they were  
18 here, everything was directed to Route 9,  
19 which really is where it should be directed,  
20 and now it's going to Bayaire.

21           Well, when you look at the  
22 entranceway on the plan before you, it is  
23 virtually impossible to discern that  
24 entranceway. It doesn't even say  
25 entranceway, and they're using half of a

1 lot. There's a residential lot that is an  
2 undifferentiated roadway that is now  
3 subsumed by vacation -- that the streets  
4 were vacated. Now they're owned by the  
5 people on each side that is used  
6 indiscriminately by this commercial  
7 operation.

8                   Although Mr. Orlando took out  
9 -- I don't think it was his ruler, I think  
10 he borrowed someone's, he measured how  
11 wide that area was. That is between the  
12 pavement and the lot line. It got as low as  
13 12 feet, even based upon his analysis. To  
14 approve a commercial development, which  
15 essentially you're doing site plan approval  
16 without a clear delineation of the  
17 entranceway to me is irresponsible.

18                   I don't think this is an  
19 irresponsible board. I think you should  
20 require before you vote on anything, that  
21 you actually get a clear delineation of what  
22 that entrance is. Second, with regard to  
23 the buffering, you are standing in for the  
24 Upper Township planning board and zoning  
25 board. We've described to you the ordinance

1 and if I haven't put the exact number in the  
2 record, I would like to do that and the  
3 ordinance is section 20-5.8 performance  
4 standards for all uses. That is the  
5 ordinance that says that when you have a  
6 non-residential against a residential, you  
7 should put some kind of buffers, not just  
8 space, and not just a fence that's between  
9 residences but instead we're asking that you  
10 put a row of trees, two rows of trees as  
11 described in that ordinance along separating  
12 the commercial establishment from the  
13 residential establishment.

14                   There's somewhere between 20  
15 and 40 feet, depending on what you approve  
16 in that area to do that, and the testimonies  
17 that this was once a tree farm and the  
18 testimonies that they're concerned about  
19 over spray. Now, whether or not that's  
20 poisonous or not, the person spraying it is  
21 in a hazmat suit. That is very bad optics.

22                   These folks are just asking  
23 that rows of trees be put up to help offset  
24 that, there should be a pause put on this  
25 while we figure out the entranceway and

1 while they come up with some better  
2 landscaping, that's more consistent with the  
3 Upper Township ordinance.

4 That's what we're asking for  
5 today. We reserve our rights on the five  
6 acres. That's for another day.

7 On those two principal  
8 things, now you've heard the people's  
9 testimony. It's not just a lawyer  
10 complaining about it, its residents and  
11 that's not all of them that are genuinely  
12 concerned about the use of Bayaire Road and  
13 the buffer between their homes and this  
14 commercial property.

15 I think at a minimum, you  
16 should give it the time to develop those  
17 issues before you vote, and that can be as  
18 soon as they come up with a better plan and  
19 a clearer plan. Thank you for the time and  
20 your patience. I really do appreciate it.

21 MR. BATISTINI: All right.  
22 Any other member of the public?

23 MR. CORRADO: I want to speak  
24 briefly.

25 MR. BATISTINI: Mr. Corrado,



1           come on up.

2                           MR. CORRADO: Thank you. I  
3           want to thank the board as well for allowing  
4           us to present. I think that we -- the  
5           Township has made its position clear. We  
6           want this board to take the steps that we  
7           think are necessary to adequately protect  
8           the neighbors. If this board wants to  
9           require additional landscaping, we certainly  
10          wouldn't object to that.

11                           We have reviewed the plan. I  
12          think you're your job is not to apply the  
13          Upper Township ordinances, but to use them  
14          as a guidepost or a guideline to take them  
15          into consideration when you determine the  
16          extent to which the surrounding neighborhood  
17          needs to be protected or saved from any  
18          adverse effect from this proposed SS AMP.

19                           Again, I thank the board and  
20          we only ask that when you make your decision  
21          on this you do so in a way that makes sure  
22          that the suggestions that we've made are  
23          incorporated to protect the surrounding  
24          neighborhood. Thank you.

25                           MR. BATISTINI: Thank you,

1 Mr. Corrado. All right. That's the end of  
2 public comment at this point. Mr. Bell,  
3 summation if through the listening to all of  
4 the public comment, there is any indication  
5 of potentially providing more buffer that  
6 your client is willing to do let us know.  
7 If not, that's fine.

8 MR. BELL: I took the board  
9 down so you can see me, although I guess  
10 some people probably say was improvement if  
11 you couldn't.

12 Ladies and gentlemen, I'm not  
13 going to reiterate everything that was said.  
14 What I will point out is with first, with  
15 respect to the landscaping, and the  
16 buffering we've agreed to what the township  
17 wanted other than the installation of that  
18 additional fencing.

19 They looked at our landscape  
20 buffer and determined it was adequate. We  
21 agreed to that. There's been a lot of  
22 discussion about there shouldn't be allowed  
23 to be a commercial enterprise. This is a  
24 preserved farm. There's nothing else you  
25 can do on it, but farm it. It's been a

1 farm for 70 years. There's not another  
2 option. There's not another use of this  
3 land that's even allowed under the law.  
4 This is a proposal that we think makes an  
5 economically viable farm.

6 I think what was very telling  
7 was the comments from, from Ms. Woolley-  
8 Dillon. What her comment was, well, this is  
9 a preexisting nonconform use. We want that  
10 to wither out and die. I believe that was  
11 her comment. To do what? To do what with  
12 the land? It cannot be anything else. This  
13 is not -- cannot be turned into housing  
14 because it's in a residential zone  
15 like you would think of in a normal  
16 preexisting nonconforming use.

17 This is not starting from a  
18 blank slate. A lot of these proposed  
19 comments that we heard as well if you're  
20 designing this from a blank piece of land,  
21 as this was all being built from nothing but  
22 that's not the situation we have. We took  
23 over on a blank piece of land, as this was  
24 all being built from nothing but that's not  
25 the situation we have. We took over a

1 preserved farm that was preserved with the  
2 agreement of Upper Township, with the  
3 agreement of this board, with the agreement  
4 of the State of New Jersey.

5 We're here under the Right to  
6 Farm Act for the reasons that the right to  
7 Farm Act exists, because we understand that  
8 neighbors are concerned.

9 We've done our absolute best  
10 to address those concerns but we're doing so  
11 in a way that stills allows us to farm.

12 With respect to the entrance  
13 and the traffic. Been growing grapes there  
14 for six years, what I did not hear was a  
15 single person say that there was some  
16 incident with traffic coming in and out of  
17 this particular property.

18 Nothing is going to change  
19 with respect to the entrance that exists  
20 now. The traffic is going to be the same as  
21 it exists now. It's going to be farmed  
22 responsibly. It's going to be farmed in  
23 accordance with all the DEP regulations.  
24 The generally accepted agricultural  
25 management practice.

1                   The SADC is already adopted  
2                   for tree fruit production with the Rutgers  
3                   Cooperative Extension determinations for  
4                   fertilizer and pesticides on grape  
5                   production.

6                   This is the least impact that  
7                   we can have on a neighborhood and still have  
8                   a viable farm. The only allowable use of  
9                   this land. I'm hearing counsel say we  
10                  should kick the can down the road again.  
11                  Enough is enough.

12                  We've gotten to the point  
13                  where it's time to vote on this application  
14                  and we can go through and try to nitpick  
15                  things in the plans. The bottom line is our  
16                  buffering is adequate. The township agrees  
17                  our buffering is adequate. You've heard  
18                  expert testimony that the buffering is  
19                  adequate. The entranceway is the same  
20                  entranceway. It's going to be used the  
21                  same way it's been used for the last six  
22                  years.

23                  Pesticides and fertilizer  
24                  going to be used the same way that they've  
25                  been used in accordance with the law.

1           There's been no problems with that. No one  
2           has found any issues with drift that the DEP  
3           has found or anything impacting other  
4           properties. This is the type of application  
5           and the reason that CADB like yourselves  
6           exist in order to ensure that preserve  
7           farmland can continue to be preserved in the  
8           least impactful manner.

9                                I'd ask that -- that you  
10          approve it subject to the conditions that I  
11          put forth at the beginning that are  
12          contained in our proposed resolution. I  
13          won't read them all again as well as the  
14          additional conditions we agreed to today  
15          that were proposed by the township, but with  
16          those conditions, I think it's an  
17          appropriate application. I asked you to  
18          vote yes.

19                               MR. BATISTINI: Thank you,  
20          Mr. Bell. Mr. Bell, do you have a copy of  
21          that proposed resolution with you that you  
22          could provide to me?

23                               MR. BELL: Yeah, absolutely.

24                               MR. BATISTINI: All right.  
25          Board have any final comments, questions

1 before we set this up for a vote on the SSIP  
2 and the requests by Mr. Bell?

3 JP: Just one question, was  
4 it made clear that the double buffer of  
5 trees is off the table? Are they agreeable  
6 to do that or they're not agreeable?

7 MR. BATISTINI: I think  
8 that's a fair question. If there is any  
9 type of buffer, whether it's double, single,  
10 more ornamental trees, it's entirely up to  
11 --

12 MR. BELL: No, the buffering  
13 that we propose is what, which is the  
14 buffering that the township is agreed with  
15 exactly is what we're --

16 MR. BATISTINI: Now, you as a  
17 board can tell them they have to put in  
18 more. That's entirely --

19 MR. BELL: I misspoke.  
20 Landscaping. I apologize.

21 MR. BATISTINI: We asked for  
22 fencing and you said no.

23 MR. BELL: That's right.

24 MR. BATISTINI: Said no to  
25 the fencing.

1 MR. BELL: Agreed on  
2 landscaping, so I didn't misspeak. I  
3 apologize.

4 MR. BATISTINI: Thank you.

5 MR. KING: It's just a  
6 landscaping in defense.

7 MR. BATISTINI: Yes, Mr. King.  
8 I'm sorry.

9 MR. BELL: The resolution -- I  
10 think the resolution is all the conditions  
11 that discussed.

12 MR. BATISTINI: Yeah, no,  
13 they absolutely don't.

14 MR. KING: The  
15 (Indiscernible) applied. Mr. Bell did say,  
16 and trustees, but the resolution doesn't  
17 have that --

18 MR. BATISTINI: We're not  
19 executing this resolution today. Let me be  
20 clear to everybody. We're going to take a  
21 vote because the proper resolution has to  
22 have in my mind all the testimony that was  
23 put in here today in addition to what's been  
24 agreed for the party.

25 We're going to come back and



1 we're actually going to execute a real  
2 resolution. The reason I asked this from  
3 Mr. Collin is because it just gives me a  
4 little bit of a greater opportunity to  
5 condense what has happened here today from  
6 all of the great public comment that we had  
7 either way. This is just more of a sample  
8 under guide. This is not what's being  
9 executed at all today.

10 MATTHEW: Little question, I  
11 guess I've heard a couple of times where  
12 they're supposed to agree to not have  
13 events. Are we allowed to contradict state  
14 law now, the special occasion events on  
15 preserved farmland act is law.

16 MR. BATISTINI: It has nothing  
17 to do with us.

18 MR. BELL: Well, I can address  
19 that if I don't mean to overstep by.

20 MR. SCHUMAN: It's a bottle in  
21 place now. It's not right --

22 MR. BELL: Certainly a state  
23 law pass that allows special occasion events  
24 on preserved farmland, preserved wines in  
25 particular. However, what that statute

1 requires is that you get approval either  
2 from you or from the municipality.

3 We're not asking for that.  
4 The only way we could have those events is  
5 to get one of those approvals that is not  
6 part of this application. We all know that  
7 Mr. Natali is not going to give us one.

8 MR. NATALI: I've got one.  
9 You're giving up the special events that was  
10 just passed.

11 MR. BELL: We're not asking  
12 for any approval for that as part of this  
13 application. If we ever were to want to do  
14 a special occasion event, us or someone who  
15 buys it from us or whatever, in the future,  
16 the only way that could happen is to come  
17 back and make another application for  
18 approval under, if this SS AMP is adopted,  
19 it does not give us permission to do special  
20 occasion events.

21 MR. NATALI: The other  
22 question is I think I read somewhere here  
23 that Mr. Halpern might grow fruit trees and  
24 maybe add fruit wines but what I want to  
25 know is and I think it's here that the plan

1 is to produce about 600 cases or six or  
2 thereabouts, and this came up in one of the  
3 questions too. Is it your plan to just make  
4 the wine from the fruit that you produce on  
5 your property? Or is there a larger plan to  
6 buy fruit or juice elsewhere?

7 MR. HALPERN: Good. Can I  
8 answer?

9 MR. BELL: Yep.

10 MR. HALPERN: Can you speak  
11 to the microphone just for the record.  
12 Where is the mic?

13 MR. BELL: Right here. It  
14 doesn't amplify.

15 MR. HALPERN: This is an ABC  
16 issue as you're aware. We have applied and  
17 we'll restart our plenary winery license,  
18 which gives us the option of doing that, of  
19 purchasing from outside. There are a lot of  
20 rules about what, and this better than I do  
21 about how you label when it can say New  
22 Jersey when it can't, et cetera.

23 The grapes we have will be  
24 made in wine without any question, and maybe  
25 both sites may do that, but I -- I can't at

1 this point say that we won't buy from  
2 outside. Certainly we'll be looking at  
3 buying New Jersey fruit, too.

4 MR. NATALI: How would that be  
5 delivered?

6 MR. HALPERN: All right. It  
7 depends actually on where we decide to crush  
8 it. There are a lot of options on how we  
9 want to do that. I would suggest that if  
10 there's a limited up. This is really right  
11 into the ABC stuff. If I were to buy fruit  
12 and it would come in, it would most likely  
13 be local and I would bring it in.

14 MR. NATALI: You would bring  
15 it in? It's one thing to say everything is  
16 going to come in and out with the van. It  
17 would be another thing if you had a  
18 tractor-trailer coming in.

19 MR. HALPERN: I don't ever  
20 see us having the capacity to do that, but  
21 again, what I'm thinking of is tons, not  
22 tons of tons. I move tons all the time.  
23 Our deliveries to my clients are generally  
24 between -- gosh, I want to say two and five  
25 tons, and that can be done with the

1 equipment I have no problem.

2 MR. SCHULMAN: You can do  
3 that, but it's a small trail or a truck. I  
4 did tons on that flat and tractor thing,  
5 it's doable what he's saying, eight or nine  
6 tons by a pickup truck at a trailer.

7 MR. HALPERN: That's another  
8 7,000 bottles. I'm not sure we will have  
9 the capacity anytime soon to do that. It's  
10 a good metric to use. Again, to pick up I  
11 might want to buy Chardonnay from an example  
12 would be Sunny Slope. He sells it every  
13 year.

14 He could pick up a couple  
15 times and do that. It'd be very profitable  
16 for us and not a lot of work to get it into  
17 the building processed and eventually  
18 bottled. I think it comes in the same way.

19 MR. NATALI: The same way  
20 doing it with your own equipment.

21 MR. HALPERN: That I leave  
22 with it, so my own equipment.

23 MR. BELL: Of course, you  
24 will.

25 MR. KING: With that

1 testimony, there's virtually an unlimited  
2 amount of traffic that could go into this  
3 winery to drop off and pick up for bottling  
4 purposes. Even though the number of your  
5 grapes is limited.

6 MR. HALPERN: You want an  
7 answer?

8 MR. BELL: Yeah.

9 MR. HALPERN: I don't know  
10 how to answer that. There is only one  
11 person in this room who has that experience  
12 and sitting on the board. I have some idea  
13 of how this is done from selling and hanging  
14 out with wineries. I don't think unlimited  
15 is financially possible.

16 MR. CORRADO: It's supposed  
17 to be --

18 MR. KING: Go ahead, Mr.  
19 Corrado.

20 MR. BATISTINI: Let Mr. King  
21 finish. Mr. King, finish --

22 MR. CORRADO: Yeah, please.

23 MR. KING: (Inaudible

24 00:55:12).

25 MR. CORRADO: Playing the age

1 card on me.

2 MR. KING: I can't believe  
3 you just -- might win that one.

4 MR. CORRADO: The testimony  
5 before the board is that the traffic that is  
6 be gonna be generated by this new  
7 application is not going to be greater than  
8 the traffic that is currently on the  
9 accessing and egressing this site. Is that  
10 true?

11 MR. HALPERN: Yeah, I think  
12 that remains true.

13 MR. CORRADO: Not think, is  
14 that true? That's true, yes or no?

15 MR. HALPERN: Yes, that's  
16 true.

17 MR. CORRADO: Now that's, I  
18 think that answers the question about  
19 whether he's going to surreptitiously bring  
20 in a whole bunch of other stuff. Another  
21 possibility that the board could do here is  
22 simply said as an additional condition, no  
23 tractor-trailers on Bayaire Avenue.

24 There's lots of ways to  
25 handle this but you're making an application

1 to this board. You can't leave these  
2 questions open. You have to --

3 MR. HALPERN: Well, I have to  
4 get asked for --

5 MR. CORRADO: You've answered  
6 my question. I don't have anything else to  
7 add.

8 MR. KING: The answer and the  
9 testimony -- the answer he just gave and the  
10 testimony to the gentleman's question, are  
11 irreconcilably different. It's that I'm not  
12 going to increase the volume of traffic, but  
13 when this gentleman who has known a lot  
14 about farming and wineries apparently  
15 foresaw the possibility, I'm saying, wait a  
16 minute, have a bottling plant onsite.  
17 That's different.

18 You can bring virtually  
19 unlimited amounts of grapes and juice to  
20 that site for bottling. The answer was,  
21 yeah, we might do that. Is that part of  
22 this SS AMP or is that something have to  
23 come in for a new application on, because  
24 it's a big, a tour guide to wine-tasting  
25 host, were not winery for a period of time,



1 and almost everything is bottled from  
2 elsewhere. That's one of the things they  
3 do. I'm trying to understand, there's two  
4 things are irreconcilable that answer in  
5 that testimony.

6 MR. NATALI: Well, no, the  
7 bottles themselves, that's a smaller thing,  
8 but the volume of either juice or grapes,  
9 and his testimony is that he's going to  
10 bring them in the same way he brings them in  
11 now, which is his pickup truck or, so that's  
12 okay. I would be worried about if he's  
13 bringing in a tractor trailer.

14 MR. SCHUMAN: He could be  
15 limited with the bottle on what you can  
16 produce anyway. What are you going to do?

17 MR. BELL: You can agree not  
18 to bring a tractor trailer.

19 MR. HALPERN: Collin is going  
20 to choke me but if we do this when we do  
21 this, I'm not taking anything out of there  
22 so anything I bring in will substitute for  
23 that traffic.

24 There's not going to be four  
25 harvests that leaves to go to my other

1 customers. They're going to sit there and I  
2 doubt that I'll ever bring four more of the  
3 equivalent size in.

4 MR. BELL: How big is the  
5 building where you actually do the bottling?  
6 Twenty-four hundred square feet?

7 MR. HALPERN: Yeah, 2,400.

8 MR. BELL: Can you store  
9 tractor trailers worth of --

10 MR. HALPERN: No. We don't  
11 have the refrigerated facility to hold onto  
12 the grapes.

13 MR. BELL: Were you agreeing  
14 not to bring any tractor-trailers on onto  
15 the property as a condition?

16 MR. HALPERN: Yes.  
17 Absolutely.

18 MR. NATALI: See, that's what  
19 I would be looking for.

20 MR. BATISTINI: Let's define  
21 tractor-trailer.

22 MR. BELL: An 18-wheeler,  
23 that's what I define a tractor-trailer.

24 MR. HALPERN: Can I ask a  
25 question? What happens if I need a lumber

1 delivery? Like all of my neighbors that  
2 comes on a large truck?

3 MR. NATALI: You said though,  
4 you were done with that.

5 MR. HALPERN: With building?

6 MR. NATALI: No, with the  
7 poles. I thought the reference for --

8 MR. HALPERN: Yes, correct.  
9 There are normal commercial deliveries from  
10 Home Depot. I get an appliance that comes  
11 in on a large truck.

12 MR. ORLANDO: Not a tractor  
13 trailer.

14 MR. HALPERN: I'm good.  
15 Thank you. That's a good clarification.  
16 I'm good. No tractor-trailer. (Inaudible  
17 00:59:00).

18 MR. BELL: If you were going  
19 to pick up, for example, two tons of grapes,  
20 how many loads with your pickup truck, would  
21 that be?

22 MR. NATALI: Well, I would  
23 say two, but as long as they're on pickup  
24 trucks.

25 MR. HALPERN: No, with the

1 trailer, too. I've been doing this for a  
2 long while, so we're a gypsy, we'll sell it  
3 all over, so -- thank you.

4 MR. BELL: Anybody else need  
5 --

6 MR. BATISTINI: Maybe this is  
7 covered by the bottle, I guess SS AMP, are  
8 there time restraints like can't be bottling  
9 at like three o'clock in the morning?

10 MR. BELL: Whatever the  
11 normal business hours, township business  
12 hours.

13 MR. BATISTINI: I rest my  
14 case. We include Saturday and Sundays.

15 MR. BELL: Well, if you may.

16 MR. KING: Farmers work seven  
17 days aren't --

18 MR. BELL: Work seven days a  
19 week.

20 MR. BATISTINI: Thank you,  
21 Mr. Bell. All right. We talk about a few  
22 other conditions that just came up. No  
23 tractor trailers, business hours. Is there  
24 any further discussion that this board may  
25 have if we grant this that you may want to

1 see as an additional condition? We have  
2 already conditioned that the plans are going  
3 to be updated to show, and I'll go through  
4 them again, but I just want to refresh your  
5 memory that the plans are going to be  
6 updated to show the stores out outside  
7 outdoor storage. They're also going to be  
8 updated to show where the buffers are as  
9 well.

10 Of course we have no  
11 tractor-trailers. We're going to do  
12 business hours.

13 MR. BELL: That was just for  
14 modeling business hours to be.

15 MR. BATISTINI: Correct. I  
16 don't think I'm -- oh, that the outside  
17 storage is going to be maxed at six feet --

18 MR. BELL: Height.

19 MR. BATISTINI: Six feet on  
20 height. Yes, that the plans are also going  
21 to delineate the driveway. And I'm still  
22 going to go over these again, but I just  
23 want to make sure that if I'm missing  
24 anything from the board, does the board have  
25 anything additional and answer because I

1 think I got them all. No. All right.  
2 We're going to take a three-minute break, so  
3 I can actually put all this together so I  
4 can regurgitate it to you. If you  
5 guys want to give me five minutes so I can  
6 put this together that'd be very helpful for  
7 me. Let me know when we're back on the  
8 record.

9 (Recess taken)

10 (Proceedings resume)

11 MR. BATISTINI: We good? I'm  
12 going to have the board members once again  
13 just say for the record that you're still  
14 here.

15 BOARD: Here.

16 MR. BATISTINI: At this  
17 point, we are going to do there's going to  
18 be a motion. You have heard testimony from  
19 Vincent Orlando on behalf of the applicant.  
20 You have heard testimony from the applicant  
21 himself. You have heard testimony from  
22 opposition from Upper Township is  
23 represented by Frank Corrado, and you heard  
24 testimony and opposition.

25 I shouldn't say opposition,

1 but you had heard testimony and concerns  
2 from Upper Township by Tiffany Morrissey.  
3 You have also heard testimony  
4 recommendations from Richard King, who owns  
5 -- actually from Richard King's expert  
6 Barbara Woolley-Dillon. There might be  
7 another name in there that I missed in her  
8 long name, but I think it was it. Testimony  
9 as a planner as to some of the suggestions  
10 and or difficulties that she has with the  
11 application.

12 You have also heard testimony  
13 from several neighbors that are brought up,  
14 issues related to traffic buffering,  
15 environmental matters. You have heard some  
16 testimony in favor of the application as  
17 well.

18 The motion will be to permit  
19 a site. The motion for this particular  
20 section of what we're here for today, we've  
21 already decided by a previous vote, but not  
22 in resolution that this meets the definition  
23 of a commercial farm in that the farm is  
24 greater than five acres and further that the  
25 applicant has demonstrated the agricultural

1 and agricultural products worth \$2,500 per  
2 year. That the farm property differential  
3 property taxation under the Farm Assessment  
4 Act also identifies or can be used as  
5 additional information or additional support  
6 for a commercial form. The applicant  
7 motion, I'm correcting this as I've gone  
8 along.

9 I apologize. The motion  
10 before us today is a motion that the  
11 applicant has come in for a site-specific  
12 agricultural management plan for the  
13 bottling and making of certain wine and  
14 associated byproducts not limited to grape  
15 seed oil, grape skin flour, grapevine, and  
16 fruit tree wood, or recognized generally  
17 accepted agricultural management practices  
18 in the State of New Jersey, that the  
19 development of wine production and bottling  
20 facility by retrofitting the existing pole  
21 barn as reflected on the applicant's second  
22 revised plan is consistent with the  
23 generally accepted agricultural management  
24 practices and the operation of wineries, the  
25 development of wine production and bottling



1 facility by retrofitting the existing pole  
2 banners reflected on the applicant's second  
3 revised site plan will not implicate health  
4 and safety are welfare issues in the  
5 applicants have a legitimate farm-based  
6 reason for same, that the following events  
7 and activities at the farm are usual and  
8 customary in wine production and bottling  
9 businesses and consistent with generally,  
10 except for that cultural practices to  
11 include the production and cultivation,  
12 harvesting storage of wine grapes, and fruit  
13 tree or tree fruit, including the  
14 application of appropriate pesticides and  
15 fertilizers, consistent with the  
16 requirements of any applicable state federal  
17 law, and that the application of  
18 agricultural and horticultural techniques,  
19 including the application of the appropriate  
20 pesticides and fertilizers shall be  
21 consistent with the Rutgers Agricultural  
22 Experiment Station 2019 commercial grape  
23 pest control recommendations for the State  
24 of New Jersey and that the implementation of  
25 the approved farm conservation plans

1 pursuant to the New Jersey administrative  
2 law, and that the permission of the bottling  
3 the production bottling, packaging, and  
4 storage of wine on the farm for the sale  
5 offsite and online, the production of  
6 bottling packaging and other storage of wine  
7 byproducts, including but not limited to the  
8 grape seed oil, grapefruit flour, grapevine,  
9 and tree fruit wine for sale, offsite and  
10 online, and the storage of supplementary and  
11 complimentary agricultural products such as  
12 branded wine glasses, wine accessory shirts,  
13 hats, and similar promotional materials  
14 shall be permitted, be it further resolved  
15 that the applicant has agreed to additional  
16 conditions to include, wrote them down for -  
17 - just a second, how could something  
18 possibly be missing when I just wrote it  
19 down?

20 Bear with me for just a  
21 second longer. Fall on the floor. The  
22 strangest of all things. There. The  
23 applicant will revise the plans to include  
24 delineation of the existing buffers  
25 delineation of the outside storage area that

1 currently extends to the fence line. The  
2 applicant will not store anything higher  
3 than six feet in the outside storage base  
4 area. The applicant will maintain our  
5 current fences and proposed fences. The  
6 applicant will delineate the driveway  
7 entrance.

8 The applicant agrees that  
9 there'll be no tractor travel deliveries  
10 that business hours shall be in accordance  
11 with the Upper Township and other applicable  
12 regulatory agencies.

13 In the event that traffic is  
14 substantially increased, the applicant or  
15 agreed party may return to the board or  
16 other avenues and remedies that are  
17 available to them by law. The applicant  
18 further agrees for purposes of conditions  
19 that all retrofitting construction approved  
20 by the SS AMP shall be done in accordance  
21 with the applicable construction and  
22 building code standards and shall be subject  
23 to inspection for compliance with the code  
24 requirements for the township above our and  
25 the other regulating entity. All wine

1 production bottling storage at the farm  
2 shall be in compliance with applicable ABC  
3 laws and regulations.

4 The farm shall comply with  
5 all applicable ABC laws. If the farm's  
6 operations substantially change or deviate  
7 for the provisions of this SS AMP in the  
8 future of the applicants, any aggrieved  
9 party may return to the board to seek  
10 appropriate leave provided by law.

11 Somebody wants to add any  
12 conditions or any conditions that anybody  
13 wants to add on the board member that I may  
14 have missed.

15 MR. BELL: Mr. Batistini,  
16 sir, just to be clear, the restriction to  
17 business hours just for the bottling?

18 MR. BATISTINI: Just for the  
19 bottling, that's correct. Now I'm seeing  
20 none. If somebody wants to make a motion,

21 MR. SCHUMANN: I'll make a  
22 motion.

23 JP: I'll second.

24 MR. BATISTINI: When you give  
25 your decision, please give some factual

1 reasons as to your support and how you going  
2 to vote.

3 MR. SCHUMANN: I'm approving  
4 it. I think they've well exceeded what  
5 they've asked for. They've cut back from  
6 what they originally wanted, and I think  
7 it's plenty of buffer for the area, for the  
8 agriculture industry.

9 MR. BATISTINI: You vote yes.

10 MR. SCHUMANN: Yes.

11 SUE: Yes. I'm sorry. He  
12 came in on a preserved farm and he's done  
13 everything he's supposed to do.

14 MATTHEW: I'd say yes. It  
15 practically meets the definition of ag work  
16 on a preserved farm in the Right to Farm  
17 Act.

18 JP: I have a lot of  
19 compassion for the neighbors, but as one of  
20 the commenters out of the audience today  
21 said your issue was with your township that  
22 made the approval for a farm in the first  
23 place. I'm referring to the five-acre  
24 detail. I think that the applicant has gone  
25 way out of their way to bend over backwards

1 to accommodate you as much as they can and  
2 so I vote yes as well.

3 MR. BATISTINI: Mr. Natali?

4 MR. NATALI: I vote yes. I  
5 think that the resolution keeps a balance  
6 between the interest of farming and the  
7 interest of community. I would be  
8 hard-pressed to think of what else could be  
9 done with this land, given that it's a  
10 preserved farm and given that the state  
11 requires a vineyard as a condition to obtain  
12 a license.

13 Without this farm, he  
14 couldn't have a winery. I'm voting yes.

15 MR. BATISTINI: All right.  
16 The motion passes. I will draft a  
17 resolution that incorporates the commercial  
18 farm as well as the site-specific SS AMP and  
19 we will see where that takes us. Thank you  
20 for everybody's time and patience. Thank  
21 you for listening to my ramblings a little  
22 bit today, especially towards the end.

23 \*\*\*\*\*

24

25

CERTIFICATION

1  
2 I, KATHLEEN PRICE, certify that the  
3 foregoing transcript of proceedings in the  
4 County of Cape May Agriculture Development  
5 Board, Was Prepared Using the Required  
6 transcription equipment and is a true and  
7 accurate record of the proceedings, to the  
8 best of my ability, which was compromised  
9 due to inadequate recording devices used  
10 throughout proceedings.  
11  
12  
13

14 Kathleen M. Price  
15  
16  
17

18 Date: April 13, 2023  
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