

1 THE CITY OF EASTON PLANNING COMMISSION MEETING

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9 The Land Development Application of 1525 Wood Avenue

10 Wednesday, September 3, 2025

11 8:00 p.m.

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24 Reported by: Kiyziah Vaughn, Digital Reporter.

25 Job No.: 994157

1 ATTENDANCE

2 DR. G KENNEDY GREENE, CHAIR

3 HUBERT ETCHISON, MEMBER

4 WILLIAM HEILMAN, MEMBER

5 FRANK GRAZIANO, MEMBER

6 RONALD SHIPMAN, MEMBER

7 KIM WAGNER, MEMBER

8 MARK KAPLAN, ATTORNEY

9 JOEL SCHEER, CITY SOLICITOR

10 CHARLES COURTNEY, ATTORNEY

11 JEFFREY SMITH, A PROFESSIONAL GEOLOGIST

12 BENJAMIN MUELLER, ACOUSTICAL ENGINEER

13 DONALD HAAS, ENGINEER

14 DWAYNE TILLMAN, PLANNING DIRECTOR

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P R O C E E D I N G S

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(8:00 p.m.)

3 DR. GREENE: I'm going to call the meeting back
4 to order. At this time we'll be -- the hearing that
5 we are about to undertake with regard to this
6 application. I'm going to turn the facilitation of
7 this part of the meeting over to Mr. Scheer.

8 MR. SCHEER: Thank you. I'm first going to give
9 an overview, and I'm going to cover some of the
10 procedure we're going to be following tonight and
11 throughout the process of this application.

12 And I'm going to start with some background.
13 This matter is before the Planning Commission for
14 consideration of a land development plan for a
15 warehouse building approximately 1 million square feet
16 in size, primarily located in Wilson Borough, but
17 approximately 10 percent overlapping into the City of
18 Easton.

19 Additional land within the City of Easton is part
20 of the land development as it pertains to the overall
21 site development.

22 The application was initially introduced before
23 the Planning Commission approximately one year ago,
24 but an actual presentation by the developer was
25 postponed until May 7th, 2025, while the developer

1 pursued various approvals required by outside
2 government agencies.

3 On May 7th, the City of Easton made a
4 presentation concerning the review of the submission.
5 Thereafter -- sorry, the Easton staff made that
6 presentation.

7 Thereafter, the applicant made a presentation.
8 Those in attendance, primarily in opposition to the
9 application, made various presentations and presented
10 the Commission members with written material which was
11 later scanned by staff and provided to the applicant.

12 As a result of the volume of information provided
13 that evening, the Commission, with the applicant's
14 consent, continued the hearing to the July meeting to
15 allow the Commission members time to sort through the
16 information provided.

17 And then I'm going to interrupt my prepared
18 remarks just to explain to everyone that when an
19 application is submitted, there begins a 90-day period
20 for the review to be completed, and unless an
21 applicant agrees to the extensions, you are exposed to
22 a deemed approval. So we're very conscientious about
23 time requirements being waived when needed.

24 The applicant's attorney had also expressed a
25 desire to have the opportunity to review what was

1 presented in the event they'd wish to present rebuttal
2 evidence, That was made known directly to me as a
3 solicitor for the Commission by the applicant's
4 attorney, who's Charles Courtney, on that evening.

5 In the interim, the Easton planning staff
6 recognized the need for the developer to obtain a
7 special exception in connection with the portion of
8 the site that was located within the floodplain,
9 including a proposal to relocate a watercourse located
10 in the area, a retention basin, and a 40-foot-wide
11 access road.

12 Subsequently, staff also requested that a study
13 be provided to obtain the information as to the
14 potential noise impact of the proposed use.

15 As a result of those developments, the next
16 hearing on the land development plan was postponed to
17 this evening, September 3.

18 In addition to presenting the results of the
19 studies requested by staff, the applicant requested
20 and will be provided an opportunity to present
21 rebuttal evidence as to what was submitted and
22 testified to by objectors at the May 7th hearing.

23 Allowance for such an opportunity is fundamental
24 due process. At the conclusion of the testimony of
25 each witness -- and again, I'm going to -- to keep the

1 whole history together I'm going to depart from my
2 opening remarks.

3 We did have a meeting in August on the special
4 exception request. The Planning Commission had
5 recommended against granting that special exception
6 and a zoning hearing is pending within the next few
7 weeks, I take it.

8 At the conclusion of the testimony of each
9 witness tonight and the presentation as a whole, the
10 Commission members will be afforded an opportunity to
11 question the witnesses or the applicant.

12 For those in attendance, please take notes. So
13 at the conclusion of the questions by the Planning
14 Commission, an opportunity will be provided to direct
15 specific questions to me as the acting chair in this
16 phase of the proceedings for responses from the
17 applicant or its witnesses.

18 In other words, I'm going to ask you to direct a
19 question to me. I will consider it, potentially
20 rephrase it, and direct it to the appropriate party.

21 Once that phase is concluded -- that is the
22 questions, that's not the comments. You'll have an
23 opportunity to comment, and that's at that point.

24 At that point the applicant's rebuttal and new
25 submission on the noise will be concluded. And those

1 in attendance are given an opportunity to present or
2 comment only to the extent of what is presented
3 tonight by the applicant. That's called surrebuttal
4 in a trial case, so that we're narrowing the scope.
5 We don't bring up new subject matter, just within the
6 subject matter that is introduced tonight.

7 Now, at any time during tonight's meeting --
8 because it's 8:10 and we've learned lessons about
9 going too long -- the chair will reserve the right to
10 pause or essentially continue the testimony and
11 evidentiary phase to the October meeting.

12 That next meeting will be October 15th, not
13 October 1st. That was pre-scheduled for the third
14 Wednesday of October. So that tonight it is
15 definitely possible, and based on past experience,
16 that we may find that after the applicant's
17 presentation it will be deemed more suitable to
18 continue the meeting and then, at the next meeting in
19 October, give the people who object an opportunity
20 again within the surrebuttal scope to make comments,
21 after which the Commission will either decide that
22 they will vote and issue -- they will deliberate and
23 then vote, or they can decide, depending on the volume
24 of information that's provided, that it would be more
25 appropriate to wait till the November meeting, which

1 will be only three weeks later, and at that point they
2 will deliberate and vote.

3 The applicant has provided by letter the
4 agreement to waive the time periods, provided that
5 once the vote is taken, a written decision must be
6 issued within 15 days, which is what the
7 municipality's planning code requires.

8 I can't turn pages. I'd also like to review some
9 of the legal considerations in reviewing when a
10 Planning Commission is acting upon a land development
11 plan.

12 And I know I've stated this in some previous
13 meetings. Review of a land development plan is not
14 based on whether a project is liked or disliked.

15 The only relevant consideration is whether the
16 developer has complied with the requirements within
17 the City Subdivision and Land Development Ordinance.

18 Keeping that in mind, the commissioners
19 essentially will have three choices. One would be to
20 approve the plan with conditions that are set forth in
21 the staff's proposed resolution.

22 Two, to approve the plan with either those
23 conditions or additional or different conditions. Or
24 three, to deny approval.

25 If they do so, they must do so by giving reasons,

1 and those reasons must be tied into requirements of
2 the Easton Subdivision and Land Development Ordinance,
3 preferably with an indication of what the applicant
4 would need to do to correct any defect in its
5 submission.

6 Finally, on behalf of the Planning Commission, I
7 would request all of you in attendance to respect this
8 process, listen attentively, take notes.

9 It will be appropriate -- it will not be
10 appropriate for anyone to speak or shout out during
11 the presentation, and, just as in a courtroom, it is
12 not really appropriate to applaud.

13 This will assure the most efficient way to
14 establish the record for the commissioners to consider
15 when they deliberate and vote. And I thank you all
16 for your courtesies in advance.

17 And with that, the applicant is invited to
18 present it's new information that was requested by the
19 staff on the noise study and whatever surrebuttal, not
20 -- sorry but whatever rebuttal from the May 7th
21 meeting.

22 MR. KAPLAN: Thank you, Mr. Scheer. Can you hear
23 me? Do I need to --

24 DR. GREENE: They may not be able to hear you
25 because he's outside the hallway, yeah.

1 MR. KAPLAN: Okay. Let me see if I can move it
2 closer. Just a quick comment or two in addition to
3 what Mr. Scheer said.

4 I have asked this to be a hearing under the Local
5 Agency Law, as opposed to a -- as opposed to a
6 meeting. That gives me the right to have stenographic
7 record made. And it gives me the right, or my client
8 the right, if people want to get up and make
9 statements of fact, to cross-examine them.

10 We will see whether that is necessary. But I do
11 have a stenographer here.

12 And, Mr. Scheer, the one thing we did not talk
13 about is whether or not to swear my witnesses. And
14 just to -- if this is going to be a formal hearing and
15 with the ultimate possibility of going into court, I
16 would ask that my witnesses be sworn.

17 Can you do that, Court Reporter? Would you mind
18 if I do that?

19 MR. SCHEER: I don't have any objection. I think
20 that you and I may have some differences between what
21 a public hearing is and what is under the Local Agency
22 Law. I just agree that as a matter of due process,
23 you have the right to make a record.

24 Because this hearing to me started back on May
25 7th and is continuing today. Except that today you're

1 having that opportunity to have your rebuttal on the
2 record, because otherwise we have to start from
3 scratch from day 1.

4 MR. KAPLAN: Okay. Well, then I'll forego the
5 swearing of witnesses.

6 MR. SCHEER: But if you want to swear them in,
7 you're getting greater credibility that way. So
8 that's up to you.

9 MR. KAPLAN: My witnesses, if you guys would come
10 over, we're going to do this together.

11 MR. SHIPMAN: Joel, I need to, as a member of
12 this, I think we have to tell the membership and
13 people of the public who come here that every one of
14 them has the right to hire a lawyer to come in here
15 and examine witnesses.

16 And if you don't, you're relying on what we
17 remember -- we, the board remembers -- and what we do.
18 But you're entitled to come in and examine witnesses
19 if that's what's going to happen.

20 MR. KAPLAN: That's only true, Mr. Shipman, if
21 they have standing. I'm going to avoid getting into
22 the issue of standing, but everybody does not get the
23 right just because they live in Easton.

24 MR. SHIPMAN: What --

25 MR. KAPLAN: Excuse me, just let me finish. And

1 come in and cross-examine the witnesses. But at this
2 point, I'm not asking to invoke my right to cross-
3 examine whoever wants to come up here and cross-
4 examine my witnesses.

5 But since you raised that point, I will reserve
6 that right. Thank you.

7 MR. SHIPMAN: Well, as long as they have a
8 legitimate interest in what you're doing and what
9 we're deciding, they can hire counsel and they can
10 examine the witnesses.

11 They could go out and hire experts and bring them
12 in. That's all they need to be cautioned. That's
13 all.

14 MR. SCHEER: Mr. Shipman, just so you know, I
15 have already spoken to several representatives and
16 advised them of the wisdom of having counsel retained
17 for this purpose.

18 And tonight or in October, if it comes up to
19 that, they will be given the right to funnel questions
20 through me. But it's not the same as cross-
21 examination.

22 MR. SHIPMAN: I'm not assuming that you didn't do
23 that. I just, as a member of this committee, I felt
24 that the members of the public who are coming here and
25 have come in the past and had strong objections that

1 they should be told that. They can't rely on us if
2 they don't want to rely on us. They can bring
3 somebody in.

4 MR. KAPLAN: So, my witnesses. Mr. Haas, state
5 your name, please.

6 MR. HAAS: Donald Haas.

7 MR. KAPLAN: And your profession is?

8 WITNESS: Landscape architect.

9 MR. KAPLAN: Ben.

10 MR. MUELLER: Benjamin Mueller, I'm an acoustical
11 engineer.

12 MR. KAPLAN: Ian.

13 MR. PRESTON: Ian Preston, Civil Engineer.

14 MR. KAPLAN: Jeff.

15 MR. SMITH: Jeffrey Smith, Environmental
16 Consultant.

17 MR. KAPLAN: Could we have them sworn, please?

18 THE REPORTER: Please raise your right hand. Do
19 you swear and affirm that the testimony you give today
20 will be the truth, the whole truth, and nothing but
21 the truth?

22 THE WITNESSES: (In unison) Yes, we do.

23 MR. KAPLAN: Thank you. So with that, my name is
24 Mr. Mark Kaplan and I represent Easton Wood Avenue
25 PropCo, LLC in connection with its preliminary/final

1 land development application that is before you this
2 evening.

3 And I'll add one more thing that I didn't include
4 in my prepared remarks. You are here tonight in an
5 adjudicatory capacity and not in a recommended
6 capacity.

7 This is the Planning Commission. But Mr. Shipman
8 has said in the last application, your duty -- you
9 have a different duty as an adjudicator than you do as
10 a Planning Commission who just makes recommendations.

11 I am sure Mr. Scheer will instruct you, but
12 there's law here. And we're going to demonstrate
13 tonight that we have complied with everything.

14 And while, as a Planning Commission member, you
15 may have the feelings that I won't recommend it, but
16 as an adjudicator you have a duty to apply the law.

17 So we are here this evening seeking
18 preliminary/final approval from the Planning
19 Commission for the proposed development.

20 That approval would be subject to Easton, my
21 client, obtaining approval of its recently filed
22 application for special exception for the relocation
23 of a portion of the stream that's located on the
24 property.

25 To ensure that the record is clear and that you

1 understand our position, I would like to present a
2 brief overview of the project, and then I will present
3 the testimony of our expert witnesses whom my clients
4 have engaged to rebut the misinformation and
5 falsehoods that have been presented to, and by, the
6 members of the Planning Commission regarding this
7 application.

8 The property that is the subject of tonight's
9 proceeding is an approximately 106-acre tract known
10 generally as 1525 Wood Avenue in the City of Easton.

11 Easton Wood is the equitable owner of the
12 property by virtue of an agreement of sale with the
13 Abruzzi Trust, the legal owner of the property.

14 Copies of the tax map -- and Jessica is going to
15 put it on the screen. Copies of the tax map for the
16 property and the letter from Abruzzi granting my
17 client authorization to present tonight's application
18 to the Board are included in the large binder that I
19 have given to each member of the Board as Exhibit A1
20 and Exhibit A2.

21 I believe there is A1 on the screen, which is the
22 tax map, and A2 is a copy of the letter from the
23 Abruzzi Trust authorizing us to make this application.
24 Give me back the tax map, please.

25 As shown on the tax map, the property is

1 irregularly shaped parcel of land located in three
2 separate municipalities.

3 Approximately 61.66 acres are located in the
4 Borough of Wilson, 15.3 acres are located in Palmer
5 Township, and approximately 29.23 acres of the
6 property are located in the City of Easton.

7 The property has a long history of industrial
8 usage dating back to at least the late 1800s.

9 The historical industrial operations on the
10 property have ceased, and the property is now mostly
11 unimproved and overgrown, and has been vacant and
12 underutilized for several years.

13 The property is bounded by Wood Avenue along its
14 southern property line and the Hackett Park
15 Recreational Facility to the west, wooded areas above
16 the property to the north, and the Bushkill Creek
17 flows in a north-to-south direction along the
18 property's eastern boundary line.

19 An unnamed tributary to the Bushkill Creek
20 traverses the property through an underground tunnel
21 from east to west near its Wood Avenue frontage.

22 Pursuant to the township's -- I'm sorry.

23 Pursuant to Easton's zoning map, a portion of which is
24 included in your exhibit binders as Exhibit A3 -- and
25 Jessica has put it up on the screen so everybody can

1 see.

2 The base zoning of the property is the AR
3 Adaptive Reuse Zoning District, and the property is
4 also subject to the street part of Overlay District.

5 Additionally, due to the presence of the unnamed
6 tributary, portions of the property are located in the
7 special flood hazard areas subject to the one percent
8 or greater chance of flooding in any given year, that
9 is, the 100-year floodplain as classified by the Flood
10 Insurance study and accompanying Flood Insurance Rate
11 Maps prepared by the Federal Emergency Management
12 Agency.

13 As such, portions of the property are located
14 within the flood hazard Overlay District, and the
15 redevelopment of the property is therefore subject to
16 the provisions of the floodplain management Ordinance,
17 and that's the reason we have submitted an application
18 to the Zoning Hearing Board.

19 My client is proposing to consolidate the
20 separate parcels that compose the property and to
21 relocate -- I'm sorry, and to redevelop the
22 consolidated lot with the Easton Commerce Park and
23 Industrial Development for warehouse uses.

24 Warehouse and storage are permitted by right in
25 the AR District pursuant to Section 595-22b(34) of the

1 City of Easton Zoning Ordinance.

2 The proposed development is depicted on the
3 overall site plan included in your exhibit binder as
4 Exhibit 4, and Jessica has put that plan up on the
5 screen.

6 The Easton Commerce Park will be comprised of
7 just over 1 million square feet of warehouse building
8 and related improvements, including off-street parking
9 and loading areas and significant stormwater best
10 management practice facilities.

11 Only an approximately 71,000 square foot portion
12 of the warehouse building is proposed to be
13 constructed in Easton, while the remaining 936,000
14 square feet of warehouse building will be constructed
15 in the Borough of Wilson. There will be no
16 improvements in Palmer Township.

17 The proposed redevelopment also proposes the
18 daylighting and relocation of the unnamed tributary
19 and associated encroachments into the unnamed
20 tributary floodplain area, such as the construction of
21 a 40-foot-wide paved access and the installation of a
22 culvert for crossing the unnamed tributary and certain
23 additional utilities.

24 The land development -- excuse me, the land
25 development process for the proposed development was

1 commenced, as Mr. Scheer said, through the filing of
2 the preliminary/final land development application
3 with the Borough of Wilson on or around April 1, 2023,
4 and my client has been processing the project through
5 the land development review process for three separate
6 municipalities and multiple third-party state, county,
7 and local agencies.

8 The development project was unanimously approved
9 by the Wilson Borough Council on September 9th, 2024.
10 The land development application for the proposed
11 development was filed with the City of Easton on May
12 2024, after which, as Mr. Scheer stated, the
13 application was subject to a series of reviews
14 conducted by Easton staff and professional
15 consultants, and subsequent plan revisions and
16 resubmissions were made by the applicant in response
17 to the comments received.

18 Now we get to some of the real nitty-gritty. A
19 zoning permit was issued on October 7th, 2024 by the
20 City, thereby confirming the proposed redevelopment is
21 in conformance with the applicable requirements of
22 Easton's zoning Ordinance.

23 A copy of the zoning permit is included in the
24 binders as Exhibit A5(f). Excuse me. I'd like to
25 call your attention to that document.

1 DR. GREENE: Have you attached it?

2 MR. KAPLAN: Yeah, it's behind the tab F.

3 DR. GREENE: Got you. Behind the tab F?

4 MR. KAPLAN: Yes.

5 DR. GREENE: Okay.

6 MR. KAPLAN: So I'm not going to go through the
7 whole thing, but I want to emphasize the first
8 sentence. Okay. Thank you.

9 So the first sentence is, "Dear Applicant, I have
10 reviewed your zoning permit application to establish a
11 new construction at the above-referenced property, and
12 herewith issue a zoning permit to you, since your
13 proposal is in conformance with the requirements of
14 Easton's Zoning Ordinance."

15 MR. SCHEER: I don't want to necessarily
16 interrupt, but it'd be easier if I could just ask you
17 about the next sentence in that same page.

18 MR. KAPLAN: Well, I'd rather you didn't
19 interrupt me, but you're the chairman, so go ahead.

20 MR. SCHEER: Well, I just want to make sure I
21 understand. The next line says, "The approval --"
22 this is October 7th. "This approval is valid for six
23 months in accordance with Section 595.05. Failure to
24 obtain a certificate of occupancy prior or within six
25 months will result in the zoning application being

1 null and void."

2 So is this a correct reading, because you have it
3 highlighted here that this is null and void, or is the
4 purpose just to indicate that at that time and
5 nothing's changed, it meets City's zoning?

6 MR. KAPLAN: Exactly the last thing you said.

7 When this application was filed, it met zoning -- it
8 met the township's or the city's zoning requirements.

9 MR. SCHEER: But does that mean you have to
10 resubmit?

11 MR. KAPLAN: Excuse me. Excuse me. My
12 understanding is that the Zoning Ordinance has not
13 changed and, therefore, that is still in effect.

14 In addition, Mr. Scheer, you and I know that
15 Section 508, Sub 4 of the Pennsylvania Municipalities
16 Planning Code says that any change in zoning after the
17 filing of a plan does not affect the validity of that
18 plan for at least a period of five years.

19 So my point is the second part of what you said.
20 We have a plan that complies with the Zoning Ordinance
21 of the City.

22 Now, the land development application was
23 subsequently approved, or recommended for approval, by
24 the Easton Fire Department on July 19, 2024, the City
25 Forester on July 22nd, 2024, the City Planning staff

1 on August 26th, 2024, and the City Traffic Engineer on
2 February 6th, 2025.

3 Now, copies of those approvals are attached.

4 They are Sub B in the list that we just talked about.
5 Sub B is the Fire Department review, C is the
6 Forester's review, D is the Planning Department's
7 review.

8 Then the Planning Department's review is
9 significant because it's an in-depth review of the
10 plan.

11 And when you come over to page 4, going down
12 second, third paragraph. It says, "The Zoning
13 Administrator has determined no variances are required
14 with this application."

15 Coming down a little bit further, "The proposed
16 improvements are within a developed area that is
17 served by Fire and Police," and the staff goes on and
18 on.

19 And then, at the bottom, staff recommendation,
20 "Proposed warehouse building is a permitted use within
21 the Adaptive Reuse Zoning District. This proposal is
22 appropriate for the location, considering the site was
23 previously used for industrial purposes.

24 The proposed use is generally consistent with the
25 Comprehensive Plan and City Codes. Therefore, the

1 submitted plans titled 'Easton Commerce Park' appear
2 complete enough to support conditional final plan
3 approval with conditions."

4 And if you look over to the next page, to the
5 suggested resolution, where it says, "The Bureau of
6 Planning has reviewed the submitted plans and
7 recommended that the Commission grant conditional
8 final approval of the plans as it is generally
9 consistent with the Comprehensive Plan and the City
10 Codes."

11 In addition to those reviews by Zoning and
12 Planning, the proposed development has been subject to
13 extensive -- maybe the most extensive reviews I have
14 ever seen by the Pennsylvania Department of
15 Environmental Protection, the Northampton County
16 Conservation District, and the Lehigh Valley Planning
17 Commission, among numerous others, and has received
18 almost all of the permits and approvals needed not for
19 approval of development but needed to commence
20 construction of the proposed development at this time.

21 I have a long list. I'm sorry if I'm going to
22 bore you, but I'm going to walk you through exhibits.
23 Yeah, I know I never do it. Exhibits A5A through A5P.
24 Let me follow along so I don't mess up.

25 So the first review is from the Pennsylvania

1 State Historic Preservation Office and is a
2 confirmation of no above-ground concerns, no adverse
3 effects, dated January 10th, 2023.

4 MR. GRAZIANO: I'm sorry, where is this located
5 in our booklets?

6 MR. KAPLAN: Sub A below 5.

7 MR. GRAZIANO: Thank you.

8 MR. KAPLAN: Does everybody have it? I apologize
9 for that. The second one, B, is the Easton Fire
10 Department approval dated July 19th, 2024.

11 C is the planting and landscaping approval issued
12 by the City Forester on July 23, 2024. Exhibit D I
13 went through just a minute ago, and it's the
14 recommendation of the Planning staff.

15 E is the Easton Area Joint Sewer Authority and
16 the Pennsylvania Department of Environmental
17 Protection Sewage Facilities Planning under Chapter
18 94. It's a consistency determination dated September
19 27th, 2024.

20 F is the zoning permit that I referred to a
21 couple of minutes ago. Now, G is a very significant
22 approval by the Pennsylvania Department of
23 Environmental Protection, approval under Act 2 of a
24 combined Remedial Investigation, Risk Assessment,
25 Cleanup Plan dated December 17th, 2024.

1 We sat here two weeks ago when Commission Member
2 Wagner said that we did not have this approval. We
3 have this approval.

4 H is the Pennoni Associates, the engineers who
5 are Easton's stormwater consultant. It's a
6 recommendation for approval of the stormwater
7 management plan dated January 14th, 2025.

8 The next one, I, is the City Engineer Mark J.
9 Hammerstone's approval of the Transportation Impact
10 Study and Highway Occupancy Review for 1525 Wood
11 Avenue dated February 6th, 2025.

12 J is the Lehigh Valley Planning Commission's
13 Bushkill Creek Act 167 Stormwater Management Ordinance
14 consistency letter.

15 As I am sure you know, under Act 167 each
16 watershed has a particular plan for stormwater
17 management, and in the Lehigh Valley, the Lehigh
18 Valley Planning Commission, in addition to it's job as
19 a planning commission, has also assumed responsibility
20 to review all the stormwater management plans under
21 Act 167. And that approval was granted on February
22 26th, 2025.

23 The next one K is an equally significant approval
24 -- call it environmental approval. It is the
25 Pennsylvania Department of Environmental Protections

1 National Pollutant Discharge Elimination System. This
2 is an individual permit for the discharges of
3 stormwater associated with the proposed construction
4 activities, issued on April 15th, 2025. And Mr. Haas
5 will go into that in a little more detail, as Mr.
6 Smith will go into a little more detail on the Act 2
7 approval.

8 The next one, L, is the permit from the
9 Pennsylvania Department of Environmental Protection,
10 Water Obstruction & Encroachment issued on April 15th
11 of this year.

12 DEP has jurisdiction over the waters of the
13 commonwealth in the state, and in those instances when
14 you want to move a watercourse -- which is done very
15 often -- such as the moving of the unnamed tributary,
16 you must obtain a Water Obstruction & Encroachment
17 permit from DEP.

18 M is PennDOT, Pennsylvania Department of
19 Transportation's approval of our Transportation Impact
20 Study, which approved the Traffic Impact Study
21 prepared by Mr. Preston, who you've heard from before.

22 N is the Pennsylvania Department of Environmental
23 Protection Act 537 Planning Module exemption dated
24 June 2nd, 2025. That indicates that we have sewer
25 capacity approved by both the Easton Area Sewer

1 Authority and DEP.

2 O is an email from the Northampton County
3 Conservation District confirming the Conservation
4 District's approval of the E&S, the Erosion and
5 Sedimentation control plans dated July 31, 2025.

6 I believe it is under Section 102 or Chapter 102
7 of DEP's regulations that anyone who's going to move
8 dirt around and cause sedimentation or erosion must
9 obtain the approval of an E&S control plan, and
10 throughout the state that jurisdiction is delegated by
11 DEP to the local Conservation District.

12 And finally, P is the conditional approval of the
13 preliminary/final land development plan for the Easton
14 Commerce Center issued by Wilson Borough.

15 I spent a considerable amount of your time going
16 through each one of the approvals and reviews and
17 permits that we have obtained over the last two years.

18 We have everything we need except the recently
19 filed special exception, which is scheduled before the
20 Zoning Hearing Board on September 18th.

21 There are no remaining comments provided by
22 Easton's Planning or Zoning staff, as we have
23 addressed everything over this long period of time.

24 Now, despite the approvals of Wilson Borough and
25 the multiple third-party and governmental agencies

1 with jurisdiction over various aspects of the project,
2 the Easton approval process has been stymied in recent
3 months due to misinformation, falsehoods, and hearsay
4 that has been presented to this Commission by a group
5 of residents who vehemently oppose the project.

6 However, because the application complies with
7 all applicable provisions of the Easton Subdivision
8 and Land Development Ordinance, it is our position
9 that the Planning Commission is obligated to approve
10 the land development application for the proposed
11 development, subject only to our obtaining the special
12 exception.

13 I have with me this evening, as you've heard when
14 I had him sworn in, Donald Haas, landscape architect
15 of the proposed development, Mr. Jeff Smith, a
16 professional geologist and the environmental expert
17 for the project, Mr. Ian Preston, the traffic engineer
18 for the project, and Benjamin Mueller, the acoustical
19 engineer for the development.

20 And we have chosen, in addition to laying out all
21 the permits that I've just described, just to have
22 these experts describe certain areas of this project.

23 And the purpose of that is to dispel all of the
24 comments that this is a horrible economic -- a
25 horrible environmental project, that it's a horrible

1 traffic project, and it's a horrible every-other-kind-
2 of project that you heard for for months.

3 So with that, I would like to call Don Haas, who
4 you've heard testify numerous times, to the stand.

5 DONALD HAAS, after having been first duly
6 sworn, was examined and testified as
7 follows:

8 THE WITNESS: Good evening.

9 DIRECT EXAMINATION

10 BY MR. KAPLAN:

11 Q. So we're going to do this a little formally,
12 Don. So please state your name and business address
13 for the record.

14 A. Donald Haas. My business is at 667 Exton
15 Commons, Exton, PA.

16 Q. So I'd like you to refer to document number
17 6 in the book that everybody has. Is that a copy of
18 your curriculum vitae?

19 A. Yes, it is.

20 Q. Is that an accurate representation of your
21 educational and professional experience?

22 A. Yes, it is.

23 Q. And briefly describe your professional
24 experience as it relates to a project such as this.

25 A. I've worked in land development and land

1 development process for over 20 years with multiple
2 projects throughout the state.

3 I'm a licensed landscape architect in
4 Pennsylvania and Maryland, and I have numerous other
5 certifications that kind of come along when you're
6 doing your continuing education.

7 Q. By whom are you employed and in what
8 capacity?

9 A. By Bogia Engineering as a branch manager and
10 project manager.

11 Q. So maybe you've answered this, but I'll ask
12 it again. What is your experience with respect to
13 site planning and the preparation of land development
14 plans?

15 A. I've worked on projects from an individual's
16 backyard to buildings larger than what's presented
17 here and everything in between. So far, I've totaled
18 it up I have over 1,000 projects in Southeast PA, New
19 Jersey, Maryland, and Delaware.

20 Q. Do you have experience in performing
21 hydrology and hydraulic modeling, and floodplain
22 analysis?

23 A. Yes, I do.

24 Q. What is your experience with stormwater
25 engineering and design?

1 A. As I previously noted with all the projects
2 I've done, all of them pretty much touch on stormwater
3 design and making sure that everything is appropriate,
4 complies with the Ordinance, and is safe for the
5 public.

6 Q. And you've testified many times before
7 municipal boundaries?

8 A. Yes, I have.

9 MR. KAPLAN: Mr. Scheer, I move the admission of
10 Mr. Haas as an engineer in landscape architect as it
11 applies to the preparation of the plans in this
12 matter.

13 MR. SCHEER: So noted. I don't have to make a
14 ruling. He obviously has the credentials here. It
15 speaks for itself.

16 MR. KAPLAN: Thank you. Thank you.

17 BY MR. KAPLAN:

18 Q. Don, are you generally familiar with the
19 property that is the subject of tonight's hearing?

20 A. Yes, I am.

21 Q. You have been involved in this project since
22 the time the application was filed, is that right?

23 A. Correct.

24 Q. And what work have you, Bogia Engineering,
25 performed on this project?

1 A. We've done the land development, the
2 stormwater design, the E&S permitting, the NPDES
3 permitting, and Army Corps.

4 Q. Have you received and responded to numerous
5 Easton reviews of the project?

6 A. Yes, I have.

7 Q. Has your involvement also included
8 communication and coordination with what we typically
9 refer to as outside or third-party agencies --

10 A. Yes, I have.

11 Q. -- such as all those leverage that I've
12 talked about?

13 A. Yes.

14 Q. Thank you. Have you assisted our client in
15 obtaining all of the necessary state and federal
16 permits required for this project that I've already
17 referred to?

18 A. Yes.

19 Q. Were you present for my earlier synopsis to
20 the Planning Commission regarding the land development
21 application and review process, which our client has
22 been engaged in for the last two or three years?

23 A. Yes.

24 Q. Can you confirm the accuracy of my
25 statements, or is there anything that you would like

1 to add or correct?

2 A. There's nothing to add or correct.

3 Q. Have you been present for the prior meetings
4 of the Planning Commission at which Easton residents
5 who object to the project have argued against the
6 granting of the application? And I'm specifically
7 talking about the meeting held on May 7th, 2025.

8 A. Yes, I have.

9 Q. And have you heard the arguments advanced by
10 the objectors?

11 A. Yes.

12 Q. This evening I want to touch on several of
13 those topics. We start with the floodplain
14 encroachments. You stated you received and responded
15 to numerous Easton reviews of this project. Is that
16 correct?

17 A. Yes.

18 Q. And you did have the occasion to meet with
19 City staff to discuss the project and the proposed
20 redevelopment of the property, didn't you?

21 A. We did not meet in person, but we've had
22 phone calls and email correspondence.

23 Q. In all of the reviews received for the
24 project, was it ever suggested previously that a
25 special exception approval was required for the

1 floodplain encroachments for stream location?

2 A. No, it was not.

3 Q. And was the May 7th, 2025 meeting before the
4 Planning Commission the first time the issue of
5 floodplain encroachment was ever raised?

6 A. No, it was not.

7 Q. When was the first --

8 A. That was after the May 7th hearing.

9 Q. After that. And after May 7th, you were
10 notified that a Special Exception will be required for
11 the floodplain encroachments?

12 A. Yes.

13 Q. Did you evaluate Easton's -- well, I'm going
14 to move on from that. And did you file a Special
15 Exception application with the Zoning Hearing
16 Ordinance?

17 A. Yes, we did. Our plans met the requirements
18 of the, the Ordinance, so we submitted that
19 application.

20 Q. So up on the board, Jessica has put your
21 request for Special Exception. Is that your
22 application?

23 A. Yes, it is.

24 Q. It's pretty thick, isn't it?

25 A. Yes, it is.

1 Q. Let's go on to Exhibit number 8, and I would
2 ask you to identify Exhibit A8.

3 A. These are the tributary relocation plans for
4 the project.

5 Q. So this is an overall plan? This is your
6 overall land development plan, is it?

7 A. Correct. It, it shows the entirety of the
8 site?

9 Q. Yeah. And the red line going east to west,
10 I guess, is how the stream is going to be relocated,
11 is it?

12 A. Correct. That would be the final
13 conditions.

14 Q. So tell us a little bit more, if you can,
15 about those floodplain encroachments and what's going
16 to be done.

17 A. So the floodplain encroachments are for the
18 existing floodplain and proposed floodplain with a
19 culvert crossing.

20 The culvert is down the stream bed. Above
21 the culvert will be utilities for gas, water, and
22 electric -- yes, I guess.

23 Stormwater pipes will have to cross that
24 because we're capturing the driveway stormwater and
25 putting that into one of the detention basins on the

1 north side of the, the relocated stream so we manage
2 it and clean it up.

3 Q. Did you conduct an analysis of the impact of
4 the proposed relocation and associated encroachments
5 on both the unnamed tributary and the Bushkill Creek?

6 A. Yes.

7 Q. Just put A9 up, will you, please? Now, can
8 you briefly describe for the record what the results -
9 - well, first of all, what is A9?

10 A. A9 is what we call an H&H report, Hydrology
11 and Hydraulics modeling from the floodplain analysis.

12 It looks at the existing conditions,
13 proposed conditions, and runs through the models to
14 ensure that we do not create any floodplain issues, we
15 don't raise the, the elevation on the floodplain or
16 create any issues upstream or downstream.

17 Q. So what was the result of your
18 investigation?

19 A. The final proposed conditions will be the
20 same or better than the existing conditions. We have
21 no concerns for any issues with the floodplain
22 creating any dangers to the public.

23 Q. So let's be a little bit more detailed on
24 that. The elevation of the floodplain, are you going
25 to change that?

1 A. We are compliant with the Ordinance
2 requirements and FEMA requirements. They do allow up
3 to a one-foot change, but we've tried to minimize that
4 to all extent and purposes.

5 We provide floodplain banking along the
6 sides of the relocated stream to also mitigate any
7 future flood concerns.

8 Q. So to create more stormwater storage
9 capacity along the creek when there is a --

10 A. A larger storm.

11 Q. Yes.

12 A. Correct.

13 Q. And what about water quality? What, if
14 anything, are you doing about water quality?

15 A. So as far as the stream relocations go, the
16 water quality will be improved because we're moving it
17 out of contaminated soils.

18 We're also daylighting it, providing it with
19 a riparian buffer. A happy stream has happy plants
20 along it that it does not have today.

21 Right now, it's either in a concrete trough
22 or underground for most of its length. As far as
23 stormwater water quality on the site, we have multiple
24 stormwater management facilities on the site that will
25 treat the water to filter it and remove pollutants

1 from it prior to its discharge to the unnamed
2 tributary on there.

3 We're using rain gardens, managed-release
4 concept basins, and vegetation and we're doing it in
5 series. So the stormwater from the truck courts goes
6 into basins, filters through before it goes into the
7 lower basin and filters through that again.

8 So we provide as much water quality
9 filtering as we can and in compliance with DEP
10 regulations.

11 Q. What about habitat? Do you have any effect
12 on habitat?

13 A. We have a great effect on habitat. And
14 habitat connectivity with relocating the stream.
15 Because it's underground, fish don't go up the
16 existing stream. And we know that Bushkill is a
17 natural trout stream.

18 So once we move it and get it to daylight,
19 then fish will be able to travel up the stream. It's
20 a vital habitat connectivity for upstream and
21 downstream of our project site.

22 Q. Okay. Let's twist a little bit. And what
23 is the reviewing entity with jurisdiction over the
24 floodplain encroachments or the relocation that you're
25 talking about?

1 A. DEP, Army Corps, and the local
2 municipalities.

3 Q. And has DEP already approved the floodplain
4 encroachments?

5 A. They have.

6 Q. And I talked about Exhibit A5L before. And
7 can we go back to that just to emphasize what this
8 approval is?

9 A. This is the Water Obstruction and
10 Encroachment Permit approval from the DEP.

11 Q. And can you tell us any more about what this
12 is, what you have to go through to do it, what your
13 studies are? Maybe I'm asking you to repeat what you
14 talked about already, but this is the reviewing
15 agency, is it not?

16 A. Correct. And they also work with the Fish
17 and Boat Commission and other, other entities in the
18 state government to ensure that what we're providing
19 is, is a good habitat.

20 So Fish and Boat looked at it. They liked
21 our stream design, they just got a straight trough
22 through. We meandered it.

23 We provided some extra little, little
24 elements of habitat within the stream so that fish can
25 have some shaded areas to go under, and some habitat

1 for amphibians as well.

2 They, they look at all elements of that. So
3 they get into mitigation to ensure that our stream is
4 stable.

5 So we have to prove, through our
6 calculations, that how it's designed the capacity that
7 is there will handle what's the normal flow and flood
8 conditions up to 100-year flood.

9 Q. So that's the Stream Encroachment or Water
10 Obstruction Permit?

11 A. Correct.

12 Q. You also got an NPDES permit?

13 A. Correct.

14 Q. That's stormwater management. That's not
15 necessarily the encroachment permit, is that right?

16 A. Correct. It's separate from the
17 encroachment permit.

18 Q. Okay. And have you had any further -- well,
19 have you had any dealings with the Army Corps of
20 Engineers?

21 A. Yes, we have. They issue their part of that
22 encroachment permit. And theirs is called a 404.

23 And so my last conversation approximately a
24 week ago with them, the only outstanding item we have
25 with the Army Corps right now is to put up an escrow

1 fund. And essentially it's to maintain that stream
2 and make sure that that stream is going to be
3 maintained in the future.

4 So they do not issue their permit until that
5 fund is established. It's one of those final
6 conditions and it's done typically right before
7 construction because it's going to be approximately a
8 \$200,000 fund that, that has to put together for the
9 Army Corps.

10 Q. And that runs with the ground and our client
11 does not yet own the ground?

12 A. Correct.

13 Q. So that would normally be put up at the time
14 that final approval is granted and all of the security
15 documents are signed with municipality?

16 A. Correct. Just prior to construction.

17 Q. I believe there have also been arguments
18 presented to the Planning Commission about the adverse
19 environmental impacts expected from this project.

20 Have you been subject --

21 A. Yes.

22 Q. -- to that? Do you agree with the objectors
23 that the project and the development of the property
24 will result in adverse environmental impacts in the
25 City of Easton?

1 A. No, I do not. Because we've complied with
2 all Ordinance elements. We've complied with all DEP
3 elements that's required to make sure that the
4 stormwater leaving the site is filtered and cleaned
5 and remove pollutants so that we do not exacerbate
6 anything downstream as far as floodplains is
7 concerned, and that the stormwater that we discharge
8 is the same or less than what is existing running off
9 from the site.

10 Q. But you also undertook a comprehensive
11 environmental impact or an impact study, is that
12 correct?

13 A. Correct.

14 Q. Can you confirm for me that the document
15 that's marked as A10?

16 A. Let me get there.

17 Q. A10.

18 A. Yes. That is our Impact Assessment and Land
19 Suitability Analysis. It goes through specific
20 sections of the Ordinance as relates to applicability
21 for our project, and addresses each section of the
22 Ordinance in order to show that our project is, is
23 compliant and meets the criteria.

24 Q. So you prepared this extensive report in
25 response to Section 520-40 of the City's Ordinance, is

1 that correct?

2 A. Correct.

3 Q. And can you describe for the record what
4 conclusions you reached from the results of the
5 analysis conducted under that impact study?

6 A. We, we acknowledge that there's challenges
7 with the project, but that the potential improvement
8 and environmental uplift by relocating the stream, by
9 providing riparian buffers where none exist along the,
10 the tributary and along the Bushkill.

11 I believe today they're still building
12 foundations pretty much right up to the edge of the
13 Bushkill stream bank that we, we're going to improve
14 things as far as environmental concerns.

15 Q. So that's basically flood, pollution, base
16 elevation, stormwater?

17 A. Correct.

18 Q. Now, let's move a little bit, but in the
19 same boat, so to speak. Can you explain to the board
20 what the Pennsylvania Natural Diversity Index process
21 encompasses? What we call PNDI.

22 A. PNDI is an online search where you highlight
23 your project area and it comes back if there's any
24 threatened or endangered species of concern that need
25 to be handled with your project.

Sometimes it's just a matter of when you stage your project. Sometimes there's larger concerns that you have to do avoidance measures.

4 Q. But you got to go through a number of
5 agencies --

6 A. Yes.

7 Q. -- to get to the end, don't you? So I'm
8 going to ask you what agencies were involved in your
9 getting the PNDI.

10 A. U.S. Fish and Wildlife, PA Game Commission,
11 DCNR -- there's a fourth one I'm just -- Game Fishing
12 and Fish and Boat Commission for the state was the
13 last one.

14 Q. And did you submit a request? You said it's
15 online. Is that the way you submit the request?

16 A. Correct. You fill that form.

17 Q. And you submit that to DCNR, the
18 Pennsylvania Department of Conservation and Natural
19 Resources too?

20 A. Correct. They run the PNDI system.

21 Q. It goes to the Game Commission.

22 A. Game Commission, Fish and Boat Commission,
23 U.S. Fish and Wildlife, and DCNR.

24 Q. And what were the results of the PNDI
25 investigation?

1 A. The PNDI found nothing on the project site.

2 I was honestly surprised by that. They just said no
3 further review. There was nothing there.

4 Knowing it's a natural trout stream, we did
5 expect something, but they have not had anything
6 documented at the project site, or, I believe, within
7 one to two miles of the project site.

8 Q. And could we go to A11 and could you
9 identify that?

10 A. Yes, that's our, our most recent PNDI. They
11 do expire after two years. So we initially started
12 this project earlier. We did have to renew it last
13 year because DEP will require that you have an up-to-
14 date PNDI in place throughout your permit process.

15 So this one will expire in 2026. During
16 construction, we'll actually have to submit that to
17 them and update the PNDI.

18 Q. Could we now go to Exhibit A12? And could
19 you identify A12.

20 A. Existing conditions but -- it's not showing
21 up on there. But from your -- from your book, it's
22 the existing conditions and site analysis plan.

23 Q. Did you prepare or oversee the preparation
24 of this plan?

25 A. Yes, I do.

1 Q. And does this plan depict the wetlands area
2 of the property?

3 A. Yes, it does.

4 Q. That's the area --

5 MS. JESSICA: I'm sorry, it is not loading. I'm
6 not quite sure why.

7 MR. KAPLAN: Okay.

8 MR. TILLMAN: You want to close out the other
9 ones, the other exhibits, maybe? Exhibit 10, 11.

10 BY MR. KAPLAN:

11 Q. Sure. All right. Well, the Board has the
12 exhibit. I tried to have every exhibit so that the
13 audience could see it but I apologize about that.
14 Please explain for the record where the wetlands are
15 located. And here, use my map.

16 A. The wetlands are located on the north side
17 of the existing stream. Not sure if you can see where
18 I'm pointing here. And they're denoted by flagged
19 locations like W 12, etc.

20 MR. SHIPMAN: I'm sorry, is that where the pink
21 begins?

22 THE WITNESS: Just above where the pink begins.

23 MR. SHIPMAN: From the left. Right from left to
24 right, so here. Thank you. Are you talking about
25 A12?

1 THE WITNESS: Yes.

2 MR. SHIPMAN: And that's where the what?

3 THE WITNESS: That's where the wetlands that are
4 found on the site are.

5 BY MR. KAPLAN:

6 Q. Does the project propose any disturbance
7 within either the wetlands or the required wetland
8 buffer?

9 A. For those wetlands, it does propose
10 disturbance of them.

11 Q. And has a wetlands determination been
12 obtained?

13 A. Yes, it has.

14 Q. And that was obtained from whom?

15 A. From the Army Corps.

16 Q. And what is involved in getting the Army
17 Corps to issue a jurisdictional determination?

18 A. A wetlands biologist will go out to the
19 site. We call it boots on the ground. They walk
20 around.

21 They have to physically walk the entire site
22 and document the areas where there are wetlands. They
23 also have to document where there aren't wetlands when
24 they're finding an absence of it.

25 For this project site, they only found one

1 specific area that was qualified to meet the
2 definition of wetlands per PA regulations.

3 It has to have hydrology, the correct soils,
4 and the correct biota, flora, and fauna that would be
5 appropriate for wetlands. So the wetlands area that
6 was found was 0.06 acres.

7 There was some discussion back and forth
8 with the Army Corps and the wetlands biologists
9 questioning it because it's actually inside the
10 foundation of a former building that was on the
11 project site.

12 So it's not like a natural wetlands that's
13 out along a natural stream that's been there for, for
14 decades and decades. It just kind of happened to form
15 in an old building foundation when they just dumped
16 some dirt in there and left a path for the water to go
17 in there.

18 So that information from the wetlands
19 biologists is sent to the Army Corps, and they either
20 agree with it or request modification to it based on
21 what they're looking at.

22 And they're considered the kind of the
23 ultimate authority on a wetlands determination.

24 Q. And then, just to finish that, obviously
25 you've done some water obstruction, you've got that

1 permit, and you said that's a joint permit with the
2 Army Corps?

3 A. Correct.

4 Q. So are you doing anything to the wetlands?

5 A. Those wetlands will be covered over as part
6 of the construction process. It's also part of
7 relocating the stream.

8 We're going to take the hydrology away from
9 the wetlands, so wetlands will be functionally dead
10 once we relocate the stream away from the, the
11 contaminated soils and, and daylight it from that area
12 there.

13 Q. And what is involved with reconstructing, or
14 why are you putting -- why are we putting up \$200,000?
15 Does that have anything to do with this?

16 A. That's partly for the wetlands, but mostly
17 for the stream relocation encroachment -- the wetlands
18 and waters encroachment. They're kind of both permit
19 there.

20 Q. Switching topics. The objectors have also
21 argued that the development of the project as
22 currently proposed will cause degradation of the
23 unnamed tributary of the Bushkill Creek and to the
24 Bushkill Creek. Do you agree with that?

25 A. No, I do not. This was one of the first

1 projects where I got DEP and the Army Corps to kind of
2 sit up and go, "What are you doing? Oh, that sounds -
3 - that actually sounds good." Instead of their normal
4 stance where they kind of hammer and question me on
5 everything.

6 They still having to question me on
7 everything else about this project. But the concept
8 of moving the stream that we presented to them was a
9 positive concept because it provides a lot of
10 beneficial environmental uplift.

11 Q. And as I said before, and maybe this is
12 repetitive, but you also have to deal with Act 167
13 and, I guess, the -- excuse me one second. The Post-
14 Construction Stormwater Management Plan, is that
15 correct?

16 A. Correct.

17 Q. And can you explain for the record what that
18 means for the project's proposed stormwater management
19 system? That is what we call the Post-Construction
20 Stormwater Management Plan, for which you need an
21 NPDES permit.

22 A. Correct. We also need the, the local
23 municipality approval of those. So we have Borough of
24 Wilson, City of Easton -- there Pennoni was the
25 outside reviewer -- and Lehigh Valley Planning

1 Commission also has jurisdiction to approve Act 167
2 stormwater submissions for anything, I believe, along
3 the Bushkill, but they might have further than that.

4 So we fell under three different reviews,
5 separate from DEP. DEP also provided a review of
6 that, and their review is focused on rate, volume, and
7 water quality to make sure that we do not exacerbate
8 anything downstream. We don't just dump it out and
9 leave it to happen for downstream. That we provide
10 the correct filtering and improvements to the water
11 quality so that we're providing clean discharge from
12 our project site.

13 Q. And that's Exhibit A13, is it not? The
14 Post-Construction Stormwater Management report?

15 A. Correct.

16 Q. You prepared that?

17 A. Correct.

18 Q. And I think you've already described in your
19 last couple of comments all the things that that plan
20 provided for, did you not?

21 A. Correct.

22 Q. Oh, I'm sorry. So we're not going to repeat
23 that, but give us a little detail on what the
24 facilities that will be included in that Stormwater
25 Management Plan.

1 A. Primarily it is inlets that capture the
2 water directed to stormwater basins. We have three
3 large basins on site. Two of them are closer to the
4 truck court.

5 We'll take water from the -- from the truck
6 court there, provide some filtering through that, and
7 slow the water down, and those then discharge to a
8 larger basin.

9 That basin is our primary water quality
10 basin. It's what they call a managed release concept.
11 It has two to three feet of soil media, specific media
12 with compost, sand, and other elements in it so that
13 the water has to filter through, and there's an under-
14 drain system underneath it rather large under-drain
15 system to kind of collect only the clean water that's
16 coming through and meter that out slowly.

17 It's only on larger storms. DEP's main
18 focus is a two-year storm and everything below that,
19 which is all your first flush that comes off of a
20 project site. Get that dirtiest water after it's been
21 dry for a month and, and the trucks are going, flush
22 that through the, the basin and through the filtering.

23 And then the larger storms where there's
24 more water will get metered out through your standard
25 atlas structure that's, that's around for almost all

1 stormwater basins in the state that, that does that.

2 Q. I want to move on from stormwater, but there
3 are a couple of three or four conclusionary questions
4 that I'd like to ask you. Does the PCMS Plan, the
5 Post-Construction Stormwater Management Plan,
6 incorporate best management practices to protect the
7 water quality of the Bushkill Creek and the unnamed
8 tributary?

9 A. Yes, it does. They're, they're standard
10 DEP-approved BMP practices.

11 Q. And are the stormwater management facilities
12 designed to minimize erosion and sedimentation?

13 A. Correct.

14 Q. Are the stormwater management facilities
15 designed to protect water quality?

16 A. Yes.

17 Q. Are the stormwater management facilities
18 designed to preserve the flood carrying capacity of
19 both the unnamed tributary and the Bushkill Creek?

20 A. They are.

21 Q. And who are the reviewing entities with
22 jurisdiction over the stormwater management system
23 design for the proposed development?

24 A. Wilson Borough, City of Easton, Lehigh
25 Valley Planning Commission, and DEP.

1 Q. And have each of them approved the
2 stormwater management system as proposed?

3 A. They have.

4 MR. KAPLAN: We'll try and expedite it. A5H, J,
5 K, and L.

6 MR. SHIPMAN: Going backwards.

7 BY MR. KAPLAN:

8 Q. Going backwards. Okay. Quickly. We
9 touched on those before. A5H is --

10 A. That is Pannoni's final review for the City
11 of Easton on the stormwater management, noting that we
12 are compliant with all elements of the order.

13 Q. Let's go to J.

14 A. That's Lehigh Valley Planning Commission.
15 Same notes, noting that we are compliant with all
16 elements of Act 167.

17 Q. And K.

18 A. That is the individual NPDES permit note
19 letter from DEP regarding the stormwater discharge.

20 Q. And one more, O.

21 A. And that is an email from Northampton County
22 Conservation District noting that the E&S permit is
23 inclusive in the NPDES permit. They do not issue a
24 separate document to say that you're approved. It is
25 part of the NPDES permit.

1 Q. Is it fair to say that these documents
2 confirm that the proposed stormwater system has been
3 approved by the entities with jurisdiction over their
4 design?

5 A. Yes.

6 Q. Let's talk about steep slopes. We could
7 refer back to the existing conditions planned and we
8 couldn't get on the board or do --

9 A. We got now.

10 Q. We got that? Is that A12 that's up there?

11 A. Yes.

12 Q. Are there any steep slopes, any steep-slope
13 areas on the property?

14 A. Yes, there are steep slopes throughout the
15 property, some were man-made, some were more natural.

16 Q. Are any of the improvements proposed on
17 steep-slope areas?

18 A. There are some improvements on the steep-
19 slope areas.

20 Q. And will there be any disturbances to the
21 steep-slope areas in connection with the project?

22 A. Yes, there are some disturbances.

23 Q. Are there steep-slope regulations contained
24 in the Zoning Ordinance?

25 A. Yes, but we comply with those. And we've

1 gotten no comments from the city engineer regarding
2 the proposed methods for stabilization that we've put
3 forth.

4 MR. KAPLAN: I have no further questions for Mr.
5 Haas.

6 MR. SCHEER: I believe it would be appropriate
7 now on this witness for the members of the commission,
8 if they have any specific questions based on what's
9 been testified to by Mr. Haas, to ask questions,
10 including anything that Mr. Kaplan had discussed that
11 is within Mr. Haas's purview.

12 DR. GREENE: I have a couple questions with
13 regard to -- can we bring up item number 10, the
14 Impact Assessment and Land Suitability Analysis?

15 Mr. Haas, again, you talked about your background
16 in hydrologics, stormwater analysis and a lot of the
17 things you testified to already. And in this
18 document, you have that you prepared this -- you
19 prepared this document?

20 THE WITNESS: Correct.

21 DR. GREENE: Did you receive assistance from
22 others? Did you prepare this completely on your own?

23 THE WITNESS: I did have assistance from others.
24 Somebody in our office does the PNDI. They gave that
25 to me. Note the issues on PNDI. And I do have

1 somebody else to type me things up and proofread for
2 me as well.

3 But for the most part, this was more or less my
4 work. There is a Geotech report that's an appendix.
5 That's somebody else.

6 DR. GREENE: But other than the things that you
7 mentioned, you prepared this?

8 THE WITNESS: Correct.

9 DR. GREENE: You go through the aspects of
10 Section 520. Excuse me, 510-40.

11 THE WITNESS: I might have a typo on the 5.

12 DR. GREENE: I think it's supposed to be 520-40.

13 THE WITNESS: Yes.

14 DR. GREENE: Yeah, 520-40. In particular, you
15 can go to page 10. It's regarding Section 510 of 520-
16 40 A10.

17 THE WITNESS: A10. Okay. That, that section --
18 the -- provided by KCI Technologies. I noted there
19 the traffic engineer. That would be, yeah.

20 DR. GREENE: So you didn't have anything to do
21 with this part of the --

22 THE WITNESS: That, that particular section? No.

23 DR. GREENE: Okay. On the next page number 11,
24 item A12.

25 THE WITNESS: So A12 was written after reviewing

1 the Act 2 process and going through that with, with
2 Langan, as we've been involved with them throughout
3 the project and on numerous calls and updates because
4 all these pieces have to kind of fit together as we go
5 through it.

6 DR. GREENE: Okay. And it talks about no undue
7 existing construction-related and future air, water
8 quality, and noise levels. I know we'll hear about
9 noise later.

10 MR. KAPLAN: I'm going to have the environmental
11 engineer from Langan, that I think you may want to
12 hear.

13 DR. GREENE: Okay. And items such as toxic
14 materials, vapors, and gases. They're referenced in
15 here is that there's no conditions will generate a
16 problem with that.

17 THE WITNESS: Correct. Yeah.

18 DR. GREENE: But we haven't done any kind of
19 environmental analysis of trucks and so forth. That
20 doesn't seem to be -- that's not a part of this.

21 THE WITNESS: That's not part of the, the
22 Ordinance requirements.

23 DR. GREENE: Okay. On page 12, Section A15, at
24 the bottom of the page, I'm referring here to that
25 this is required to provide alternatives to the

1 project.

2 And you note here that limited alternatives were
3 explored. Noted a couple of those. You mentioned
4 here that smaller buildings were not analyzed as the
5 project has to achieve a set economic goal to be a
6 viable functional project and to meet current market
7 demands for the type of warehouse proposed. Did you
8 write that?

9 THE WITNESS: Yes.

10 DR. GREENE: Okay. So you also have background
11 in economics and market analysis, in addition to what
12 you've already testified to as what your expertise is?

13 THE WITNESS: No. The economics for the project
14 that I understand is, I've looked at the total
15 construction costs that's going to be needed for this,
16 noting that the stream relocation is going to be more
17 than a million dollars.

18 Some of the other environmental improvements that
19 way, if you do a smaller building, it's just logical
20 that smaller buildings don't create enough income for
21 the developer to pay for all the improvements
22 necessary on the project site.

23 DR. GREENE: So this is your judgment based on
24 the environmental aspects of this and what they might
25 cost and as to whether that's economically viable?

1 THE WITNESS: Correct.

2 DR. GREENE: It doesn't feel like it reads that
3 way here. It reads that the project has to achieve a
4 set economic goal and it doesn't mention anything
5 about environment. So that's why I'm asking the
6 question. But that's your judgment at this point?

7 Yeah.

8 THE WITNESS: (Shakes head.)

9 MR. KAPLAN: You got to say, you can't just shake
10 your head.

11 THE WITNESS: Correct.

12 DR. GREENE: That's your judgment, even though it
13 doesn't say it that way. That's your judgment.

14 THE WITNESS: Correct.

15 DR. GREENE: Okay. All right. That's all the
16 questions I have. Thank you.

17 MR. SHIPMAN: Did you have anything to do with
18 the negotiations with the staff?

19 THE WITNESS: With regards to what?

20 MR. SHIPMAN: The recommendation that we approve
21 this?

22 THE WITNESS: There weren't really negotiations
23 with them. It was just providing them documentation
24 that say we meet all the requirements.

25 MR. SHIPMAN: Did you know that there was a

1 recommendation that included the fact that there was
2 going to be a sum of \$250,000 paid to the City for
3 use, whatever?

4 THE WITNESS: Yes. That's, that's relation to
5 the traffic improvements.

6 MR. SHIPMAN: Okay. Who negotiated that?

7 THE WITNESS: I'm not sure.

8 MR. SHIPMAN: And why was that negotiated?

9 THE WITNESS: I think to set the City at ease
10 that if there's any future conditions that aren't
11 known at this time or something comes up that the City
12 has some sort of means to figure something out.

13 MR. SHIPMAN: In all your years as an expert,
14 have you ever seen a city or any other entity,
15 governmental entity, say, "Hey, just if we get this
16 approval, we'll throw a \$250,000 cash in because we
17 think you may have to make some adjustments after we
18 make it?"

19 THE WITNESS: Well, it's not because they think
20 they -- it was to ease the City's concerns that they
21 there -- they, they want to be a good citizen as they
22 come in. And City kept expressing concerns. So this
23 was a means to provide the city a buffer in case they
24 had any issues with that.

25 MR. KAPLAN: Wait a minute, Don. Mr. Shipman, I

1 see it every day. In fact, I see it every day and
2 you're implying that there's something wrong being
3 done here. It is done in --

4 MR. SHIPMAN: Are you testifying? You're
5 testifying.

6 MR. KAPLAN: I am testifying.

7 MR. SHIPMAN: That's not fair.

8 MR. KAPLAN: It is absolutely fair.

9 MR. SHIPMAN: I can testify. I've done municipal
10 work and never seen that.

11 MR. KAPLAN: What about Act 209?

12 MR. SHIPMAN: I was surprised to read that
13 somebody wanted the City of Easton to get \$250,0000 if
14 they approved this and it didn't matter what they did
15 with it. I know --

16 MR. KAPLAN: I'll show you three projects in
17 Palmer when that just was done.

18 MR. SCHEER: If I may, it's the chair. This
19 entire line is inconsistent with the objective tonight
20 of rebuttal only.

21 And we've gone longer than rebuttal in some ways,
22 but I don't know anyway when you consider the scope of
23 what was discussed on May 7th. It's almost impossible
24 not to do that, but.

25 MR. SHIPMAN: For May the 7th, what was it?

1 MR. SCHEER: May 7th was when we had the evening
2 that lasted until 12:45 a.m.

3 MR. SHIPMAN: All right. I'm not going to be
4 long, but.

5 MR. SCHEER: I mean, this witness testifies as an
6 end as within a limited capacity. It would not have
7 been part of that team that would have had whatever
8 negotiations occurred.

9 It's as fair a question to ask the staff as
10 anyone else but I think for purposes of the procedure
11 tonight, we should really limit it to the testimony
12 that was given tonight.

13 MR. SHIPMAN: He's already told us it was more
14 for traffic that he was worried about -- somebody was
15 worried about.

16 MR. SCHEER: There's no question about it. It
17 was always built in on that basis when it was
18 presented initially.

19 MR. SHIPMAN: Okay. Thank you. Did you have
20 anything to do with that?

21 THE WITNESS: No.

22 MR. SHIPMAN: Who did? Who did that?

23 MR. KAPLAN: I'm going to object. It's beyond
24 his knowledge.

25 MR. SHIPMAN: Oh, of course. But there's no

1 question that that was --

2 MR. KAPLAN: Mr. Scheer, can we cut this off?

3 MR. SCHEER: I just thought I was trying to do
4 that.

5 MR. KAPLAN: I thought you were, too.

6 MR. SCHEER: And I mean, we didn't go back to the
7 initial -- the resolution that you read into the
8 record earlier, the recommended resolution, that has
9 morphed over time with the meetings.

10 So, just to be clear, there the last resolution,
11 which is in actually in tonight's package, includes
12 the items that were discussed and negotiated by some
13 member of city administration. I had nothing to do
14 with that.

15 But my understanding, and I can state this to Mr.
16 Shipman, was that there were concerns that there might
17 be -- there was a certain degree of satisfaction.

18 Now, this is only in some staff. This doesn't
19 find anything that the Commission is tied to. That
20 proposed traffic mitigation should work, but there
21 might be needs for additional signage to help assure
22 the compliance with the plan. And this would provide
23 a certain contingency fund to cover that.

24 As far as I understand it, as initially
25 presented, and our planning director has nodded his

1 head that that was the genesis of that \$250,000 being
2 part of the resolution and we discussed that, I think,
3 in some way in an earlier meeting that the way that
4 would be protected would be through the development
5 agreement that the applicant would have to enter into
6 as part of the conditions of an approval.

7 MR. SHIPMAN: The applicant would have to enter
8 into what kind of an agreement?

9 MR. SCHEER: A development agreement. Everything
10 that's been discussed tonight is all going to be in --
11 if this is approved, if this is approved, an
12 additional step will be the city staff preparing a
13 developers agreement to assure that all of the items
14 that need to be complied with in the future are
15 complied with and funded before any permits are given
16 to do construction.

17 MR. SHIPMAN: The resolution that was submitted
18 to us said nothing about that. Said nothing about
19 that. It said \$250,000 in the event there had to be
20 any signage, I think was the word.

21 MR. KAPLAN: Mr. Shipman, I'm sorry, but I got
22 limited time and I've got three other experts here,
23 and at a minimum, I'd like to get the environmental
24 expert on.

25 MR. SHIPMAN: Okay. I just have one more

1 question.

2 MR. SCHEER: I can only assure Mr. Shipman that a
3 provision such as item number 5, which discusses it,
4 the way these things get incorporated eventually is in
5 the developers agreement.

6 Because when we talk about city engineer comments
7 shall be addressed, which is part of it, it all goes
8 into a development agreement that will have to be --
9 that would have to be entered into.

10 And in the event there is a desire to approve
11 this plan subject to conditions, those certainly can
12 be added at that time to assure that.

13 But I think we need to go on with any questions
14 specifically within the province of what Mr. Haas
15 testified to this evening, including his consents to
16 some of the leading questions that were asked in that
17 process.

18 But that's the scope of the questions that
19 commission members should follow up with. So, if we
20 go down the line, unless Mr. Shipman has any other
21 questions specifically within that scope.

22 MR. SHIPMAN: Thank you for answering my
23 question. No, I have no other questions.

24 DR. GREENE: I wanted to ask because I thought
25 the questions were being directed only to Mr. Haas.

1 But Mr. Kaplan, you said that you're testifying as
2 well. I'm concerned with questions that I have about
3 some of the items that you presented already.

4 MR. KAPLAN: I testify with regard to what Mr.
5 Shipman said about what other municipalities do.
6 Everything that I said, I asked Don whether I was
7 accurate or not.

8 DR. GREENE: So any of the other documents that
9 you presented that were not questions for Mr. Haas,
10 those are not applicable for response?

11 MR. SCHEER: Mr. Kaplan is not under oath, and,
12 therefore, I can say including some of the less-than-
13 complimentary comments that were volunteered early on,
14 is not of particular relevance.

15 What is relevant is that Mr. Kaplan has put into
16 the record the ability of Mr. Haas to essentially
17 incorporate by reference what was said.

18 DR. GREENE: Okay. Then I'll reserve those for
19 another time. Thank you. I have no other question.

20 MS. WAGNER: Can you pull up the other page that
21 you had up there earlier?

22 MR. SCHEER: What page? The April 15th, 2025
23 Water Obstruction & Encroachment, a letter from the
24 DEP. It's not in this -- we don't believe it's in
25 this book, but it was in the book at the last time,

1 and it was shown up on the -- it was pulled up on the
2 board.

3 MR. KAPLAN: Water Encroachment permit's in here,
4 isn't it?

5 MS. JESSICA: Yeah, I'm sorry. The Water
6 Obstruction?

7 MR. SCHEER: Water Obstruction. It was from DEP
8 dated April 15th. Water Obstruction & Encroachment
9 from DEP.

10 MR. KAPLAN: What Exhibit is it, Jess? Do you
11 know?

12 THE WITNESS: 5L, A5L.

13 MR. KAPLAN: Let me get it up at the same time.

14 MS. WAGNER: Can you read the second paragraph
15 there?

16 THE WITNESS: "Please be advised that you do not
17 have federal authorization for this project, and such
18 authorization is required prior to starting your
19 project in accordance with procedures established with
20 the U.S. Army Corps of Engineers. You will be
21 contacted directly by the Corps regarding federal
22 authorization."

23 MS. WAGNER: Is there a reason why that we don't
24 have the updated set of plans? That we don't have any
25 plans with plans that we have.

1 We got to understand the whole purpose of today
2 is when all we really need is to have the construction
3 drawings. Like we don't have any. Like we have
4 nothing's been given to us since, like April.

5 Like the ones that were approved in April, even
6 though that they've been revised all the way up
7 through March of 2025, we're supposed to be improving
8 plans and say April 1st of 2023.

9 THE WITNESS: There's been updated plans provided
10 to the city staff during this process, during the
11 reviews.

12 MS. WAGNER: No. It hasn't been updated. They
13 say --

14 MR. KAPLAN: No, I'm going to object. You say
15 that what he says is no. Are you testifying?

16 MR. SCHEER: It is a sense out of order, but it's
17 a relevant question to get straightened out. I do
18 want to follow up, though, with the specific item that
19 was asked to be brought up on the board and the
20 paragraph that was written for the Army Corps of
21 Engineers.

22 Is there something still missing that is needed
23 to complete that -- to respond to that paragraph?

24 THE WITNESS: That was what I spoke to earlier,
25 the 404 Permit, the last part. And I just talked to

1 Army Corps last week after one of the objectors was
2 reaching out to the Army Corps. They reached out to
3 me and were clarifying the last, last piece.

4 It's just the escrow fund for the maintenance of
5 the stream relocation going on into the future. It's
6 not something where a developer will put up \$200,000
7 while he's still waiting for other permits and
8 approvals just to get that.

9 That permit approval is typically done right
10 before construction. The money is put into escrow and
11 the permit is issued.

12 MS. WAGNER: Will you pull up your plans that
13 show like the -- with your Water Obstruction Permit,
14 with like the checklist of like the niner kind of
15 things, and if you could possibly, like, side by side
16 with your plans and show everybody on your plan what
17 each one of those things means because the list isn't
18 all conclusive of all of the things that should be on
19 there, or what?

20 MR. SCHEER: Well, one thing at a time. The
21 question was, can you pull up the plan that addresses
22 those issues? Is it shown on a physical plan?

23 MS. WAGNER: No. Just compare all of that plan
24 to the plan.

25 MR. KAPLAN: I'm going to object. This is the

1 same game that Ms. Wagner played at the last time. We
2 have the permit. We have the permit.

3 MS. WAGNER: I have questions, legitimate
4 questions that don't just require --

5 MR. KAPLAN: Now you want to take a checklist
6 that goes on --

7 MS. WAGNER: You can call me a liar. He could
8 show everybody.

9 MR. KAPLAN: I call you a liar?

10 MR. GRAZIANO: I want us to be careful here.
11 Every single person in this room cares about doing
12 this right.

13 MS. WAGNER: Right.

14 MR. GRAZIANO: And every single person in this
15 room deserves to be heard and nobody deserves to be
16 belittled.

17 So let's take our temperature down a little bit.
18 Let Ms. Wagner ask her questions. If you have an
19 objection, let's not get personal.

20 MR. KAPLAN: You were here last time.

21 MR. GRAZIANO: There's been a --

22 MR. KAPLAN: You were here last time when Ms.
23 Wagner said that we do not have an NAA Act 2 permit.
24 She said it --

25 MR. GRAZIANO: That's actually not what she said.

1 MS. WAGNER: I didn't say I --

2 MR. GRAZIANO: Now you've got a record. You'll
3 be able to go back and compare and contrast your
4 recollection to what actually was said. My point is,
5 let's try to act with little respect. We're all a
6 little tired. We're all volunteers up here. We don't
7 deserve to be badgered or bullied. Would you agree
8 with that?

9 MR. KAPLAN: I would agree that.

10 MR. GRAZIANO: Outstanding. So why don't we
11 continue?

12 MR. SCHEER: And I think that what Ms. Wagner is
13 looking for is definitive answers to clear up things
14 that she has concerns about that should be there in
15 black and white.

16 If the purpose is to fulfill information that
17 proves that you meant everything to get an approval
18 because you checked off every bit. What's needed here
19 is there is a frustration being expressed by one of
20 the commission members because she cannot see and
21 verify for herself itself that certain things have
22 been complied with. So that's the reason for that
23 question, if I'm correct.

24 MR. KAPLAN: But that's why we have the permit.
25 The Army Corps, the DEP, approved this permit. It can

1 have checklists for 97 things, and if they're not
2 relevant, we don't need them. And that's what we went
3 through two weeks ago.

4 MR. SCHEER: I believe that this is an
5 appropriate question to ask so that she could see the
6 permit. Because people make mistakes, people take
7 shortcuts. And we just want to know. We just want
8 for everybody here to know that everything was done
9 properly and that what may have been presented is what
10 is presented to the City of Easton. That's one and
11 the same.

12 THE WITNESS: Item number 1. Fill within 0.064-
13 acre wetlands. Those were the wetlands that were
14 shown on your Existing Conditions Plan. And the fill
15 involved is this driveway crossing to get up to grade
16 approximately right where the mouse is is where that
17 wetlands is being done.

18 Number 2 is a channel change. Is where we
19 relocate the stream from where it's at now and to the
20 -- to the red area shown on there. Number 3 --

21 MS. WAGNER: Read your --

22 MR. KAPLAN: Excuse me. He's in the middle of
23 testifying.

24 MS. WAGNER: I want to read the description of it
25 and explain the description of --

1 MR. KAPLAN: Ask the question.

2 MR. SCHEER: Yeah, she just did. Could you
3 please read the provision? And you've to let her
4 finish the question because that's what you were
5 asking for.

6 THE WITNESS: "A channel change within an 870-
7 foot segment of the UNT to Bushkill Creek. High-
8 quality, cold-water fish, migratory fish consisting of
9 relocation of the existing stream channel construction
10 of a 1,532-foot-long, 8-foot-wide, 1.1-foot-deep,
11 trapezoidal channel having 2.5-to-1 side slopes. A
12 bed lined with R3 riprap and longitudinal slopes
13 ranging from 0.01 percent to 3 percent."

14 MS. WAGNER: As you are aware, you can explain
15 what that means?

16 THE WITNESS: The existing tributary. I think we
17 still have that. Yeah, we still have that up. Refers
18 to the area in purple. The area that is underground
19 is essentially considered a, a piped portion of it.
20 And then the proposed is referring to the red area
21 there for the relocated channel.

22 MS. WAGNER: And how long is that distance?

23 THE WITNESS: 1,532.

24 MS. WAGNER: And that's the whole red line?

25 THE WITNESS: The red is actually showing

1 floodplains. So it might be slightly short of that.
2 Our relocated channel ends right here where it meets
3 up with the existing unnamed tributary prior to the
4 Bushkill.

5 We don't have anything that touches into the
6 Bushkill. That was an important part of our design.
7 So we actually stopped a little bit short of that.
8 Would you like me to continue?

9 MS. WAGNER: Uh-huh.

10 THE WITNESS: Number --

11 MR. KAPLAN: What's the question?

12 THE WITNESS: Number 3, stream crossing
13 consisting of a 75-foot-long, 96-inch-diameter
14 concrete culvert with concrete wing walls. That is
15 the culvert for the driveway crossing of the unnamed
16 tributary.

17 Number 4 is for utility line for a 12-inch water
18 main. It would be coming up the road. Like I said
19 earlier, the culvert sits down low though utilities
20 are actually crossing above the culvert.

21 MS. WAGNER: Does that note there for the
22 culvert, does that match what the Geotechnical report
23 says? I thought I read something different on the
24 Geotechnical report for what was going to be required
25 for that.

1 That only says you only need a one-foot embedment
2 there for that?

3 THE WITNESS: For the one-foot embedment, that is
4 so that natural streambed material can be within the
5 culvert. So it's not the bottom of the culvert that
6 the stream is running on.

7 MS. WAGNER: So that whole, all that --

8 THE WITNESS: That round culvert, essentially,
9 you sink it down a little so the stream flows through.

10 MS. WAGNER: Like the bridge part -- like the
11 bridge part, is that part of -- the bridge, is that
12 part of your permit?

13 THE WITNESS: It's a culvert, not a bridge there.

14 MS. WAGNER: And do you need one to put the
15 bridge part, like the bridge, in there? You're
16 putting the bridge in -- is the bridge included in
17 that?

18 THE WITNESS: Are you referring to over along
19 Hackadav?

20 MS. WAGNER: No, right there.

21 THE WITNESS: Right on our site, the road pass --

22 MS. WAGNER: That bridge. That bridge. Is that
23 bridge part of your plans, the pedestrian bridge? Are
24 those listed in this list?

25 THE WITNESS: The pedestrian bridge is not part

1 of our permit.

2 MS. WAGNER: It's in the floodplain, I guess. Do
3 you need to put fill in there that's not on there?

4 THE WITNESS: For the pedestrian bridge to move
5 forward, it would require an additional permit.

6 MS. WAGNER: So are we worried about not getting
7 the pedestrian bridge because it's not there?

8 THE WITNESS: That would require the City to be
9 the applicant, is my understanding for that one.

10 MS. WAGNER: No, as part of our Ordinance when we
11 have a land development application, there's a portion
12 of like a trail or a park that's part of it. So it's
13 not like a gift to us, it's written into our code that
14 we're getting that.

15 So I do have a lot of questions about that part.
16 So I don't know, but I'll let you keep going.

17 THE WITNESS: Number 4 was, like I said, the
18 water line within the driveway into the site. Number
19 5 is for the stormwater crossing because we are
20 capturing what is south that's on the driveway, and
21 we're piping it over to the stormwater basin so it
22 goes through water quality.

23 MS. WAGNER: So pretty much everything just on
24 Wilson Burrough's side, everything that you need for
25 Easton side still needs to be added.

1 MR. KAPLAN: Objection. I don't know what you're
2 talking about.

3 MR. SCHEER: The question is, are there
4 improvements that need to be added that are going to
5 be completed on the Easton side? That's the way the
6 question should be?

7 MS. WAGNER: Correct.

8 THE WITNESS: With regards to the list I've gone
9 through?

10 MS. WAGNER: Is there additional items?

11 THE WITNESS: Number 9, it's not shown on here
12 but we have the discharge from the large basin. It
13 goes through a level spreader that is along the creek
14 here, and it actually is aimed to feed one of the
15 wetland pockets here to provide a source of water
16 through for the wetlands pocket every time there's a
17 storm. That would be on the Easton side.

18 MS. WAGNER: Do you need to include the fill and
19 fence posts?

20 THE WITNESS: Fence posts? No.

21 MS. WAGNER: Are we not getting fence -- how
22 steep are those?

23 THE WITNESS: The floodplain that is shown there
24 is the red. So, any fence would be on the outside of
25 the floodplain.

1 MS. WAGNER: For the green pond behind it, is
2 that getting fenced?

3 THE WITNESS: It probably will be fenced. I
4 believe the, the slopes qualifies so yeah, but that's
5 outside the floodplain.

6 MS. WAGNER: That's outside the floodplain?

7 THE WITNESS: The floodplain is the red that
8 you're seeing there.

9 MS. WAGNER: Well, it's also a floodplain for --
10 like it's part of a drainage easement. Like I think
11 it's like part of the -- I can picture it being like
12 orange on our map, that whole area right there. You
13 have it listed from here to here like on some of your
14 plans it'll say wetlands or floodplain from here to
15 here.

16 I don't have most current set, but.

17 MR. KAPLAN: What's the question?

18 MS. WAGNER: Is that wetlands there? It's the
19 floodplain like he needs --

20 MR. KAPLAN: What is the question?

21 MS. WAGNER: Do you need to get a permit to add
22 the fence posts?

23 THE WITNESS: No, it is outside the floodplain.

24 MS. WAGNER: Okay. One year plans. A
25 floodplain, and you just have that as like white.

1 It's like a white color on the plans. So part of the
2 problem is we don't have the plans. Like I know that
3 --

4 MR. KAPLAN: Objection.

5 MS. WAGNER: I hope that you gave us, it says 59
6 pages. Like our set only has 39 pages. So I might be
7 asking questions that are silly because we don't have.

8 MR. SCHEER: None of your questions are silly.

9 MS. WAGNER: We don't have any of them, but I do
10 have -- I mean, if I can ask some, I've got plenty.
11 For the Department of Conservation and Natural
12 Resources, it says, well, this project, how many acres
13 is going to be affected? You put 1 through 39 acres.
14 That's all of the acres that's being affected there?

15 THE WITNESS: What are you referring to?

16 MS. WAGNER: What I just pulled out of the book
17 here for the Department of Conservation and Natural
18 Resources.

19 THE WITNESS: Do you have an exhibit so I can
20 claim it?

21 MR. KAPLAN: I want to know what the question is.

22 MS. WAGNER: Is the project only affecting 1 to
23 39 acres? That what's the application to the
24 Conservation Districts say it is.

25 THE WITNESS: Which exhibit are you looking at so

1 I can look at it too?

2 MS. WAGNER: I pulled it out of one of my books.

3 Is it 1213?

4 MR. KAPLAN: What is it?

5 MS. WAGNER: It's an application --

6 MR. KAPLAN: What do you say it is?

7 MS. WAGNER: -- to the Department of Conservation
8 and Natural Resources. Is that accurate they're only
9 39?

10 THE WITNESS: 1 to 39 acres of forest or woodlot
11 zone.

12 MR. KAPLAN: I didn't hear you.

13 THE WITNESS: Let me bring up the PNDI. So, when
14 you fill out the PNDI, it will ask you specific
15 questions as you go through it.

16 And one of the questions was, "Will the project
17 affect 1 to 39 acres of forest, woodlots, or trees?"
18 And yes, the answer -- the question was above it. My
19 answer was, "It will affect 1 to 39 acres of forest,
20 woodlots, and trees." So there are trees on site
21 greater than one acre, but it will affect less than 39
22 acres.

23 MS. WAGNER: Can you read question 2?

24 THE WITNESS: "Is the tree removal, tree cutting,
25 or forest clearing of 40 acres or more necessary?"

1 And the answer is no, because there's existing
2 development on the site. Existing portions of the
3 site are, are cleared from the previous development on
4 the site. We were under the 40-acre threshold. The
5 PNDI looks at less than an acre, 1 to 39, and above
6 40.

7 MS. WAGNER: With the walking trail, is that
8 going to be an easement or a covenant?

9 THE WITNESS: That'll be up to the City on that.

10 MR. KAPLAN: Excuse me, I don't know what the
11 difference is.

12 MS. WAGNER: You don't know the difference
13 between an easement and a covenant?

14 MR. KAPLAN: Yeah, with regard to a trail.

15 MS. WAGNER: Well, it's part of our Ordinance for
16 -- I don't know what this.

17 MR. KAPLAN: But that document will -- whatever
18 that document is, it will be negotiated, or at the
19 time of final approval, it will be part of all of the
20 other documents that Mr. Scheer talked about. And
21 whatever it has to be, it will be.

22 MS. WAGNER: I just want to know, is it mapped
23 out -- is it mapped out like how wide is the walking
24 trail?

25 THE WITNESS: I believe we gave it eight feet,

1 and it's generally mapped out within a sewer easement,
2 because we could not do any repairing and planting in
3 that sewer easement.

4 So it made the perfect choice to put the walking
5 trail on top of the sewer easement that runs along the
6 Bushkill Creek. I believe it's Forks Township that
7 actually owns the easement, but we had to do riparian
8 buffers along the Bushkill Creek. And that was a
9 strip in there that I believe is 15 to 20-foot-wide
10 that we can't plant trees. So it makes a perfect
11 place to put the walking trail.

12 MS. WAGNER: And how wide is the pedestrian
13 bridge?

14 THE WITNESS: I do not have a design on that.

15 MS. WAGNER: What type of equipment will you need
16 to inspect and maintain the retaining wall and how
17 will you be able to go down there to inspect and
18 maintain the retaining wall?

19 THE WITNESS: Go down where?

20 MS. WAGNER: To the trail. Like, if you're --

21 THE WITNESS: On our project site --

22 MR. KAPLAN: I'm going to object that this is way
23 beyond the scope of direct examination.

24 MS. WAGNER: I don't think so because if somebody
25 gets injured down there --

1 MR. KAPLAN: I'm addressing that to the chairman.

2 MS. WAGNER: I'm curious to know what the weight
3 of the bridge is going to be and can ambulance get
4 down there because --

5 MR. SCHEER: The presentation was so broad, in
6 the sense that these permits were all-inclusive for
7 purposes of the conclusion that everything has been
8 met, so that, in the interest of completion.

9 And I think the Commissioners basically can --
10 they're open until they deliberate to ask questions
11 anyway, as far as the hearing goes.

12 We should keep ourselves confined as much as
13 possible. But it seems like a potentially legitimate
14 question within the realm of this particular expert to
15 testify.

16 MR. KAPLAN: These questions are things that are
17 usually in the purview of the staff and the Township
18 Engineer as to whether or not this little piece is big
19 enough to take care of the equipment that has to
20 maintain something. I just think it's very, very far
21 afield.

22 MS. WAGNER: So the only red line would be when
23 the pedestrian bridge hasn't been designed yet. Can
24 you make sure that an emergency vehicle, or whatever
25 equipment that you would need to be able to maintain

1 your retaining wall, could be done?

2 THE WITNESS: The retaining wall we would access
3 through our own project site, not over the pedestrian
4 bridge.

5 As far as emergency vehicle, there's access on
6 the north side through the existing apartment and
7 where the trail comes through itself. So they won't
8 have to drive a vehicle over a pedestrian bridge.

9 MS. WAGNER: From the other side?

10 THE WITNESS: The existing trail comes along the
11 north side of the property and dead ends approximately
12 here where, where the mouse is.

13 MS. WAGNER: So, from, like, Palmer Township,
14 you'd have to come in from Palmer?

15 MR. KAPLAN: Well, who can't see the mouse.

16 MR. SCHEER: Yeah, I mean, I think ultimately a
17 lot of that would be part of the operations and within
18 the purview of what otherwise will be commented upon
19 by the Engineering Department.

20 I think we need to focus on the documents that we
21 presented tonight and the testimony specifically
22 presented tonight, or if there is something that's
23 just missing from this particular area. Did you want
24 --

25 MR. GRAZIANO: Can I give a little break?

1 MR. SCHEER: Sure.

2 MR. GRAZIANO: All right. You talked a little
3 bit about 1 to 39 acres and whatnot. So the city's
4 forester didn't require you, in the removal of the
5 trees, to plant trees elsewhere?

6 THE WITNESS: I do not recall that as being part
7 of the review, though we did provide pretty
8 substantial riparian buffer along Bushkill Creek and
9 trees along the relocated tributary, and maybe we met
10 the requirement. So he didn't have a comment.

11 MR. GRAZIANO: Do you have any sense as to how
12 many trees will be eliminated in this construction,
13 roughly?

14 THE WITNESS: I do not.

15 MR. GRAZIANO: Not even a ballpark?

16 THE WITNESS: I'd have to start looking at --

17 MR. GRAZIANO: More than 5, less than a million?

18 THE WITNESS: You can pick that range.

19 MR. GRAZIANO: Great. The rock face to the north
20 of the development. That's going to be blasted away,
21 right?

22 THE WITNESS: I do not know how they're going to
23 do that. This means the methods in construction.

24 MR. GRAZIANO: Isn't that kind of important to
25 understand how that's going to be removed, how that's

1 going to be excavated on a brown site?

2 THE WITNESS: So you're talking the rock face in
3 Wilson.

4 MR. GRAZIANO: Yeah.

5 MR. KAPLAN: Excuse me, you said of a brownfield
6 site?

7 MR. GRAZIANO: Yeah.

8 MR. KAPLAN: We have the expert. We have the
9 geologist who took --

10 MR. GRAZIANO: To your point, you're right.

11 You're rightI apologize. Yeah, we'll come back to
12 that wallet. All right. Then I just can't get this
13 out of my trawler with the Spring Brook, the unnamed
14 tributary, as you guys call it.

15 Somebody else calls it Spring Brook. I like
16 Spring Brook, so I'm going to call it that. You're
17 going through the process of daylighting that
18 tributary, which means you're going to dig. Where's
19 the dirt going?

20 THE WITNESS: The dirt that's pulled from that
21 area where the stream's going is going to be used
22 elsewhere on site.

23 MR. GRAZIANO: Elsewhere on the site.

24 THE WITNESS: Dirt gets moved around on large
25 construction sites, so, as they dig that --

1 MR. GRAZIANO: The contaminated soil has some
2 very specific treatment that needs to be required with
3 --

4 MR. KAPLAN: What part of the environment --

5 MR. GRAZIANO: Are you going to let me ask my
6 question? You're going to interrupt every time
7 there's something you think is not cool.

8 MR. KAPLAN: Well, I'm going to object when you
9 ask him --

10 MR. GRAZIANO: To what --

11 MR. KAPLAN: You're referring to what the
12 contaminated soil is when I've told you that we have
13 the expert here who has done all the engineering for
14 that.

15 MR. GRAZIANO: Well, see, here's where we run
16 into a little bit of a problem, my friend. Right? Is
17 that we have the landscape engineer here. He's talked
18 about the excavation aspect of this tributary. Right?
19 And you don't want me to ask him questions because you
20 got an environmental person that's coming up. Do I
21 have it right?

22 MR. KAPLAN: No, you don't have it right. It's
23 when you started talking about the contaminated soil.
24 We haven't even determined at this point where the
25 contaminated soil is because I haven't put my witness

1 on.

2 So you're making some assumption about where the
3 contaminated soil is in relation to the creek, and
4 you're asking him to answer a question that he can't
5 answer. And if you really want the answer --

6 MR. GRAZIANO: Well, let's try it this way then.
7 The soil, whether contaminated or not, is going to be
8 removed from somewhere and placed somewhere.

9 It will need to be carefully removed unless it is
10 determined that it is not contaminated. What is the
11 plan for that removal of soil in order to determine
12 whether or not it needs to be carefully removed or can
13 be taken to a fill site somewhere?

14 THE WITNESS: That's the -- that will be the
15 environmental guy who can speak to that.

16 MR. SCHEER: And is that one of the -- is that
17 within those plans that were submitted in the book?

18 THE WITNESS: Yes.

19 MR. GRAZIANO: And part of the reason I'm having
20 difficulty with this is I actually took the time to
21 read through some of the thousands of pages that were
22 uploaded four days ago onto the shared site.

23 And I actually read through, as I had requested
24 last time, where the contaminants were, what the
25 contaminant levels were. So I do have a little bit of

1 an idea of what's going on here.

2 Now, I will, at your request, table my questions
3 until the environmental guy is here. That's the best
4 you can, and I can appreciate that. Okay? Let's try
5 to stay calm.

6 MR. KAPLAN: Let's try to stay on point.

7 MR. GRAZIANO: Okay. So why is there not a guard
8 tower in this plan?

9 THE WITNESS: I know that was mentioned at one of
10 the previous meetings. As Scannell builds them, they
11 do not plan for a guard shack. There is room for a
12 guard shack on either side, on either driveway, as
13 trucks come in, if a future owner wants that. But
14 it's just not in the plan that's presented to you
15 here.

16 MR. GRAZIANO: Just not there.

17 THE WITNESS: If somebody wants to build in the
18 future, that's, that's up to somebody else. But as
19 far as what Scannell is looking to build and was
20 presented here, it's not.

21 MR. GRAZIANO: Cool. I have some questions that
22 we'll be asking the traffic people when they come up.
23 In terms of the width of the driveways going in and
24 out, they are, I think you mentioned, 40-feet-wide?

25 THE WITNESS: Some sections are 40, some are

1 narrower. Especially for just the pedestrian or not
2 the pedestrian, the regular vehicles, not the trucks.
3 The trucks need additional width for some of the turn
4 areas.

5 MR. GRAZIANO: In that scenario -- nope, you get
6 into traffic there. Okay. So what would you say is
7 the narrowest portion of the driveway going on there?

8 THE WITNESS: The narrowest portion is probably
9 down to 24 feet around the regular parking spaces.
10 Generally, we keep things no less than 33 feet for
11 where trucks need to maneuver.

12 MR. GRAZIANO: And then, what is the width of the
13 largest truck? Do you know this? What the width is?

14 THE WITNESS: The width --

15 MR. GRAZIANO: What is the width of a truck?

16 THE WITNESS: I'll defer to traffic if he knows
17 that, or.

18 MR. KAPLAN: Do you mean the length of the truck
19 or do you mean the width?

20 MR. GRAZIANO: I know the difference between
21 width and length, sir. I asked a question. So he
22 tried to answer it. He's referred it to the traffic
23 guy. Is there anything else you want to testify to?

24 MR. KAPLAN: I just asked for clarification,
25 that's all. You don't have to be rude to me.

1 MR. GRAZIANO: I'm not rude to you. Trust me, I
2 know rude and I've seen rude. You haven't seen rude
3 from me.

4 MR. SCHEER: I do want to -- I do want to thank
5 everybody here because you have been incredibly well-
6 behaved. And with that, thanks for going back. And
7 please go back to that behavior and we'll let these
8 guys fight it out for now. Thank you. And hopefully
9 we don't have to do that either, so we can keep moving
10 along.

11 MR. KAPLAN: Yeah.

12 MR. GRAZIANO: And that's all the questions I
13 had.

14 MS. WAGNER: Can you tell me the fencing type
15 that you do have on the site plans?

16 THE WITNESS: I do not believe we have a specific
17 type on the plans. It is generally up to the owner
18 what they want to put on there, whether it's chain-
19 link or a split-rail fence with wire on it.

20 MS. WAGNER: The last set of plans that I saw
21 showed chain-link, and it's just not allowed in the
22 historic -- in the adaptive-reuse zone so I just
23 wanted make that comment that the plans that I have
24 show chain-link fence.

25 And that says that there's no fencing plan so I

1 was worried about seeing a fencing plan, since there's
2 notes that say that you're not doing stuff on the
3 easements, and it's hard to see where the easements
4 are.

5 So if we could see where the fencing was going,
6 just to make sure that everything was safe. We've got
7 a lot of steep cliffs, and we've got a trail.

8 MR. SCHEER: I know you're going to say there's
9 no question here. So let me make this suggestion,
10 because the concept of a land development plan is for
11 people to point out or City to point out what might be
12 deficient and to give the developer an opportunity to
13 cure that or address that.

14 So, since it's clear we're not going to finish
15 tonight anyway, it would be very helpful if you just
16 examine whether there is a fence, what fences are
17 proposed within the City of Easton, what is required
18 within the City of Easton, and perhaps be able to then
19 demonstrate that whatever fencing is put in on the
20 plan, or being proposed for the plan to be approved by
21 the Commission, will be in conformity with the City of
22 Easton.

23 MR. KAPLAN: Sure.

24 MS. WAGNER: And if there is a parcel that's
25 being dedicated to the City, I'd like to make sure

1 that there is a fence there. Maybe I'm wrong. I
2 think early on somebody said there was a portion that
3 was going to be given to Hackett Park. I might be
4 wrong.

5 MR. SCHEER: One of the resolutions involves a
6 transfer, gifting over of a portion, for -- I don't
7 remember, the --

8 DR. GREENE: The pump track or something.

9 MR. SCHEER: Yeah.

10 MR. TILLMAN: So that's all going to be outlined
11 in the Developer's Agreement.

12 MR. SCHEER: But the specifics of what it is, I
13 believe, was referenced in the proposed resolution.

14 MR. TILLMAN: Yes, that's correct.

15 MS. WAGNER: Yeah. This quote I was worried
16 about, like the fence post and the floodplain and in
17 the June 2024 letter, the Lehigh Valley Planning
18 Commission stated that this proposed warehouse greatly
19 surpasses the surrounding Development Ordinance.

20 It says the large structure should be broken down
21 into smaller volumes to reduce visual impacts. Will
22 there be design changes in the appearance to conform?

23 THE WITNESS: I do not believe there's any design
24 changes for that comment as a recommendation comment,
25 not a requirement.

1 MS. WAGNER: Do you believe that this massing
2 reflects a traditional urban form in a mixed-use area?

3 MR. KAPLAN: Objection. That's beyond his
4 expertise.

5 MR. SCHEER: That's fair. That's sustained then.
6 We don't have any -- there's no answer to that
7 question from this person.

8 MS. WAGNER: Does the facade design include any
9 architectural detailing that reflects the surrounding
10 context?

11 MR. KAPLAN: As far as --

12 THE WITNESS: I know there's no architectural
13 design for the site.

14 MS. WAGNER: Are materials compatible with the
15 adjacent buildings?

16 THE WITNESS: That hasn't been planned yet.

17 MR. KAPLAN: Wait, what adjacent buildings? What
18 adjacent buildings are you talking about? Please tell
19 us. There's the plan.

20 MS. WAGNER: There's existing buildings around.

21 MR. KAPLAN: Adjacent?

22 MS. WAGNER: Are you providing sidewalks,
23 crosswalks, and pedestrian-scale lighting?

24 THE WITNESS: Where at?

25 MS. WAGNER: The streets and the drive access up?

1 THE WITNESS: So we are providing sidewalks and
2 crosswalks within the parking areas, and we provided a
3 -- with like a trail connection, we provided a
4 sidewalk from, I believe, there's the 13th Street.
5 With that trail connection up to Wood Avenue and then
6 north alongside the driveway and a pedestrian crossing
7 section.

8 MS. WAGNER: Are you putting sidewalks down on
9 the streets to connect parks and stuff?

10 THE WITNESS: Not along the streets, Hackett
11 Avenue and Wood Avenue.

12 MS. WAGNER: Did Wilson give you a waiver for
13 that?

14 THE WITNESS: Correct.

15 MS. WAGNER: Are you requesting a waiver from us
16 for that?

17 THE WITNESS: No, because we provide a sidewalk
18 from 13th Street all the way to the driveway
19 connection and then up to the building. So we provide
20 a sidewalk within Easton from 13th Street up to Wood
21 Avenue.

22 MS. WAGNER: All the way up to Wood Avenue?

23 Okay. Is the parking lot screened with landscaping
24 and fencing?

25 THE WITNESS: No fencing. There is landscaping

1 in and around the parking lot.

2 MS. WAGNER: Is there going to be a buffer
3 provided between the residential area and the walking
4 trail, like between the warehouse and the residential
5 area? Are you putting any buffers in?

6 THE WITNESS: Can you reword that, please?

7 MS. WAGNER: Are we getting any buffers? Like do
8 you put a buffer in to block one use from another
9 residential area?

10 THE WITNESS: There is a repairing buffer all
11 along --

12 MS. WAGNER: Not a repairing buffer but --

13 THE WITNESS: It will serve the same purpose as a
14 dense tree screen that actually would exceed anything
15 in any municipal warrants I've seen.

16 MS. WAGNER: Is that one of the new sets of plans
17 that we don't have yet?

18 MR. KAPLAN: I'm going to object to that
19 constantly note nasty comments.

20 MR. SCHEER: There is a couple of things I think
21 would be really helpful for clarification for
22 everyone. With the question about the plans, what is
23 the last set of plans that the City of Easton has?

24 I mean, I think we should just understand what it
25 is and whether there is something that needs --

1 MR. KAPLAN: So you have a portal here. And I've
2 seen every time that Don sends a document in, it goes
3 on the portal. It's just pages and pages and pages of
4 the materials that he sent. And you're sitting there
5 saying you don't see it.

6 MR. SCHEER: You know what? I'll tell you, if I
7 could declare something on my own, if I could be the
8 premier who sits in Washington, I would say that I
9 don't want anything, that when there's a plan, that
10 plan should be on a piece of paper, and it should be
11 this big, that we can roll out and we can actually
12 read.

13 I cannot read anything coming off of a portal on
14 a small screen, and I don't think it's unreasonable.
15 And the chairman had asked for this some time ago that
16 they want a real paper plan that could be spread out
17 and that could be -- where you could see the entire
18 thing and you don't have to magnify it to get to the
19 different sections and to read the distances.

20 So I'm asking the staff just to clarify this.
21 That's all I want them to do.

22 MR. TILLMAN: The last set of plans we have on
23 here have a date of 4/1/2023.

24 MR. SCHEER: Okay. And the question is, has that
25 plan been updated with respect to things that have

1 happened here that we should have in front of us?
2 Because what are we approving? I mean, the things
3 that's been testified to.

4 MR. TILLMAN: These are the last set of plans
5 submitted on the Special Exception hearing.

6 THE WITNESS: That's the original date of the
7 plans?

8 MR. TILLMAN: Oh, you have a revision up there.

9 THE WITNESS: Yeah, there's revision.

10 MR. TILLMAN: Sorry about that.

11 MR. SCHEER: Okay.

12 MR. TILLMAN: All right. So the revision on here
13 is 3/2025.

14 MR. SCHEER: Okay. So the 3/2025 plan, we look
15 at that. If any member looks at that plan or either
16 the portal. Wait, Dwayne, we don't have -- there is
17 no big copy that anybody could look at?

18 MS. WAGNER: When were they updated?

19 MR. TILLMAN: No. So these plans were submitted
20 for the Special Exception.

21 MR. SCHEER: Okay.

22 MR. TILLMAN: So we have the option to have
23 everything electronically just because it makes it
24 easier. So you don't have sets of plans laying around
25 and getting thrown out and wasting paper. I mean, we

1 can have them submit a hard copy.

2 MR. SCHEER: I mean, that's a matter of --

3 whether the Commission I thought was once requested.

4 MS. WAGNER: Does Doc Set have 59 pages to it?

5 MR. TILLMAN: Give me a second.

6 MS. WAGNER: And are the Northampton County soils
7 comments on there?

8 MR. TILLMAN: So I'm not going to be able to look
9 them up because they're so big. It just keeps closing
10 out on me on my iPhone.

11 MR. KAPLAN: The 39-sheet is a Special Exception
12 plan, isn't it?

13 THE WITNESS: I forget the page numbers because
14 we have multiple plan sets. We have joint permit plan
15 sets. We have DEP, NPDES plan sets, PCSM.

16 MS. WAGNER: Why are there so many different
17 plans?

18 THE WITNESS: Because there are so many different
19 reviewing agencies.

20 MR. SCHEER: The plan that the Planning
21 Commission is being asked to approve --

22 THE WITNESS: Is Land Development.

23 MR. SCHEER: Is the Land Development Plan. And
24 that's from 2023?

25 THE WITNESS: That's the original date of the

1 plan.

2 MR. SCHEER: Okay. And it's been updated. It's
3 been revised and updated as of --

4 THE WITNESS: I don't know off the top of my
5 head, but I can make sure I can get a print copy for
6 each one of the Planning Commission members.

7 MR. SCHEER: That would really be good, because
8 the Commission knows what they have to do. I've
9 talked about it, what the rules are, and it would just
10 be so much easier to be able to confirm all that -- to
11 confirm that items that have been discussed that's in
12 this book are all shown on the plan, because that's
13 ultimately what their job, is to approve that plan.

14 And these permits and everything else are things
15 that are often noted on the plan as having been
16 provided or fulfilled, and to see what, if anything,
17 is missing.

18 MR. KAPLAN: I thought that's the staff's job and
19 the Zoning Officer's job to do that, to review the
20 plans for the little nitty-gritty things that Ms.
21 Wagner is talking about.

22 MR. SCHEER: And that's the first line of review,
23 and the final line of review is the Planning
24 Commission, who can come up and raise issues, as the
25 special exception issue came up through questions of

1 the community in that particular case.

2 MR. KAPLAN: Are you serious?

3 MR. SCHEER: Am I serious?

4 MR. KAPLAN: Yeah. I'll withdraw that, but go
5 ahead.

6 MR. SCHEER: That's why I asked the question
7 about the zoning permit initially, and the fact that
8 it expired.

9 I only asked that question because it means it
10 has to be reapplied for. And I understand what you're
11 saying, but people don't know when permits are issued,
12 and they only have 30 days to file an appeal if they
13 feel the staff made a mistake in issuing it.

14 I'm not saying they did, but I just wanted to get
15 an idea of whether that zoning permit is viable as of
16 this moment, and it appears it's not. And that's why
17 I asked the question at the time.

18 The other question that I have, just for
19 clarification purposes and really gets down to the
20 essence of some of the concerns or issues in general.
21 And this came out in May, and you weren't here at that
22 time, in all fairness to you.

23 But there was an effort to try to define the
24 warehouse project itself. We know we do -- I mean,
25 the testimony, there's no identified user. But there

1 was representations made that this was going to be for
2 a fulfillment center.

3 There was a definition connected with the use
4 itself. And I don't know if that's because we don't
5 have a record of what happened there. We're picking
6 it up from there. I wonder if there could be a
7 reaffirmation as to what this specific project is.

8 MR. KAPLAN: I think what you're talking about, I
9 think -- I've been through this now many times. There
10 are a number of different ITE, Institute of Traffic
11 Engineers, classifications in this big thing of
12 warehouse, distribution, storage. The words are all
13 over the place.

14 I believe that that's been addressed in the
15 Traffic report, and I believe that we will address --
16 yeah, Anne's telling me we --

17 MR. SCHEER: So we'll have a definition of type
18 use because --

19 MR. KAPLAN: From the traffic point of view, yes.

20 MR. SCHEER: Well, I mean, it's somewhere in
21 there. I just think it's going to be important that
22 we have a clarification on that aspect, and just
23 another clarification on some of the questions that
24 were asked here.

25 This is a Land Development Plan. When it comes

1 down to the final details of the building itself,
2 that's going to be addressed by an application for a
3 Building Permit. And some of those issues or concerns
4 that were raised should be raised -- or should be
5 addressed at that point in time.

6 So the building itself, the physical building
7 structure itself, is not really the issue in the Land
8 Development Plan other than the fact that the land
9 development has to be suitable for this size project.

10 MR. KAPLAN: Agreed. And there's a whole lot of
11 subsidiary issues. The drainage, the stormwater, and
12 all of the things inside the building are all Building
13 Permit issues.

14 MR. SCHEER: And I just wanted to clarify that
15 too, because some of the questions I think was going
16 in that direction, and I want to keep focus on this
17 aspect.

18 MR. KAPLAN: I agree with you.

19 MS. WAGNER: This is like it's part of ZLDO. It
20 says that developers are encouraged to incorporate
21 green roofs, solar panels, low-impact development
22 techniques. Have any of these been incorporated?

23 THE WITNESS: That would be a building
24 construction item and not part of what we've planned.

25 MS. WAGNER: Are you aware that design

1 requirements may be conditioned for approval with
2 special exception?

3 THE WITNESS: Yes.

4 MR. KAPLAN: Wait, wait, wait, wait.

5 MR. SCHEER: Design can be part of a special
6 exception request but this is not a special exception
7 request except for the riparian issues in the
8 floodplain, which will be addressed, really was
9 addressed by this panel and will be addressed in
10 finality by the Zoning Hearing Board.

11 MR. KAPLAN: Agreed. And the special exception
12 for the floodplain does not encompass conditions about
13 the design of the building.

14 MS. WAGNER: Yes, it does.

15 MR. KAPLAN: That's not the law.

16 MR. SCHEER: You know, that we definitely
17 shouldn't debate tonight because the Zoning Hearing
18 Board gets that privilege.

19 MR. KAPLAN: I'm sorry. I apologize.

20 MS. WAGNER: In the deeds, there was a note in
21 there that says you can't landlock our parcels. Was
22 that taken into consideration?

23 MR. KAPLAN: In the what?

24 MS. WAGNER: In the deed, it said do not landlock
25 the parcel. Was that taken into consideration?

1 MR. KAPLAN: What's in private documents is
2 beyond the scope.

3 MS. WAGNER: It wasn't in a private document. It
4 said --

5 MR. KAPLAN: It's in a deed. A deed is --

6 MS. WAGNER: The Planning Commission says if this
7 parcel is going to be done, it can't be -- it made a
8 reference to not landlocking the parcels.

9 MR. KAPLAN: What are you talking about?

10 MR. SCHEER: The deed had certain private
11 restrictions. I think I already commented that that
12 would be a private cause of action. And really --

13 MS. WAGNER: No, no, like it says something
14 specific about if parcel -- it said, the driveway
15 access, you're not allowed to do something like this
16 application is removing all of the roads from Easton.
17 We don't have any road access whatsoever.

18 MR. SCHEER: Well, then there's an issue. For
19 land development approval, do you need road access
20 from the City of Easton? That would be the
21 appropriate question.

22 MR. KAPLAN: It's a year, a year and a half in,
23 and that question, I think that staff has already -- I
24 think that staff has already answered that. I can't
25 believe that we're now talking, after all this time,

1 of where the roads are.

2 MR. SCHEER: Well, if we need to clarify, it's an
3 easy enough question to get an answer to.

4 MR. KAPLAN: Well, I think that Ms. Wagner ought
5 to talk to staff about all these questions instead of
6 taking everybody's time to try and find some little
7 thing that she can hang her hat on.

8 MR. SCHEER: I believe she's acting in good
9 faith. She has questions, and I believe she's talked
10 to staff. But is there a question about that? I
11 mean, does it need access?

12 THE WITNESS: So if that was looked at, that was
13 looked at by the Engineering Department, and that was
14 their determination.

15 MR. SCHEER: That it wasn't necessary.

16 THE WITNESS: Yes, that would have been brought
17 up by the Engineering Department. I can't speak for
18 them because that's not in my purview.

19 MR. SCHEER: Okay.

20 MS. WAGNER: Because there is a section in there
21 that specifically says the Planning Commission made
22 some kind of recommendation to -- like it says the
23 Easton Planning Commission it's on the -- that's why I
24 was asking about. I don't know if I have --

25 MR. SCHEER: I may have.

1 MS. WAGNER: I don't have it with me, but.

2 MR. SCHEER: Well, go ahead if you have -- I'll
3 see if I can find that.

4 MR. KAPLAN: I'm sorry, the road is in the --
5 isn't the road in the location that it's pinned on, or
6 is it different?

7 THE WITNESS: It's been there. It's been in
8 Wilson Boroughs, just at the edge of the, the line.

9 MR. KAPLAN: So whatever it is, it's an existing
10 condition.

11 MS. WAGNER: Do you think this project meets the
12 definition of Traditional Neighborhood Development?

13 MR. KAPLAN: Don't answer that question.

14 MS. WAGNER: Because in the Adaptive Reuse Zone,
15 mass and scale must create a harmonious streetscape.
16 What features or reasoning behind your design do you
17 believe this conforms?

18 MR. KAPLAN: I'm going to direct him not to
19 answer the question.

20 MS. WAGNER: When the Planning Commission -- I'll
21 just keep asking questions. Well, unless you want an
22 explanation of why I'm asking, I'd be glad to give it
23 to you.

24 MR. SCHEER: That could actually wait until
25 deliberations. Ask your question.

1 MS. WAGNER: Have you applied the entire context
2 of regulations, which include definitions, design
3 standards, and plan requirements with your submission?

4 MR. KAPLAN: I'm going to object that staff has
5 reviewed the completeness of the application, and you
6 have --

7 MS. WAGNER: There's two parts.

8 MR. KAPLAN: There's not two parts.

9 MS. WAGNER: Or the filter. There's two parts.

10 MR. KAPLAN: I will rest on the fact that we have
11 the approval of the Planning Department and the Zoning
12 Department as to compliance with the Zoning Ordinance.

13 MS. WAGNER: There's a filter. Would you say
14 that this is a walkable neighborhood mixed-use, or an
15 isolated industrial sprawl? Pick one.

16 MR. KAPLAN: Objection.

17 MR. SCHEER: Let me --

18 MR. KAPLAN: This has got to stop.

19 MR. SCHEER: I think these questions are related
20 to what standards?

21 MS. WAGNER: Like this was a reference from the
22 Lehigh Valley Planning Commission.

23 MR. SCHEER: Okay. So those were the
24 recommendations -- those were suggestions of the LVPC
25 and not mandatory?

1 MR. KAPLAN: Not mandatory. And that question
2 was --

3 MS. WAGNER: This is what the Ordinance says. It
4 says walkable. Our Ordinance says that it needs to be
5 a walkable neighborhood mixed-use.

6 MR. SCHEER: Again, that, ultimately, if we do
7 not direct this question, if it's a legitimate point
8 where it's a failure on the ZLDO, would be legitimate
9 reason for discussion during deliberation.

10 MR. GRAZIANO: How long are we going to go here?
11 I'm tired.

12 MR. SCHEER: I would suggest that we at least
13 finish off with the witness and any questions the
14 commission has and it is 10:35.

15 MS. WAGNER: When did you submit the
16 application?.

17 THE WITNESS: Which application?

18 MS. WAGNER: The Zoning applications.

19 THE WITNESS: Off the top of my head, I couldn't
20 say. It's been a while.

21 MS. WAGNER: When was the building rotated?

22 THE WITNESS: Early on in our process, we go
23 through concepts to see what fits on the site, what's
24 appropriate for how we can make it work.

25 MS. WAGNER: Did our city engineer reevaluate the

1 plans before and after, especially when the contours
2 were added?

3 THE WITNESS: The rotation you're talking about?
4 They did not see it before. Those are internal kind
5 of concept plans that we run through alternates to, to
6 make the site work.

7 That was referenced, I think, in that
8 Environmental Impact Assessment. And with regards to
9 your questions on the Lehigh Valley Planning
10 Commission, after the May 7th testimony we provided,
11 we did upload a point-by-point response to the entire
12 LVPC letter.

13 So that is included on the, the uploads. Because
14 you made it a point that you wanted to see a response
15 to that. So we did provide that.

16 MS. WAGNER: Do you have visual renderings to
17 provide to us so that we could see how it integrates
18 into the surrounding areas?

19 THE WITNESS: I believe we provided this
20 previously.

21 MS. WAGNER: No, we haven't really seen anything.
22 Like the company that was here before you, well, they
23 brought some nice renderings and showed what it's
24 going to look like in the neighborhood. We don't --

25 THE WITNESS: Yeah.

1 MS. WAGNER: Well, let me ask another question.

2 At the last meeting, I said, how tall is this

3 building? And I was told between 40 and 60 feet. Has

4 that changed?

5 THE WITNESS: No.

6 MS. WAGNER: The plan is saying that the building

7 is going to be 100 feet tall right now.

8 MR. KAPLAN: What did you just say?

9 MS. WAGNER: The last set of plans that I saw say

10 the building is 100 feet tall. So I'm just

11 questioning as to why we were not informed is it being

12 100 feet tall?

13 MR. KAPLAN: Do you have any idea what she's

14 talking about?

15 THE WITNESS: No, I'll look at the plan.

16 MR. KAPLAN: We don't have any idea what you're

17 talking about.

18 MS. WAGNER: Can you go to your title page on

19 there and zoom in to show us what it does?

20 THE WITNESS: This is a single-page right here,

21 just for the Exhibit.

22 MR. SCHEER: Does it depict the height? I don't

23 know.

24 THE WITNESS: You can zoom in the building.

25 MR. KAPLAN: The height is determined by the

1 Zoning Ordinance.

2 THE WITNESS: Well, we complied with the Zoning
3 Ordinances.

4 MR. KAPLAN: Well, we complied.

5 MS. WAGNER: Well, I have questions about that.

6 So after it got changed and we were told. So there
7 hasn't been a meeting since.

8 I asked how tall the building was. I was told 40
9 to 60. Now it's 100. Nobody got to discuss that.

10 MR. KAPLAN: What do you mean it's 100?

11 MS. WAGNER: It's allowed. But I'm worried about
12 when the Fire Department inspected it afterwards.

13 They --

14 MR. KAPLAN: What's the evidence that it's 100
15 feet?

16 MS. WAGNER: Give me one second.

17 MR. KAPLAN: I really think that Ms. Wagner ought
18 to recuse herself. There's not a way in the world
19 that she can make an unbiased decision --

20 MS. WAGNER: Even though when the Fire Department
21 inspected, they gave an approval based on a 40 to 60-
22 foot building. Now the plans say it's 100. why --

23 MR. KAPLAN: Show us where this 100 is.

24 MS. WAGNER: I'm gYou're here with your plans
25 that I don't have, and I've got to --

1 MR. KAPLAN: But you're the one that's saying
2 it's 100 feet.

3 MR. SCHEER: All right. Everybody, let's just
4 take five minutes to see if Ms. Wagner can find the
5 document that she was looking at that causes her to
6 believe it's 100 feet tall.

7 One of the key things that is completely
8 legitimate to look at is what exactly did the
9 different reviewing bodies looked at when they sent
10 their letters of approval. If anything has changed, I
11 have no way to judge that.

12 MR. KAPLAN: I really think that this is as bad
13 faith as I've ever seen. Ms. Wagner could have, after
14 all --

15 MS. WAGNER: You're --

16 MR. KAPLAN: Excuse me. After all this time that
17 this has been going on, she could have asked these
18 questions to staff, and she didn't.

19 MR. SCHEER: Well, we don't know that. There's
20 no testimony here as to what's been going on behind
21 the scenes.

22 And in addition to that, what do the members of
23 the Commission have to look at if they want to
24 question themselves the different forms? It's the
25 portal on all those documents.

1 And basically Ms. Wagner is saying, I went
2 through the portal, I went through the documents, and
3 --

4 MR. KAPLAN: I didn't hear her say she went
5 through the portal.

6 DR. GREENE: She's gone through the portal.

7 MR. SCHEER: And back.

8 MR. TILLMAN: Mr. Chair, so on the original
9 Zoning applications.

10 MR. SCHEER: Yes.

11 MR. TILLMAN: The maximum height of the building
12 is 65 feet.

13 MR. SCHEER: Yes.

14 MR. TILLMAN: That's what's on the Zoning
15 application.

16 MR. SCHEER: So the only question is, is there
17 some other document that caused Ms. Wagner --

18 MR. TILLMAN: They're too big.

19 THE WITNESS: I can speak this quickly here.

20 MR. SCHEER: Yes.

21 THE WITNESS: The Wilson Borough Zoning Ordinance
22 would allow a 100-foot building. So under the zoning
23 block on the cover page for Wilson Borough, it says
24 the required building height is to be between 200
25 (sic) and 100 feet. And we provided that it'll be

1 less than 100. That is it.

2 So the 65 feet on the Zoning application would be
3 correct for what the City of Easton needs. This is
4 just Wilson Borough saying that we are compliant with
5 this.

6 MR. SCHEER: Okay. So the testimony tonight,
7 which is under oath, is that this is 65 feet, which is
8 consistent with what the Zoning -- what the planning
9 director has indicated that shows on the plan is 65
10 feet. So I think we have to accept that.

11 MS. WAGNER: I think I can see it right here. It
12 says proposed 100. I can see it from right here.
13 It's so tiny, but I can see it. It says proposed 100.

14 THE WITNESS: Less than 100.

15 MR. KAPLAN: And is that in the Wilson Borough?

16 THE WITNESS: Yes.

17 MR. SCHEER: I can't see that.

18 THE WITNESS: That is Wilson --

19 MR. SCHEER: So building height, 20 to 100 feet.

20 THE WITNESS: And it will be less than 100.

21 MS. WAGNER: Adaptive Reuse Zone City of Easton -

22 -

23 MR. SCHEER: A proposed. It says 100 feet.

24 That's where the 100 feet comes from. If you look at
25 the very last line, it says the required and Adaptive

1 Reuse is 20 to 100. So 100 is the cap. And you say
2 it's under 100. The 100 is a little thing that says
3 less than 100. It doesn't.

4 MS. WAGNER: But that's what it's saying under
5 the proposed line. So if you see building height --

6 THE WITNESS: Less than 100. We're going to be
7 compliant. I believe at the time that we filled this
8 out, we didn't have a set building height.

9 MR. SCHEER: And that's where I talk about having
10 a plan that shows everything that we're looking at for
11 approval at this point in time.

12 MS. WAGNER: I'm not so crazy.

13 MR. SCHEER: Anybody who spent this much time
14 going into this, and I commend you for that, is
15 somewhat.

16 MS. WAGNER: Everybody want to take a break or
17 you want me to keep going?

18 MR. SCHEER: Well, Mr. Shipman is --

19 MS. WAGNER: I got a lot more other good, genuine
20 questions, like there's a lot. I haven't seen the
21 plans, and I would. When was demo? Did you ever get
22 a demo permit?

23 MR. KAPLAN: I think it was before us.

24 THE WITNESS: Yeah, that would have been the --
25 on the aerials. It's just a blank, blank building.

1 There was another building in Wilson that --

2 MS. WAGNER: Is that demanding that all the
3 buildings were taken down before?

4 THE WITNESS: As, as far as I know, all the
5 buildings within the City of Easton were taken down
6 prior to my involvement with this application. I know
7 there was a building in Wilson that's still standing
8 but.

9 MS. WAGNER: You didn't have to get any building
10 permits. Can you tell me why the plans say that
11 there's still at least one building in Easton that
12 says to be removed, but it's not there already. So
13 did you at least get a building permit for that one?

14 MR. SCHEER: A demolition permit. Do you have
15 that?

16 MS. WAGNER: A demolition permit.

17 THE WITNESS: That would be outside of my, my
18 permitting contract.

19 MS. WAGNER: I read through the geotechnical
20 report and all of the reports, and buildings are still
21 listed as being there and then now they're not. So I
22 don't understand like why there's not --

23 THE WITNESS: Is it building or building
24 foundations? Because I know some of the building
25 foundations are still there.

1 MS. WAGNER: It's not priority. You know what --

2 MR. KAPLAN: What does this have to do.

3 MR. SCHEER: I don't know.

4 MR. KAPLAN: Because she's so far off the track.

5 This has nothing to do with what his testimony was.

6 MR. SCHEER: I agree there. The thing is, by

7 giving Ms. Wagner the opportunity to ask these

8 questions, it's less likely that she would -- if she

9 has an answer to that, to say, "I disapprove because

10 if there's a corresponding section to the ZLDO that

11 this has not been in progress."

12 MR. KAPLAN: Why doesn't she give us a list of

13 all of these questions, and we'll try to answer

14 instead of keeping everybody here.

15 MS. WAGNER: Well, I thought the same thing with

16 the show that you wanted to put on today. If we would

17 have had the plans, we would have been -- I wouldn't

18 have all the --

19 MR. KAPLAN: You've had every --

20 MS. WAGNER: But after all of my --

21 MR. KAPLAN: You've had every plan.

22 MS. WAGNER: Sir, I did not have plans. None of

23 us here literally did not have plans.

24 MR. KAPLAN: We've done what we're required to do

25 time and time again. Why are you blaming us? If the

1 process doesn't give you that, why didn't you go to
2 staff and ask for it?

3 MR. GRAZIANO: I think it would be ideal if we
4 had a printed set of plans, at least one printed set
5 of plans for us to be able to refer to.

6 MR. TILLMAN: So, going forward, I'll make sure
7 every member for every land development will get a
8 hard copy.

9 And I will also make on the shared file, every
10 land development plan will have its own folder with
11 every attachment that they give us, so that you have
12 access to absolutely everything that's there.

13 And then you can go over all the documents, and
14 you'll have a hard copy of the actual plan in hand so
15 that you can review it.

16 DR. GREENE: You will only spend so much.

17 MR. TILLMAN: Huh?

18 DR. GREENE: You can only spend so much.

19 MR. TILLMAN: Well, that's where electronic ones
20 come in handy, because then you can zoom in.

21 MR. GRAZIANO: I had to get a big screen and blow
22 it up before I could see it.

23 MR. SCHEER: As a middle ground to that, because
24 procedurally, it would save -- I mean, it would be a
25 good process, I believe, or easier for the

1 commissioners. I rather that the Commissioners should
2 speak for themselves.

3 I know that's good for me. If I was representing
4 a client, I do much better with a paper copy to look
5 at.

6 But I think what's not a bad idea is when a plan
7 is submitted initially, the very, very beginning, if
8 the Commission could be given an idea, these plans are
9 pending. This is what it's involved. It involves a
10 four-unit apartment house.

11 I don't know that they need the plans in the
12 portal. If it involves the project, the condominium
13 project, maybe yes, that they would ask for it.

14 But I would think then if the commissioners got
15 an early look at what plans are in your incubator or
16 what projects are in your incubator and the clock is
17 really beginning to run because it's in a serious
18 stage, that the commissioners can take a look at it
19 and say, "You know what? We could really use a couple
20 weeks prior to our actual initial meeting," ABC hard
21 copies or whatever.

22 That would be the best way. Don't do it for
23 everything. Let them get an idea and be able to
24 screen it out.

25 MS. WAGNER: How much blasting does this project

1 require?

2 THE WITNESS: Can you say that again?

3 MS. WAGNER: How much blasting does this project
4 require?

5 THE WITNESS: I do not know.

6 MS. WAGNER: Did you not read the Geotechnical
7 report?

8 THE WITNESS: I have read through some of it. I
9 have read through most -- all portions of it. There
10 are some portions that --

11 MR. SCHEER: Who prepares the Geotechnical
12 report?

13 MR. KAPLAN: Wait a minute. If you know the
14 answer because you read the Geotechnical report, then
15 why did you ask him the question?

16 MS. WAGNER: Because I don't know the answer.

17 MR. KAPLAN: Do you know?

18 MS. WAGNER: Yeah, I do know.

19 MR. KAPLAN: Well, this is just bad faith. It's
20 just bad faith.

21 MS. WAGNER: Because I don't understand how you
22 don't know. Just answer the question. Are you
23 blasting right now? Because it's all over social
24 media when everybody.

25 MR. SCHEER: Well, the only way the question

1 would be legitimate is if it was a matter of the
2 credibility of the witness. I would suggest that we
3 don't need to test the --

4 MS. WAGNER: I agree.

5 MR. SCHEER: -- credibility of the witness there.
6 But I also want to say that, because you say it's bad
7 faith as a buzzword, that does not make any of this
8 bad faith. I believe this is the name.

9 MR. KAPLAN: If you turn this plan down, some
10 judge will decide whether this member of the Planning
11 Commission is acting in good faith or not.

12 MR. SCHEER: And perhaps give her a medal for the
13 effort that's being made because, truthfully, these
14 are questions that just look for answers, and the
15 answers may all be there, and there's been clarity on
16 a number of the points that she had already that will
17 make them non-questions now.

18 MR. KAPLAN: How many hours more of questions do
19 you have, Ms. Wagner?

20 MR. GRAZIANO: It really doesn't matter. Mr.
21 Kaplan, I would make one request. Could you please
22 remind us of the areas of each of the witnesses that
23 are upcoming so that we can make sure that as we're
24 asking questions we're asking the right person.

25 MR. KAPLAN: You already know what Don is.

1 MR. GRAZIANO: Yeah.

2 MR. KAPLAN: Jeff Smith is our environmental
3 geologist. Took care of the Act 2, has, I think, all
4 the information about how the Act 2 will be
5 implemented.

6 You know that there's a 200-foot differential on
7 height in this property. And part of the plan, and
8 part of the Act 2 plan, is to -- I don't know whether
9 it's blasting, but there will be earth moving, and
10 that earth moving will come and it will level out.

11 MR. GRAZIANO: I appreciate that. What I asked
12 for was who's going to be talking about what subjects.

13 MR. KAPLAN: Jeff Smith's going to be talking
14 about the environmental.

15 MR. GRAZIANO: Thank you.

16 MR. KAPLAN: Ben Mueller is going to talk about
17 sound, and Ian is going to talk about --

18 MR. GRAZIANO: Traffic?

19 MR. KAPLAN: -- traffic.

20 MS. WAGNER: We'll talk to Ian next.

21 MR. SCHEER: Well, the question is --

22 MR. KAPLAN: Who are you to tell --

23 MR. SCHEER: The question is that the order of
24 witnesses can be yours. The sound cut should have
25 been the first, only because we wanted to get that off

1 the agenda. But that's your choice how you want to do
2 it.

3 My question is whether, at this hour -- because
4 this is actually longer than I thought although we
5 didn't get as far as I thought -- should we be
6 continuing to October?

7 DR. GREENE: I'd like to know how many more
8 questions we have with this witness to be able to
9 complete this process?

10 MR. SCHEER: That's a good question. I don't
11 think --

12 MS. WAGNER: Me? I could skip through. I mean,
13 I have a lot of --

14 THE WITNESS: Would you provide these questions
15 to us so we can prepare any plans?

16 MS. WAGNER: The plans say demo to be done, and I
17 know that that could be in reference to blasting until
18 it says asbestos in demo.

19 DR. GREENE: Oh, wait a second. That's not
20 answering my question. My question is, how many more
21 direct questions do we have of this witness? And I'm
22 thinking specifically on the testimony that he's
23 given.

24 MS. WAGNER: I'm happy to stop asking some
25 questions. I could go through to see if there was any

1 that were --

2 DR. GREENE: Well, you won't get a chance to ask
3 him any further questions, because I think we'll move
4 on to other witnesses at some point.

5 THE WITNESS: Okay.

6 DR. GREENE: Are you finished with questions of
7 this witness?

8 MS. WAGNER: My other concerns are to some of the
9 notes that could be on the plans. Like to be
10 referencing --

11 MR. SCHEER: Well, that's why the best thing we
12 can do is we get the plans, if we get the hard copy in
13 the next two weeks, and you could get a chance to look
14 at it. You could go through the checklist.

15 And if there are things that are incomplete, my
16 suggestion would be that we notify staff, let staff
17 deal with the applicant, and see if we can correct it.
18 Because the process here is not gamesmanship. It's a
19 matter of reviewing the plan.

20 MR. KAPLAN: I disagree with that.

21 MR. SCHEER: That's not -- you disagree that the
22 process is not supposed to be gamemanship?

23 MR. KAPLAN: I absolutely disagree with that.

24 MR. SCHEER: Are you saying you're playing games?

25 MR. KAPLAN: Pardon me?

1 MR. SCHEER: Are you suggesting you are playing
2 games?

3 MR. KAPLAN: No, I'm not playing games.

4 MR. SCHEER: I am suggesting to you that we just
5 want to get to the bottom line of some questions. And
6 if we have that clarity, it may make things go a lot
7 better and a lot more focused.

8 And that's all I'm suggesting. And we see that a
9 big question mark here is what is actually physically
10 on some of the plans and are they addressed?

11 And what I was saying -- what I was suggesting is
12 that if we do find deficiencies that are identified,
13 that we let you know about it and see if it's
14 something you agree should be corrected, which is, I
15 believe, what we're supposed to be doing in a land
16 development review.

17 Now you're saying everything was perfect,
18 everything is fine, and there is no way that you could
19 come up with anything.

20 MR. KAPLAN: No, that's not what I'm saying.

21 MR. SCHEER: Okay.

22 MR. KAPLAN: I'm saying that there is a process,
23 and the process is reviewed by outside agencies, by
24 your consultants, by your staff. And these permits
25 that we've talked about were issued months and months

1 and months ago.

2 And if there were really legitimate questions
3 about whether this is complete or not, then they
4 should have been raised with staff or they should have
5 been raised with us.

6 But this is nothing but a filibuster by Ms.
7 Wagner. I know you disagree. She's your client. But
8 this is a filibuster if I've ever seen one.

9 She couldn't even answer Dr. Greene's question of
10 how many more questions does she have? Oh, I got a
11 ton of more questions.

12 MS. WAGNER: Well, but there are a lot of, like,
13 questions that I'm concerned about. Like some things
14 say one thing and another says another. So I would
15 just wanted to have it clarified, but they're not that
16 big of a deal because once I get the plans, some of
17 this stuff might be fixed.

18 MR. KAPLAN: Why didn't you ask for the plans
19 before tonight?

20 MS. WAGNER: So give me your telephone number?

21 MR. KAPLAN: Why? I asked you a question. You
22 did this three weeks ago. Why didn't you ask for a
23 set of plans?

24 MS. WAGNER: There is a point that we weren't
25 allowed to discuss other stuff. This is the first

1 time since the last meeting that we're actually able
2 to ask.

3 MR. KAPLAN: So then why didn't you ask for a set
4 of plans since May?

5 MS. WAGNER: I did. I did.

6 MR. SCHEER: Yeah. I was under the impression
7 that we did ask for that. But just to be clear, the
8 last meeting we had on the land development plan was,
9 May 7th.

10 So we have had no other meetings, and then we had
11 the Special Exception request. This is the first time
12 that you're involved with this particular process in
13 the land development request. And we did have a long
14 meeting on May 7th.

15 MR. GRAZIANO: And I do recall asking for plans
16 at that time, personally.

17 MR. KAPLAN: Who did you ask them for? Who did
18 you ask?

19 MR. GRAZIANO: The gentlemen who was here before
20 you came here to badge -- I mean, to represent the
21 client.

22 MR. KAPLAN: Very funny.

23 MR. GRAZIANO: I'm hilarious. I think we can all
24 just take a chill pill. Let's just get through this.
25 Let's just get through this. No more personal

1 attacks.

2 DR. GREENE: I'm trying to get through it. So
3 I've asked -- and speaking of filibusters, you joined
4 in on it, so you've lengthened this. We're at 10:52.
5 I'd like to find a way to bring us to some closure.
6 If this okay.

7 I'm asking for a little forbearance, while I get
8 an answer to a question. Do you have a certain number
9 of questions for this particular witness?

10 MS. WAGNER: No.

11 DR. GREENE: If we don't, then it seems to me
12 that is an appropriate time for a pause, because the
13 next step would be for you to call another witness.
14 Would that be correct?

15 MR. KAPLAN: Yes.

16 DR. GREENE: Doing so at this hour doesn't seem
17 to be useful to me.

18 MR. KAPLAN: I'd like to, but I agree with you.

19 DR. GREENE: And I would also say, for both of
20 us, I think for both sides, I think, as has been said
21 already, having the plans for whenever that should
22 have been, whatever it is, may get us to the questions
23 being a little bit more focused and specific.

24 I will let you know that your examination also
25 took a long time tonight. So maybe both sides can

1 work on condensing that. Because if we don't, at our
2 next meeting on October 15th, we're not going to get
3 through more than one other witness.

4 MR. KAPLAN: Mr. Chair, go ahead. I'm sorry.

5 DR. GREENE: And so I'm asking for both sides.

6 Now, if you want to argue with me and somebody else
7 wants to argue with me, we can stay here till 1
8 o'clock. I don't care.

9 MR. KAPLAN: I don't want --

10 DR. GREENE: I'm just saying I think some focus
11 by both sides may help us make this a little bit more
12 streamlined.

13 MR. KAPLAN: So just so you have the context from
14 which we are operating. We came here with a Special
15 Exception application where we had every permit and
16 approval.

17 And you uniformly turned us down, and you gave a
18 lot of undefined reasons of why you were turning us
19 down. That said to us we have to come back, and we
20 have to demonstrate with papers and testimony that
21 this plan complies.

22 Because what we saw when you turned us down, and
23 we have that resolution, I think it was totally and
24 completely improper. And that's why I made my little
25 speech about you're in an adjudicatory posture, you're

1 not in a Planning Commission.

2 And I think that that was just such an example of
3 not doing the right thing. So yes, I did put on a
4 long presentation, and I'm going to put on the rest of
5 it so that when we get to court after you turn us
6 down, the judge will say the same thing that Judge
7 Doyle said the other day.

8 DR. GREENE: So you're making -- excuse me. So
9 you're making suppositions about how we'll decide.
10 You came before us at the beginning of last time and
11 said this is just about a Special Exception.

12 So whatever happened there has no bearing on
13 what's happening here. So wait a second, wait a
14 second. I didn't interrupt you.

15 MR. KAPLAN: Go ahead.

16 DR. GREENE: And you said it was an adjudicatory
17 process. We do that. You don't interrupt the
18 adjudicators. So just hang back a little bit. I'm
19 trying to get some focus. And if you want to argue
20 with me about that, and you want -- I understand why
21 you're doing what you're doing,

22 I'm telling you, you want to get through this,
23 the people up here have every right to ask questions.
24 And so then you're going to have to deal with our
25 questions just like we have to deal with listening to

1 the full amount of testimony, not all of which is
2 relevant to some of the concerns that people have
3 here. So we'll see. Hopefully next time we can be a
4 little bit faster?

5 MR. SCHEER: And Mr. Kaplan, I just want you to
6 appreciate what the chairman said. The presentation
7 was longer than anticipated, but I respected the fact
8 that there really was no record on May 7th.

9 It means the whole time frame takes longer
10 because we really started over in a real sense. And
11 as far as -- so everybody understands when you're
12 referencing Judge Doyle in bad faith.

13 There was a Palmer Township case that came out a
14 few weeks ago. I read it. It's very different from
15 this case. And that case went 15 years.

16 So you have a lot of history there, and you do
17 have an election of individuals and supervisors who
18 decide the case.

19 None of these commissioners are elected people.
20 They have, and they have been, very, very good in the
21 22 years I've sat with them for them to be very
22 independent of everyone with respect to your staff,
23 administration.

24 They truly look at this independently and take
25 their jobs very, very seriously. And they will listen

1 to everything that's presented.

2 And whatever you saw at the Special Exception,
3 these were legitimate, good-faith comments by the
4 members. But we reiterated what our standards are for
5 the land development plan.

6 And that's why I just want clarity and we'll do
7 things one by one we don't need --

8 MR. KAPLAN: Joel, I hope you're right. I hope
9 that what Dr. Greene said is right. I hope that my
10 impression that I got from your recommendation about
11 the Special Exception is wrong.

12 And I hope that this Board, this Commission, will
13 look at the law and all the permits and all of the
14 approvals and do the right thing. We'll answer all
15 your questions, but.

16 MR. SCHEER: And there will be questions by the -
17 - I don't want all these people here to think that
18 they won't have their right and an opportunity to
19 present information. Although you should listen to
20 Mr. Shipman if he's still awake and what he said
21 earlier would make my job a lot easier because --

22 MR. KAPLAN: I heard what he said at the end of
23 the last hearing. I'm going to try and hold him to
24 it.

25 MR. SCHEER: Oh, that's okay. I'll explain to

1 him. Okay. So do you want to -- do you want to --
2 yes.

3 DR. GREENE: We'll move.

4 MR. SCHEER: I turn back to the Chair. The
5 record stays open.

6 DR. GREENE: The record stays open per the
7 agreement that that has been already made between us.

8 MR. SCHEER: As far as the waiver of time.

9 DR. GREENE: Do we have a motion to adjourn? One
10 second.

11 MR. SCHEER: We'll continue.

12 MR. TILLMAN: What's the date?

13 MR. SCHEER: October 15th.

14 DR. GREENE: Thank you, everyone.

15 MR. SHIPMAN: Thank you.

16 MS. JESSICA: Thank you.

17 (Meeting adjourned at 10:58 p.m.)

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1 CERTIFICATE OF DIGITAL REPORTER

2

3 I, KIYZIAH VAUGHN, a Digital Reporter, do hereby
4 certify:

5

6 That the foregoing proceeding hereinbefore set
7 forth was accurately captured with annotations by me
8 during the proceeding.

9

10 I further certify that I am not related to any of
11 the parties to this action by blood or marriage, and
12 that I am in no way interested in the outcome of this
13 matter.

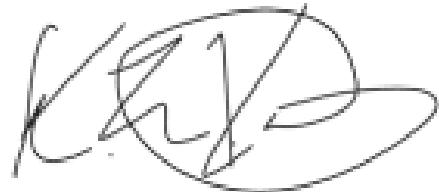
14

15 IN WITNESS THEREOF, I have hereunto set my hand
16 this 3rd day of September, 2025.

17

18

19



Kiyziah Vaughn

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