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ZONING HEARING BOARD
HAMPTON TOWNSHIP
3101 MCCULLY ROAD
ALLISON PARK, PENNSYLVANIA 15103

wednesday, February 13, 2019
7:30 p.m.

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18-06 Application for Tentative Approval of the
Windmont Farms PRD

- - - - -

Reported by:
kimberly Deitrick, Court Reporter

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A P P E A R A N C E S

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ZONING HEARING BOARD:

- Michael Peters, President
- Carolynn R. Johnson, Vice President
- Bethany H. Blackburn
- Jerry E. Speakman
- W. Christopher Lochner, Municipal Manager
- Amanda Gold-Lukas
- Martin Orban, Land Use Administrator
- Susan Bernet
- Tom McDermott
- M. Richard Dunlap

ON BEHALF OF THE APPLICANT:

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ON BEHALF OF THE HAMPTON TOWNSHIP:
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I N D E X

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W I T N E S S :

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Bob Sapsara	
Debbie Grady	
karole (koko) Chalfant	
Chuck wooster	
Graham Ferry	
Ed Moore	
Stan Ostrowski	
Andy Bandfield	
Maureen Lah	
Tim Stack	
Burke Camper	
Larry Gale	
Andy Longenecker	
Joseph Lee	
Merrit DesLauriers	
Wayne Lusebrink	

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(*ALL EXHIBITS RETAINED BY HAMPTON COUNCIL BOARD)

P R O C E E D I N G S

(7:40 p.m.)

- - - - -

MR. PETERS: So with that we can go. I would like to call to order the public hearing for windmont. Can I get a motion to open the public hearing please.

MS. GOLD-LUCAS: I vote that we open the public hearing for the Windmont Farms Preliminary PRD.

MS. BLACKBURN: Second.

MR. PETERS: Roll call.

MS. GOLD-LUCAS: Dr. Johnson.

DR. JOHNSON: Favor.

MS. GOLD-LUCAS: Ms. Blackburn.

MS. BLACKBURN: Favor.

MS. GOLD-LUCAS: Mr. Dunlap.

MR. DUNLAP: Favor.

MS. GOLD-LUCAS: Mr. Peters.

MR. PETERS: Favor.

Before we get started I have a statement that I would like to read into the record.

First all, I want to say good evening ladies and gentlemen. And I would like

1 to thank everyone for showing up tonight. I
2 would like to thank the residents for their
3 ongoing passion and enthusiasm about this
4 project.

5 I would like to thank the developer
6 and his representatives for the work that
7 they've done and invested in this plan.

8 I would also like to thank the
9 township staff and engineers who worked
10 diligently on this proposal.

11 Last but not least, thanks to the
12 planning commission, the EAC and the zoning
13 hearing board for all the time that they've
14 spent.

15 we have a packed house tonight, as
16 I'm sure everybody notices. It is our intent
17 to make sure that everyone who wants to has the
18 opportunity to speak tonight.

19 Since we have a stenographer present
20 to record the hearing, I'm going to ask that
21 every resident that wants to speak come up to
22 the podium, state your name, including the
23 spelling of your last name and state your
24 address. I'm also going to ask that you
25 confine your remarks to the topic at hand which

1 is the Windmont Development proposal.

2 I just want to stress that I would
3 ask everybody to respect each other and refrain
4 from making any comments from the audience or
5 having any side conversations that may distract
6 from the testimony that's being given.

7 I also want to stress that everybody
8 in this room, each of us are either Hampton
9 residents or are professionals that are just
10 doing their job on this development.

11 As the presiding officer, I won't
12 tolerate any offensive remarks, reference to
13 personalities, comments that attack someone's
14 integrity or outbursts from the audience. And
15 I do -- but I do expect that everyone here
16 tonight will conduct themselves in a respectful
17 and a professional manner.

18 So having said that, Marty, can you
19 take us through?

20 MR. ORBAN: Certainly. Bear
21 with us just one second.

22 All of those who intend to testify,
23 give any statements with regard to this matter
24 this evening please rise and raise your right
25 hand to be sworn by the court reporter.

1 Please.

2 (Jointly Sworn.)

3 MR. ORBAN: Thank you.

4 MR. LOCHNER: Okay, ladies and
5 gentlemen, before we get started, there are now
6 four extra chairs up front, so if you want to
7 come on up front and sit down so you don't have
8 to -- ladies, if you don't want to stand in the
9 back, feel free to come up front because once
10 they're gone, they're gone.

11 If there's anybody out in the
12 hallway and you want to come in and you want to
13 sit down, there's a couple chairs still there.

14 MR. ORBAN: I would like to
15 start by just going over some general items and
16 then adding some exhibits to the record.

17 A public hearing will be conducted
18 this evening for the purpose of taking public
19 comment before taking any action on the
20 following tentative PRD application:

21 Crossgates, Inc., is proposing to
22 develop a 63. -- 67.30-acre site off of South
23 Pioneer Road as a planned residential
24 development. The proposal includes 40 single-
25 family dwellings and fourteen duplex-patio

1 units on 54 lots, plus one private residence on
2 an existing historical lot.

3 The application has been reviewed by
4 the township's EAC, planning commission and
5 engineers. The EAC recommended the application
6 not be approved at their February 4, 2019
7 meeting.

8 The planning commission recommended
9 approval of the application with conditions at
10 their February 11, 2019, meeting.

11 I would like to add -- I would like
12 to include the following exhibits in the public
13 record:

14 No. 1 would be proof of
15 advertisement of the public hearing. The
16 second one will be proof that the property was
17 posted with notices of the public hearing. The
18 third one would be the PRD application with
19 narrative. The fourth would be the letter from
20 the applicant listing requested modifications.
21 And finally the EAC and planning commission
22 recommendation letters.

23 (Township Exhibit Nos. 1-5
24 were marked for identification.)

25 MR. TUCCERI: For the benefit

1 of the court reporter, we will have hard copies
2 of those exhibits available to you for all of
3 the exhibits that will be submitted this
4 evening for purposes of making them a part of
5 this record.

6 Marty, I apologize, is it my
7 understanding that you're going to provide a
8 narrative concerning this application.

9 MR. ORBAN: The narrative is
10 included in the application.

11 MR. TUCCERI: It is my
12 understanding that this council, as a part of
13 this hearing, is going to be asked to consider
14 certain modifications?

15 MR. ORBAN: That is correct.

16 MR. TUCCERI: Can you identify
17 what those modifications are?

18 MR. ORBAN: I do not have that
19 letter in front of me. Its over --

20 MR. TUCCERI: In the
21 application itself?

22 MR. ORBAN: In the application
23 as part of the exhibits.

24 MR. TUCCERI: Can we make it
25 available? Can you just give us the Reader's

1 Digest version?

2 MR. ORBAN: Certainly. The
3 applicant, Crossgates, is requesting four
4 modifications. The first one is the length of
5 the cul-de-sac. Township regulations limit it
6 to 800 feet. The request is for a 2,505-foot
7 cul-de-sac.

8 The second one is continuation of
9 existing streets. Ordinance requirements call
10 for a continuation of streets into it from
11 adjoining areas.

12 The request is to not connect
13 Crestview Drive to the development. That is an
14 existing street on an adjacent subdivision.

15 Open space standards, ordinance
16 requires 25 percent of the required open space
17 -- to be located on buildable land.

18 The proposal is to reduce that to
19 2.98. Then there is a requirement for pond
20 setbacks for 50 feet. The proposal is to
21 reduce that to 20.

22 MR. TUCCERI: And then,
23 Mr. Orban, my understanding is that there is
24 still outstanding a number of other issues,
25 but, most importantly, a zoning hearing board

1 decision which counsel would expect to receive
2 some time after this evening's hearing, but
3 presumably before March the 13th; is that
4 correct?

5 MR. ORBAN: That is correct.
6 The applicant had requested a variance to tree
7 replacements in October and again, reapplied
8 again and the zoning hearing board heard that
9 last month. The decision should be February 26.

10 MR. PETERS: Anything else,
11 Marty?

12 MR. ORBAN: No, sir.

13 MR. PETERS: Okay. Is the
14 developer here.

15 MR. PRATHER: Yes. Good
16 evening. My name is Matt Prather, P-R-A-T-H-E-R.
17 I'm an attorney with the firm of Sebring &
18 Associates. I work with Brenda Sebring.

19 For those of you who have not heard,
20 Brenda Sebring was diagnosed with a brain
21 aneurysm on January the 31st. Fortunately, the
22 aneurysm did not rupture. She underwent
23 surgery on February the 1st. The surgery was a
24 success. They expect her to make a full
25 recovery. She is presently at home recovering.

1 we don't know how long it will take, but she is
2 expected, in time, to make a full recovery.

3 Obviously, she's unable to be here
4 tonight so I am now here in her place. She
5 wanted me to express to you all that she has
6 received a number of emails, phone calls, well
7 wishes from staff, and even from some of the
8 opposition and she certainly appreciates that
9 from everyone.

10 The presentation that I have for you
11 tonight is, I'm going to start with going
12 through the basis upon which the proposed PRD
13 plan complies with the township PRD ordinance
14 and the basis upon which we are seeking your
15 tentative approval.

16 Following that presentation, I'm
17 going to ask Mr. Bob Sapsara to speak on behalf
18 of the developer.

19 Also, I'm going to introduce Debbie
20 Grady and koko Chalfant who are daughters of
21 the former owner and occupant of the property.
22 They would like to speak with you briefly about
23 the history of the property.

24 Also with me this evening are
25 representatives of Crossgates. As I mentioned

1 Mr. Sapsara is here. Also, Ryan Schwotzer is
2 here somewhere.

3 I think maybe out in the hallway is
4 Arthur Ziegler of the Pittsburgh History
5 Landmarks Foundation, and also Michael
6 Sriprasert is out in the hallway as well.

7 We also have engineering staff from
8 Sheffler & Company, Mr. Bud Sheffler is here.
9 Mr. Graham Ferry is here and also Ed Moore is
10 here from Sheffler & Company. We have also
11 Andrew Longenecker with Ajay Environmental
12 Consultants, LLC.

13 We have Michael McClain from ACA
14 Engineering who assisted us with some of the
15 geotech work. We also have Chuck Wooster of
16 Wooster & Associates with regard to traffic
17 impact analysis.

18 So those individuals will be able to
19 assist us tonight if we have any technical
20 questions.

21 Before I begin, counsel had set
22 forth a schedule by which we were required to
23 present our exhibits in advance of this
24 hearing. That due date was last week. I
25 believe it was February the 7th. The applicant

1 had submitted all of its exhibits on time.

2 It's been brought to my attention
3 that there are a number of exhibits that have
4 been submitted to the township that have come
5 past the deadline of that submission timeframe.
6 Particularly, some have come as late as this
7 afternoon.

8 I'm going to object to the admission
9 or the consideration of any of those exhibits
10 due to the fact that -- you know, some of them
11 include some environmental, potentially
12 engineering questions and some technical
13 questions.

14 I'm going to object based on the
15 fact that it creates an issue of prejudice for
16 my client in that, you know, engineering staff
17 should have an opportunity to review those type
18 of exhibits prior to, you know, an hour or two
19 before the hearing. So there's just an element
20 of surprise here which clearly is prejudicing
21 my client. So I'm going to object to those
22 late submissions.

23 MR. TUCCERI: And if I can, on
24 behalf of council, your objection is noted. I
25 think my recommendation to counsel or my

1 recommendation to council is that we will
2 accept all of the information that has been
3 provided to us regardless of when it occurred.

4 we will certainly make it available
5 to you folks for purposes of review if you
6 haven't had an opportunity to do that, and if
7 you deem it necessary to rebut it, contradict
8 it, we will give you that opportunity.

9 But I think, in the spirit of trying
10 to get as much information as possible in front
11 of counsel without prejudicing your rights, we
12 will accept it all.

13 we note your objection. we'll make
14 it available to you and give you an opportunity
15 to address it.

16 MR. PRATHER: Okay. I thank,
17 you, Mr. solicitor.

18 All right. With that, I will begin
19 our presentation. The applicant, whom we'll
20 refer to as the developer for tentative
21 approval of the Windmont Farms planned
22 residential development is Crossgates, Inc., a
23 Pennsylvania Corporation with an address of
24 3555 Washington Road, McMurray, PA 15317.

25 staff had indicated that the

1 developer seeks to develop and construct a
2 planned residential development which we will
3 refer to as "PRD," on a 63.4 acre tract of
4 land, which we'll refer to as "the property,"
5 which borders on West Hardies Road and South
6 Pioneer Road in Hampton Township.

7 It consists of several pages of
8 plans which have been submitted to the
9 township. They are in our packet listed as
10 Exhibit 1 and Exhibit 2.

11 The plans were transmitted to the
12 township by letter of Sheffler & Company dated
13 January 11, 2019. That transmittal letter has
14 been marked as Exhibit 3.

15 The property is located in the
16 residential B zoning district. A PRD is a
17 permitted use in the RB district. There are a
18 total of 55 lots, on which 69 residential units
19 are being constructed.

20 As previously indicated we have
21 provided a PRD narrative which has been
22 designated as Exhibit 4.

23 The current consolidated plan
24 recording of the Department of Real Estate of
25 Allegheny county for the property has been

1 submitted and marked as Exhibit 8.

2 There's an agreement of sale
3 pursuant to which the developer is to take
4 title to the property that has been marked as
5 Exhibit 38.

6 Modifications to the PRD requirements
7 may be granted within the discretion of the
8 township council. The requested modifications,
9 which are set forth in the letter of Sheffler &
10 Company dated January 2, 2019, have been marked
11 as Exhibit 35.

12 We went over them briefly. I will
13 provide a little more detail. Those requested
14 modifications are as follows:

15 Number 1, length of the cul-de-sac.
16 The Subdivision/Land Development Ordinance at
17 Article IV Design Standards, Section 280-50
18 Streets, provides that the length of the
19 cul-de-sac is not to exceed 800 feet in length.
20 The modification that we are requesting is a
21 cul-de-sac length of 2,505 feet.

22 Modification number 2, continuation
23 of existing streets. The Subdivision/Land
24 Development Ordinance, Article VI Design
25 Standards, Section 280-50 Streets, Subsection

1 B, lists continuation of existing streets.

2 The ordinance requirement is the
3 continuation of streets into and from adjoining
4 areas shall be required. We are requesting a
5 modification that there is no connection to the
6 adjoining Crestview Drive, and that is what
7 we're proposing.

8 The large driving force of the basis
9 of that request is that the adjoining
10 neighborhood has requested that we seek that
11 modification. So we have done so.

12 Modification number 3, Open Space
13 Standards, Zoning Ordinance, Article IX of the
14 PRD Districts, Section 310-14. Standards for
15 Open Space and Common Ground.

16 The ordinance requirement provides
17 that at least 25 percent of the required open
18 space must be located on buildable land which
19 is suitable for active recreation.

20 Active Recreation is defined in the
21 Zoning Ordinance, Article IV Terminology,
22 Section 310-11. Definitions of open space
23 which accommodates such facilities as swimming
24 pools, tennis courts, ball fields and et cetera.

25 we're not proposing any of those

1 type of those facilities. The modification
2 we're requesting is we're proposing, as shown
3 on the open space plan, a minimum of 2.98 acres
4 surrounding the existing pond located in the
5 common area of the PRD.

6 we're proposing that to be classified
7 as land that is suitable for active recreation.
8 There will be a walking trail installed in that
9 area and our suggestion is that that trail will
10 provide active recreation for the residents.

11 Modification number 4 is Pond
12 Setback. The Zoning Ordinance, Article IX of
13 the PRD districts, Section 310-61 with regard
14 to natural features.

15 The ordinance requirement Section
16 A(5) requires no grading, cutting, filling,
17 removal of vegetation or other disturbance
18 shall be permitted within 50 feet of the top of
19 the bank of any watercourse or within 100 feet
20 of any pond, lake or wetland.

21 we're proposing a modification of a
22 setback of no less than 20 feet along the pond
23 located in the common area of the PRD for the
24 installation of the trail that I mentioned.

25 Drainage channels and pipe,

1 stormwater access roads and utility lines, that
2 would be the four modifications we're seeking.

3 Continuing with the PRD application,
4 the Vegetation and Wildlife Analysis Report,
5 which was prepared by Ajay Environmental
6 Consulting, LLC, and dated August 17, 2018, for
7 Windmont Farms PRD is marked as Exhibit 15.

8 We've also had a Regulated Waters
9 Investigation Report provided by the same firm,
10 that's dated June 10 of 2018, and that's been
11 submitted as Exhibit 16.

12 We have a Geotechnical Report which
13 was last revised on October 5, 2018, that was
14 prepared by ACA Engineering and that's been
15 marked as Exhibit 13.

16 The review letter of the Township
17 Engineer, Gateway Engineers of that ACA
18 Engineering Geotechnical Report has been marked
19 as Exhibit 12.

20 ACA Engineering drafted a response
21 to Gateway's review letter and that response is
22 also dated October 5, 2018, and that's been
23 marked as Exhibit 14.

24 The final review letter of the
25 Township Engineer was issued by Gateway

1 Engineers regarding the developer's request for
2 tentative approval of the PRD and it's dated
3 January 31 of 2019. It's been marked as
4 Exhibit 5.

5 There was a preceding response
6 letter from our engineers, Sheffler & Company,
7 that was dated January 2, 2019, and that has
8 been marked as Exhibit 6.

9 The township engineer final review
10 sets forth the purpose and the intent and
11 general requirements for a PRD to receive
12 tentative approval by Hampton Township.

13 With that exception, the township
14 engineer final review of Gateway Engineers has
15 found that all requirements for the Windmont
16 Farms PRD have either been met, concerns
17 addressed or certain requirements within were
18 not applicable to this plan.

19 It does recommend tentative approval
20 provided comments within are addressed.

21 The township engineer's final review
22 includes a finding that the Windmont Farms PRD
23 is consistent with the comprehensive plan
24 adopted by Hampton Township.

25 The planning commission made a

1 finding in it's meeting on February 11, 2019,
2 that the Windmont Farms PRD is consistent with
3 the comprehensive plan as adopted by Hampton
4 Township.

5 It is in the public's best interest
6 to accept the Windmont Farms PRD. The
7 Pennsylvania Legislature enacted Article VII of
8 the MPC, the municipalities planning code to
9 encourage renewal and residential development
10 in order to meet the growing demand for housing
11 in Pennsylvania.

12 Windmont Farms PRD furthers the
13 purpose of that section of the MPC.

14 Based upon the facts presented
15 herein and the recommendation of the planning
16 commission and the township engineer's final
17 review, the Windmont Farms PRD is consistent
18 with the township comprehensive plan.

19 The comprehensive plan plainly
20 envisioned development in the part of Hampton
21 Township where the Windmont Farms PRD is
22 proposed.

23 The Windmont Farms PRD plan has 63.4
24 contiguous acres. Whereas 15 contiguous acres
25 are the minimum acreage requirements for a PRD

1 as required by the zoning ordinance. In this
2 regard the plan exceeds township's specifications.

3 The PRD plan is required to have a
4 minimum of 10.91 acres of open space which
5 would be representative of 30 percent of the
6 plan.

7 The Windmont Farms plan PRD as
8 submitted has 20.51 acres of open space which
9 is approximately 56 percent. This is an
10 additional 9.6 acres above the requirement. It
11 represents 26 percent more open space than is
12 required by the ordinance.

13 So, clearly, in this regard, the
14 plan exceeds the township's specifications.

15 In designating these portions of the
16 Windmont Farms PRD as open space, the Windmont
17 Farm PRD preserves the existing pond, slopes,
18 and forested areas of the tract of land within
19 the open space.

20 The plan calls for a perimeter
21 buffer of 15 feet -- well, initially the
22 requirement would be 15 feet. The plan calls
23 for a perimeter buffer of 30 feet as a minimum
24 and within some instances they've extended it
25 to 75 feet. So that's a significant increase

1 over the specifications set forth in the
2 ordinance.

3 In this aspect, the PRD plan is
4 consistent with township specifications and
5 maintains harmony of home design with the other
6 homes in the neighborhood.

7 The allowed uses for a PRD plan are
8 single-family residences and duplexes. This is
9 exactly what is proposed within the Windmont
10 Farms PRD plan.

11 The minimum allowable lot size for a
12 PRD plan is 12,500 square feet. The Windmont
13 Farms PRD plans calls for a minimum lot size of
14 16,112 square feet. In this aspect the PRD
15 plan exceeds the township specifications.

16 Minimum lot width for a single-family
17 lot within a PRD is 80 feet. This plan
18 proposes a minimum lot width of 90 feet. This
19 aspect of the plan is consistent with and
20 exceeds township specifications.

21 With regard to the duplex lots, the
22 minimum within a PRD plan is 100 feet. This
23 plan proposes a minimum lot width of 100 foot.
24 Therefore, it does meet the township's
25 specifications.

1 with regard to rear lot, the minimum
2 for a PRD plan is 30 feet. This plan proposes
3 a minimum rear yard of 30 feet. So,
4 again, in this regard this plan does meet
5 township specifications.

6 The Subdivision and Land Development
7 Ordinance requires sidewalks along all streets.
8 The Windmont Farms PRD plan provides for
9 sidewalks along all streets. In this aspect, the
10 plan is consistent with township specifications.

11 The township engineer has reviewed
12 all proposed disturbances of slopes and has
13 approved all slope disturbances as shown on the
14 plan.

15 Reference is made to Exhibit 5. In
16 this aspect, the PRD plan is consistent with
17 the township specifications. We also meet the
18 minimum front yard for a PRD, which is 30 feet.
19 We also meet the minimum side yard for a PRD
20 plan, which is 10 feet. In this respect, the
21 plan is consistent with specifications.

22 The physical design of the proposed
23 roads within the Windmont Farms PRD plan create
24 a practical and simple circulation system that
25 is more than adequate to carry all traffic that

1 might be caused by the development.

2 Traffic increase is a natural
3 accompaniment of residential development and
4 cannot stand alone as a legitimate reason for
5 the denial of a PRD.

6 The developer has agreed to
7 contribute financially to proposed engineered
8 improvements to update the downstream culvert
9 crossing at West Bardonner Road near the
10 intersection of Graphic Road.

11 Windmont Farms PRD will install and
12 connect sanitary sewers and waterlines to
13 Hampton Township Sanitary system and the
14 Hampton/Shaler Water Authority waterline
15 system.

16 Both the township and the water
17 authorities have issued letters that sufficient
18 availability and capacity is available to
19 service the Windmont Farms PRD plan.

20 In addition, KLH Engineers as
21 sanitary sewer engineers at the township, has
22 indicated service availability and reviewed the
23 plan without comment as it relates to the
24 sanitary sewers.

25 I would refer you to Exhibits 7 and

1 39 which are the utility letters that I've just
2 referenced.

3 The developer will record a
4 declaration of planned community for Windmont
5 Farms, which declaration it will specifically
6 assign maintenance responsibilities in
7 perpetuity, including for all drainage, wetland
8 conservation, storm sewer easements, the
9 aforementioned PRD buffer parameter, stormwater
10 management facilities, ponds and open space.

11 This will be the responsibility of a
12 homeowners association. The declaration will
13 be submitted to the township solicitor for
14 review as a part of final approval for the
15 Windmont Farms PRD.

16 The declaration shall include, among
17 other things, provisions specifically governing
18 the stormwater management facilities in the PRD
19 and the declaration of planned committee shall
20 expressly provide that these covenants may not
21 be changed without the written consent of
22 Hampton Township.

23 The proposed stormwater management
24 facilities assist in the township's
25 development, maintenance and administration of

1 the township's comprehensive plan of on-site
2 stormwater management.

3 The design of Windmont Farms PRD's
4 proposed stormwater management facilities has
5 been completed and reviewed by Sheffler &
6 Company, Inc., and is designed in compliance
7 with the township's ordinance which was in
8 effect at the time of the application for
9 tentative approval.

10 The post construction stormwater
11 report was prepared by Sheffler & Company and
12 marked as Exhibit 9.

13 The stormwater report has been
14 reviewed by the township stormwater engineer
15 PVE, LLC. I would ask you to refer to PVE'S
16 review letter dated January 28, 2019, which has
17 been marked as Exhibit 10, as well as the
18 Sheffler & Company response to their prior
19 letter, and that response letter is dated
20 January 2, 2019, and it has been marked as
21 Exhibit 11.

22 The developer has filed a NPDES
23 Permit Application with the Commonwealth of
24 Pennsylvania and the Department of Environmental
25 Bureau of Clean Water that has been submitted

1 as Exhibit 36. And 37, review and approval of
2 such application is still pending.

3 The developer acknowledges that all
4 NPDES permitting will be a condition of final
5 approval.

6 The developer has filed an
7 application for access to West Hardies Road
8 between Lakewood Drive and South Pioneer Road
9 with the Pennsylvania Department of
10 Transportation.

11 This application is still pending.
12 Those applications are submitted as Exhibits 28
13 and 32.

14 A traffic impact assessment report
15 was prepared by Trans Associates Consultants,
16 Inc. It's dated December of 2018 and has been
17 marked as Exhibit 33.

18 Trans Associates has reviewed the
19 relevant plans prepared by Sheffler & Company
20 and has recommended that the application is in
21 order for consideration of preliminary
22 approval, with the understanding and
23 requirement that the comments set forth in the
24 review letter dated January 25, 2019, are
25 addressed.

1 That review letter is marked as
2 Exhibit 34. I also reference the Trans
3 Associates review letter which is marked as
4 Exhibit 29.

5 The developer's traffic consultants
6 response letter of wooster & Associates, Inc.,
7 is dated June 27, 2018. That's been marked as
8 Exhibit 30.

9 with regard to traffic, we also have
10 a tree removal plan which is intended to
11 improve the line of sight, and that was done by
12 wooster & Associates. It's been marked as
13 Exhibit 31.

14 As previously noted, in connection
15 with this application the developer was
16 required to secure a variance from the Hampton
17 Township Zoning Hearing Board with regard to
18 the strict application of the requirements of
19 Zoning Ordinance number 310, Article IV,
20 subsection 61, Paragraph F(2), Subsection A and
21 5, Subsection B, for relief from required
22 number of replacement trees for the Windmont
23 Farms PRD.

24 A variance was granted by the zoning
25 hearing board at case number 18-13 on October

1 23, 2018. That's been submitted as Exhibit
2 No. 19.

3 We also had developer's consultants
4 letter regarding tree replacement spacing,
5 which has been submitted as Exhibit 20.

6 Due to the change in traffic
7 circulation and additional access on South
8 Pioneer Road as requested by the township, the
9 developer by letter of its counsel dated
10 December 20, 2018, which I have marked as
11 Exhibit 22, requested that the zoning hearing
12 board review the revised plans which were
13 revised and dated as of January 11, 2019, for
14 the purpose of approving the application of
15 their previous calculations as set forth in
16 their previous variance decision dated
17 October 23, 2018.

18 So we've asked them to, in essence,
19 agree that their previous calculations would
20 apply to the new layout of the street.

21 In connection with the review of its
22 prior decisions, I have marked Exhibits 21, 25
23 and 26, which were submitted for consideration
24 by the zoning hearing board.

25 With a vote of three in favor and

1 two opposed, with the one abstention, the
2 environmental advisory council recommended that
3 the proposed development not be approved.

4 Their basis is, they stated that
5 it's not clear that the plan is in the best
6 interest of the township based upon the facts
7 that number 1, they cited that there are inputs
8 to landscaping and engineering that are not yet
9 complete.

10 They suggested that the plan appears
11 to stretch the limits of the land in question
12 so that there are continuing concerns about
13 adequacy of stormwater control and concern for
14 downstream water effects, practicality of tree
15 placement at rates that are currently planned,
16 assurance of specimen tree preservation, the
17 nature of buffer zones around existing lots,
18 the assurance of street tree variety and
19 concern about the turnaround space on the
20 crestview cul-de-sac.

21 I'm going to address each one of
22 those in order.

23 with regard to the first comment
24 that there are inputs to landscaping and
25 engineering that are not yet complete. That

1 recommendation is without any further
2 specificity.

3 At the tentative approval level,
4 there are commonly inputs to landscaping and
5 engineering that are not yet complete.

6 The developers resolve to complete
7 the plan as necessary to the extent that there
8 is specificity with regard to what additional
9 inputs are needed. We are resolve to comply
10 with that.

11 with regard to the comment that the
12 plan appears to stretch the limits of the land
13 in question, the developer disagrees.

14 As stated before this plan exceeds
15 the township requirements with respect to the
16 limits of the land. I had mentioned that we
17 have 26 percent more open space provided in
18 this plan than what is required by the
19 ordinance.

20 with regard to the EAC concerns
21 about the adequacy of stormwater control and
22 concern for the downstream water effects, these
23 issues have been reviewed and the plan has been
24 recommended for tentative approval by the
25 township's stormwater engineer.

1 I believe that specific scope of
2 information is within the purview of the
3 township stormwater engineer.

4 with regard to EAC concerns about
5 the practicality of tree placement at rates
6 that are currently planned, the zoning hearing
7 board has previously address that with their
8 variance and obviously our request for
9 application of the revised plan is pending.

10 That would certainly be -- you know,
11 directly address the tree replacement rates
12 because that was the substance of the variance
13 request.

14 with regard to the EAC concerns
15 about the assurance of specimen tree
16 preservation, the developer has prepared
17 additional drawings which have been marked as
18 Exhibits 23 and 26.

19 Now, these drawings are intended to
20 identify trees that would be removed, as well
21 as identify specimen trees which will remain.

22 The developer had agreed and has
23 agreed, before the planning commission, to add
24 these plans -- or to add to the plans
25 specifications related to grading in the

1 vicinity of those specimen trees with are
2 slated to remain.

3 so I believe that has been addressed
4 or will be addressed.

5 with regard to EAC concerns about
6 the nature of buffer zones around existing
7 lots, the developer has prepared a drawing
8 which has been marked as Exhibit 24.

9 This drawing identifies the trees to
10 be planted in certain buffer yards around the
11 existing lots. The developer is prepared to
12 add these specifics to our -- or these details
13 to the final plans.

14 with regard to EAC concerns about
15 the assurance of street tree variety, the
16 developer has prepared a drawing which has been
17 marked as Exhibit 25.

18 This drawing identifies the variety
19 of street trees to be planted. What we've done
20 is they were concerned that we had one
21 variation of tree throughout the plan.

22 we have revised the plans to show
23 that we have three variety of trees and we're
24 planting them one, two, three, one, two, three
25 by variety sequentially. The developer is

1 prepared to add these details to the final
2 plans.

3 with regard to EAC concerns about
4 the turnaround space on Crestview cul-de-sac,
5 these -- there may have been some misunderstanding
6 with regard to the revisions of the plans.

7 There was reference to a hammerhead,
8 which has been in the plans revised to a
9 cul-de-sac. with regard to that cul-de-sac, it
10 has been designed to township specifications
11 and it does meet all township requirements.

12 So in that regard, I think we can
13 address those issues raised by the EAC and,
14 certainly, there's nothing within their
15 comments which should delay tentative approval
16 as those details can certainly be added with
17 the final plans submissions.

18 There have been numerous meetings to
19 date wherein residents have voiced concerns
20 with this plan.

21 Upon review of the materials that
22 have been timely submitted as proposed
23 exhibits, many of those materials have been
24 previously submitted at the prior meetings. So
25 what we've received by way of the link that's

1 been provided by the township with the
2 opposition exhibits, we reviewed them.

3 Many of these exhibits have come up
4 previously. They've been in -- you know,
5 before planning, they've been before the EAC.
6 So much of what is anticipated as to be public
7 comment, has been previously submitted to the
8 township.

9 To your credit, proactively the
10 township requested and received from both
11 engineers Gateway and PVE, they asked them to
12 review the various residents' documents and
13 presentations.

14 Those review letters are part of the
15 exhibits. They have been listed as Exhibit 44
16 and 43 respectively.

17 I would ask that council review
18 these letters so that you understand that these
19 comments have been reviewed by our own engineers.

20 Those engineers continue to
21 recommend the plan for tentative approval in
22 accordance with their current recommendations.

23 To assist in seeing how this plan
24 has progressed, the developer has prepared what
25 we're calling a design progression summary,

1 it's been submitted as Exhibit 40. This will
2 enable council to see the revisions that have
3 taken place over time.

4 Also to assist in that, the developer
5 has prepared a lot revision plan, which we've
6 listed as Exhibit 41, and a buffer revision
7 plan as Exhibit 42. Those will demonstrate the
8 revisions outlined in the aforementioned design
9 progression summary.

10 so if you look at those exhibits,
11 you will see the original plan and then you
12 will see an overlay of the current plan so you
13 can see how it's progressed over time. And
14 there's an exhibit showing how the lot numbers
15 have been revised.

16 The Windmont Farms PRD plan furthers
17 the amenities of light, air and visual
18 enjoyment by preserving the underdeveloped
19 portion of the tract of land.

20 The PRD plan as proposed, protects
21 environmentally sensitive areas on the land and
22 provides for significant open space in
23 accordance with the nature of surrounding
24 properties.

25 The Windmont Farms PRD has proposed

1 herein better serves the public interest than
2 if the property were developed according to the
3 base zoning specifications.

4 So you know, going with the PRD and
5 following the PRD, does, in fact, benefit the
6 community and places this in direct compliance
7 with the comprehensive plan.

8 The Windmont Farms PRD plan has a
9 beneficial relationship to the neighborhood and
10 it is consistent with the residential character
11 of the adjoining neighborhoods.

12 The lot sizes and proposed home
13 design complement the surrounding neighborhood
14 as they are of similar size and character.

15 A visible difference in appearance
16 between the surrounding area and the PRD does
17 not demonstrate that the project will have an
18 adverse effect and that's supported by
19 Pennsylvania case law.

20 Rather, a planned residential
21 development, by it's very nature, can be
22 visually different than a typical lot in a
23 zoning district.

24 The types of units in the proposed
25 Windmont Farms PRD will not devalue the

1 existing homes but rather will maintain the
2 appeal of the neighborhood.

3 The proposed Windmont Farms PRD plan
4 promotes, protects and facilitates the public
5 health, safety, and general welfare through
6 continued quality residential development.

7 There are no specific, no exceptional
8 adverse impacts to the public interest from the
9 Windmont Farms PRD plan.

10 Courts of this Commonwealth have
11 held that public interest objections may not
12 form a basis of a denial of a PRD. Those
13 objections can only be relevant if they are
14 specific and exceptional in nature and have a
15 legitimate basis in law and fact.

16 Vague generalities and unsupported
17 arguments cannot adequately maintain a public
18 interest objection.

19 The Windmont Farms PRD plan will
20 benefit the community. A recognized public
21 interest exists in providing homes for
22 Pennsylvania residents and based on the
23 evidence of record, the Windmont Farms PRD plan
24 promotes interest of Hampton Township and it
25 promotes the public interest of Hampton

1 Township as defined by the MPC.

2 The Windmont Farms PRD proposed plan
3 has been forwarded to the township council by
4 the planning commission with recommendation for
5 approval on February 11, 2019.

6 we also addressed our proposed
7 response to the EAC before the planning
8 commission board, and they were in favor of
9 some of the recommendations that we had made.

10 The developer is committed to enter
11 into a developer's agreement with the township
12 for construction.

13 I think I've reached the end. I'm
14 going to state that all exhibits are
15 incorporated herein by reference, and I ask
16 that all exhibits are hereby made a portion of
17 the record of the public hearing held this
18 date, February 13, 2019.

19 I would ask that, for the reasons
20 that I've just mentioned, that council of
21 Hampton Township grant tentative approval of
22 the Windmont Farms PRD at its next regularly
23 scheduled meeting.

24 At this time I would like to ask
25 that Mr. Bob Sapsara come up and speak briefly

1 on behalf of the developer.

2 MR. TUCCERI: Can I stop you
3 for just one moment, Counsel?

4 MR. PRATHER: Sure.

5 MR. TUCCERI: With regard to
6 the exhibits which you have moved to the
7 admission -- and it would be my recommendation
8 to council that they make them a part of the
9 record.

10 Are all of the expert reports, if
11 you will, represented by the author of those
12 reports here this evening?

13 MR. PRATHER: I believe so.
14 Yes.

15 MR. TUCCERI: So that in the
16 event that there were questions that residents
17 may have concerning any of those reports,
18 someone who authored that report would be here
19 for the purposes of the residents having an
20 opportunity to question them; is that correct?

21 MR. PRATHER: That is correct.

22 MR. TUCCERI: What I'm going
23 to also suggest for counsel's benefit --

24 MR. PRATHER: Steve Horhut.
25 He's the arborist. Looking for the word. He

1 is not here this evening. His wife just
2 delivered a baby, I believe.

3 MR. TUCCERI: If it were
4 necessary to have him for the purposes -- I
5 believe that the residents had made a request,
6 because they had some problems with their
7 experts, to perhaps ask counsel to move this,
8 after we've taken all of what we can take this
9 evening, if there were other experts that they
10 wanted to present, I believe that the request
11 has been that they be given that opportunity in
12 a, quote/unquote, continued hearing, which I
13 would ultimately recommend counsel to consider.

14 In the event that that were to be
15 the case, and there were questions that were
16 needed to be posed of the arborist, I assume we
17 could make him available for -- you could make
18 him available for the purposes of the continued
19 hearing, if we get there; is that correct?

20 MR. PRATHER: I believe so.

21 MR. TUCCERI: Secondly, just
22 for you folks' edification, I believe my
23 recommendation to counsel would be that they
24 put on all of your testimony and then after you
25 are concluded with that, if counsel has any

1 ** WITNESS TESTIMONY **

2 questions they will ask, if the residents have
3 any, they will ask and then, obviously, we'll
4 give the residents an opportunity to present
5 their portion of this case as well.

6 Okay.

7 MR. PRATHER: Uh-huh.

8 MR. TUCCERI: So feel free to
9 put on all of the testimony that you believe is
10 relevant to your case.

11 MR. PRATHER: Thank you.

12 MR. TUCCERI: Thank you.

13 - - - - -

14 BOB SAPSARA,

15 having been previously sworn, testified as
16 follows:

17 MR. SAPSARA: Good evening
18 township council. My name is Bob Sapsara from
19 3555 Washington Road. I am vice president of
20 Crossgates, Inc., and I am the project
21 representative for the developer and the
22 partnership, also known as the "applicant," in
23 process of acquiring and developing the
24 Chalfant property.

25 As the representative for the

1 ** WITNESS TESTIMONY **

2 applicant, I have attended every EAC planning
3 commission and township meeting regarding the
4 proposed PRD.

5 Throughout our due diligence period
6 and the township approval process I have come
7 to know who the neighbors are and I have
8 listened to their interest by way of personal
9 meetings, group meetings and input provided
10 during regular township meetings to assist our
11 company to work in the spirit of the
12 comprehensive plan and in accordance with the
13 zoning ordinance asking only for a tree
14 variance and four minor modifications to the
15 ordinance.

16 As you heard from our counsel's
17 testimony, our plans have been recommended for
18 preliminary PRD approval and it is our
19 intention to meet any and all final plan
20 requirements for final approval.

21 Throughout our meetings with the
22 residents and the township meetings, the
23 neighbors have voiced many of their opinions
24 and will continue to do so following our
25 testimony. We respect their comments and their

1 ** WITNESS TESTIMONY **

2 opinions.

3 we feel we have familiarized
4 ourselves geographically and topographically to
5 each resident who has offered a letter of
6 testimony here today so that we could better
7 understand their concerns.

8 we have learned that two major
9 concerns are the flooding conditions that
10 currently exist in the Crouse Run watershed and
11 the removal of trees on our property.

12 Please understand that much of the
13 current and existing problems associated with
14 the residents concerns has, in effect, created
15 the need for a stormwater ordinance so that new
16 developments such as what we are lawfully
17 proposing do not further contribute to the
18 existing condition but rather improves it.

19 our development will not eliminate
20 the neighbor's flooding conditions but it
21 should not be stigmatized as making the
22 condition worse. This is simply just not true.

23 we hope that the township engineer
24 can confirm this to you tonight as we will
25 comply with all of the requirements of the

1 ** WITNESS TESTIMONY **

2 stormwater ordinance.

3 we would also like you to understand
4 that we have taken extra consideration in
5 keeping as many trees on the site as we can.
6 we have heard everything from we are clear-
7 cutting 100 acres for our 63.4 acre tract of
8 land to we are not trying to plant back the
9 required number of trees and we are disturbing
10 too much land and stretching this development.

11 we do not feel that this is true and
12 we ask, if you would, reference drawing C 102.
13 And so, Marty, with that, if you could bring up
14 Exhibit 1 please.

15 It would be drawing C 102.

16 if you could blow that drawing up to
17 the top left-hand corner where the table
18 exists.

19 MR. ORBAN: (Complies.)

20 MR. SAPSARA: You can see from
21 our plan that we have a total site area of 63.4
22 acres. we have a developable area of 36.38
23 acres. As we've discussed, the minimum
24 requirement for open space is 10.91 acres. The
25 total open space we are proposing, and

1 ** WITNESS TESTIMONY **

2 excluding pond basins, is 20.51 acres, which is
3 almost twice the minimum requirement.

4 If you could please, Marty, refer to
5 Exhibit No. 21. You could turn to the -- in
6 the page please?

7 MR. ORBAN: (Complies.)

8 MR. SAPSARA: Thank you.

9 within the open space requirement,
10 our engineers have calculated that 17.31 acres
11 of trees shall remain. That would be the area
12 that's shown in green on this plan. And
13 also --

14 AUDIENCE: Light blue.

15 MR. SAPSARA: Or light blue.

16 Okay. Basically, what seems to be the
17 outermost perimeter of the project.

18 within the open space requirement --
19 I'm sorry, yeah, we have 17.31 acres of trees
20 to remain.

21 They have also calculated that the
22 way the lots are proposed to be graded, that an
23 additional 10.57 acres of trees shall remain
24 generally on the rear slopes of the lots. That
25 would be the area shaded in blue.

1 ** WITNESS TESTIMONY **

2 Therefore, as planned, we have
3 conserved 27.88 acres of trees on the 63.4
4 site, or 44 percent of the land shall remain
5 treed. we believe this to be environmentally
6 friendly unlike other plans that may have come
7 before you.

8 we hope that this dispels inaccurate
9 reporting that neighbors may have heard and
10 goes to service that this development is not a
11 stretch on the limits of land being developed.

12 we believe that we have satisfied
13 the township's high standards and we ask that
14 you grant preliminary plan approval for the
15 continuance of our PRD.

16 Our team of experts is here to
17 answer any questions that you may have. Thank
18 you very much.

19 MR. TUCCERI: Mr. President,
20 since that was the first actual witness who
21 testified, Mr. Prather, his counsel --

22 AUDIENCE: We can't hear you.

23 MR. TUCCERI: Mr. President,
24 because this gentleman was the first witness
25 who would have testified with regard to this

1 ** WITNESS TESTIMONY **

2 matter, if counsel has any questions of this
3 witness, please ask them now.

4 (All say no.)

5 MR. TUCCERI: I'm hearing
6 none.

7 MR. PRATHER: I would like to
8 introduce to you Debbie Grady and Koko
9 Chalfant.

10 - - - - -

11 DEBBIE GRADY and KAROLE CHALFANT,
12 having been previously duly sworn, testified as
13 follows:

14 MS. GRADY: My name is Debbie
15 Grady, G-R-A-D-Y. This is my sister Koko
16 Chalfant, C-H-A-L-F-A-N-T.

17 MS. CHALFANT: Koko.

18 AUDIENCE: We can't hear you.
19 You have to talk into the microphone.

20 MS. GRADY: We are Dana
21 Chalfant's daughters and we're here to speak on
22 his behalf.

23 To set the record straight, he had
24 always planned on developing this property. As
25 far back as 2006 he had met with and --

1 ** WITNESS TESTIMONY **

2 AUDIENCE: If you could use
3 the microphone, ma'am, it would be appreciated.
4 Okay.

5 MS. GRADY: Is that better?

6 AUDIENCE: A little bit.

7 MR. LOCHNER: Just switch
8 places.

9 MS. GRADY: (Complies.)

10 MR. LOCHNER: There you go.

11 MS. GRADY: Better? Okay.

12 AUDIENCE: Yes.

13 MS. GRADY: As far back as
14 2006 he had met with Richard Kacin and drawn up
15 plans for this piece of property. He also had
16 talked to Ryan Homes. He also talked to a
17 local developer. He had always intended it to
18 be developed.

19 Dana was a trustee with the Landmark
20 Society for over 12 years. He and Arthur
21 Ziegler had met many times to discuss ways to
22 protect the property, the house and some of the
23 land.

24 The Landmark organizations' Mission
25 Statement and vision for his property were

1 ** WITNESS TESTIMONY **

2 something that we could stand behind.

3 We were offered significantly more
4 money from other developers but ultimately
5 chose Landmark and Crossgates to develop the
6 property.

7 The estate will have the two
8 conservation easements, one to protect the
9 house. The house will be restored and
10 protected in perpetuity, as well as the pond.

11 We believe that Crossgates has
12 developed a plan that is both sensitive and
13 environmentally friendly.

14 We appreciate the concerns that
15 neighbors have had in meetings and on social
16 media. Unfortunately, many of these statements
17 have either been exaggerated or simply untrue.
18 This is hard.

19 You go (indicating).

20 MS. CHALFANT: My mom and dad
21 were extremely private people. Only a handful
22 of friends were given access to hunt and fish
23 or simply walk the property. He would have
24 hoped that his privacy would have continued to
25 be respected.

1 ** WITNESS TESTIMONY **

2 Unfortunately, this has not been the
3 case. We had to install surveillance cameras
4 and posted "no trespassing" signs. Imagine the
5 hurt, betrayal and anger he would have felt to
6 see the Memorial stones of his wife and two
7 deceased children on social media.

8 Any of you who say you knew my dad,
9 what my dad's wishes were and what would be
10 best for the property we, strongly disagree.

11 I can't begin to refute the number
12 of false statements that have been made. I
13 will say that we are both hurt and angry.

14 How could someone say that they knew
15 my dad better than we did?

16 MS. GRADY: His wishes were
17 conveyed to us on many different occasions. We
18 discussed many options and the results of
19 different scenarios numerous times.

20 It was complicated, but it was clear
21 what his expectations were. We are honoring
22 his wishes as promised. We respectfully ask
23 that you honor his privacy, our decisions and
24 our land.

25 This was our childhood home and no

1 ** WITNESS TESTIMONY **

2 decisions were made lightly. See, Dana's
3 legacy as a father, a grandfather and a
4 great-grandfather are not in the woods and not
5 in his house, but in the hearts of those who
6 loved him. Thank you.

7 AUDIENCE: (Applause.)

8 MR. PRATHER: I have to ask,
9 did you have any questions?

10 (All say no.)

11 MR. PRATHER: So as mentioned,
12 we've submitted the exhibits that relate to,
13 obviously, the plan, the land development
14 engineering, the stormwater engineering, the
15 traffic studies.

16 I'm certainly happy to make
17 available to council any of the experts, should
18 you have any specific questions for them.

19 Is there any particular point with
20 regard the specifications that council would
21 like to discuss with any of the engineering or
22 consulting staff?

23 MS. BLACKBURN: Actually, I
24 have a question about the road permit that
25 you've applied for with the Allegheny County

1 ** WITNESS TESTIMONY **

2 Transportation Department.

3 MR. PRATHER: Okay.

4 MS. BLACKBURN: Reading
5 through the letter that they provided -- and it
6 did say that if your request for the permit was
7 not approved you have to change the plans
8 significantly. I don't know what exhibit number
9 this is. It's page 2 under site developments.

10 MR. PRATHER: Sure. This is
11 Chuck Wooster of Wooster & Associates.

12 - - - - -

13 CHUCK WOOSTER,
14 having been previously duly sworn, testified as
15 follows:

16 MR. WOOSTER: Could you
17 restate that comment?

18 MS. BLACKBURN: Yes. It says,
19 because of the significant change of use and
20 volume, a PennDOT highway occupancy permit will
21 be needed. If the applicants haven't already
22 done so, they should contact the PennDOT
23 district office as soon as possible.

24 You've indicated that you have done
25 so.

1 ** WITNESS TESTIMONY **

2 MR. WOOSTER: That's correct.

3 MS. BLACKBURN: The
4 intersection of West Hardies Road and Chalfant
5 Street is very close to the intersection of
6 West Hardies Road and South Pioneer Road, which
7 is a concern whether the minimum required
8 distance is between intersections -- there's
9 some coding here -- have been met.

10 It depends on whether West Hardies
11 Road and South Pioneer are considered to be
12 collector or major streets.

13 In any case, if PennDOT does not
14 approve the HOP, it will affect the overall
15 design and layout of the PRD.

16 I guess where I'm going with this is
17 that if there was a tentative approval given to
18 these plans and then the permit -- then the
19 Allegheny County comes back and says that they
20 can't approve the plans as adjusted, where
21 would that leave us?

22 MR. WOOSTER: Are you saying
23 Allegheny County or PennDOT?

24 MS. BLACKBURN: It's PennDOT.
25 The letter was from the County of Allegheny.

1 ** WITNESS TESTIMONY **

2 MR. WOOSTER: So the letter
3 from the county is a recommendation?

4 MS. BLACKBURN: Yes.

5 MR. WOOSTER: Our plans are
6 already in to the Department of Transportation.
7 Our traffic study was approved by the
8 Department of Transportation. We're waiting on
9 final, I will call it, paperwork, and it has
10 more to do with the application to go into the
11 name of the property owner for the highway
12 occupancy permit.

13 We fully expect it to get issued.

14 MS. BLACKBURN: So it will be
15 -- you anticipate it will be approved?

16 MR. WOOSTER: Absolutely.

17 MR. PETERS: So just to be
18 clear, that would be a final condition for
19 approval?

20 MR. WOOSTER: As it is on
21 almost all plans, correct.

22 MS. BLACKBURN: Okay.

23 MR. PRATHER: Anything else
24 for Mr. Wooster?

25 (No response.)

1 ** WITNESS TESTIMONY **

2 MS. BLACKBURN: I have a
3 couple more questions I asked about some of the
4 layout.

5 So there was a question about the
6 cul-de-sac. Multiple folks who reviewed your
7 plans commented on the size of the cul-de-sac.

8 Could you just restate, what is the
9 current -- does the current size of the
10 cul-de-sac comply with the recommendation of
11 the Department of Community Services to
12 accommodate snow trucks and other vehicles?

13 MR. PRATHER: The cul-de-sac,
14 as currently shown in the plan, does meet all
15 the township specifications and requirements.

16 MS. BLACKBURN: Okay.

17 MR. TUCCERI: Am I correct in
18 understanding that at one point there was a
19 question about a hammerhead design --

20 MR. PRATHER: That is correct.
21 There is a revision.

22 MR. TUCCERI: -- with regard
23 to that? And there was a revision based upon
24 comment by the township that they wanted, at a
25 minimum, a hammerhead cul-de-sac, basically; is

1 ** WITNESS TESTIMONY **

2 that correct?

3 MR. PRATHER: That's correct.

4 MR. TUCCERI: Marty (indicating).

5 MR. ORBAN: If I may, I would
6 like to comment, also. It's my understanding,
7 from the director of community services, that
8 if the modification request was granted to not
9 connect on Crestview, that his recommendation
10 was that a hammerhead be installed on the
11 existing Crestview Road to allow for turnaround
12 and a place to put snow. So there may have
13 been some confusion on that and EAC.

14 So it does depend on if there's a
15 connector or not. So our guy is asking for a
16 hammerhead to be installed in that space in
17 between for that purpose.

18 MR. PRATHER: Okay.

19 MS. BLACKBURN: I have another
20 question. So there's been a lot of talk
21 about --

22 AUDIENCE: Speak up, please.

23 MS. BLACKBURN: Sorry.
24 There's -- in the letters reviewing your plans,
25 there was mention, in almost every single one

1 ** WITNESS TESTIMONY **

2 of, them about extending Crestview.

3 I know that there is a neighborhood
4 that does not support extending it. But what
5 were the other considerations in not extending
6 Crestview; because various engineers, as well
7 as our own chief of the fire department, have
8 recommended that that, in fact, be extended.

9 MR. PRATHER: All right. Well,
10 as I said, I mean one of the primary driving
11 factors was the opposition of the neighboring
12 street.

13 They had, you know, they have
14 represented that 100 percent of the occupants
15 of that street are against the connection. You
16 know, initially, this was designed as, you
17 know, a one-street cul-de-sac.

18 In discussions with planning and
19 through the review process, the developer had
20 added a secondary access down to South Pioneer.
21 We're of the opinion that does, you know -- it
22 mitigates, with regard to potential safety
23 issue, of having one access.

24 So it does -- it's a two access-
25 point community now, but with regard to, you

1 ** WITNESS TESTIMONY **

2 know, the connectivity, you know, the basis for
3 the request for the modification was really
4 based upon the wishes of the neighbors.

5 MR. PETERS: Anything else
6 that you want to add?

7 MR. PRATHER: I will see if
8 Mr. Sapsara wants to add anything to that.

9 MR. SAPSARA: Just also that
10 we felt that part of our comprehensive plan
11 review was to be good neighbors.

12 In meeting with the neighbors, it
13 was their 100 percent desire that it not be
14 connected. So, therefore, we asked for the
15 modification.

16 MS. BLACKBURN: All right. So
17 that's something I believe that council will
18 have to weigh, given the recommendations we've
19 heard from both the engineers and the fire
20 department. And we do have a petition from the
21 citizens of that neighborhood requesting that
22 that street not be extended.

23 MR. TUCCERI: That's correct.
24 Absolutely.

25 MS. BLACKBURN: Do I get more

1 ** WITNESS TESTIMONY **

2 questions?

3 MR. PRATHER: Sure.

4 MS. BLACKBURN: So the other
5 thing that -- so in the Gateway report that we
6 received, on page 39, it is stated that we
7 discourage the use of drainage channels across
8 private property. All drainage -- all drainage
9 being conveyed through private lots shall be
10 piped.

11 So I'm wondering, what is your storm
12 -- what is your drainage construction going to
13 look like?

14 MR. PRATHER: Okay. This is
15 Graham Ferry of Sheffler & Company.

16 - - - - -

17 GRAHAM FERRY,
18 having been previously sworn, testified as
19 follows:

20 MR. FERRY: Graham Ferry,
21 F-E-R-R-Y.

22 And your question is in regards to
23 the open drainage channels?

24 MS. BLACKBURN: That's correct.

25 MR. FERRY: Well, in order to

1 ** WITNESS TESTIMONY **

2 provide a collection system for sediment laden
3 and runoff, particularly during construction,
4 it's almost -- it's very imperative to have
5 channels of this type to collect water, to
6 convey it to some sort of a sediment treatment
7 device.

8 In this case, a sediment basin, so
9 that the water can be properly treated and
10 filtered prior to release.

11 In addition to that, in regards to
12 post construction stormwater management, in
13 order to control the stormwater, we actually
14 have to collect it and divert it to the basin
15 so that it can be properly detained and managed
16 prior to release per the township requirements.

17 MS. BLACKBURN: Right. I
18 think -- and maybe I'm not understanding. This
19 is -- I'm in health care and not really
20 construction.

21 MR. FERRY: I apologize.

22 MS. BLACKBURN: But that being
23 said, I think the suggestion was that that
24 should all be diverted via pipes and not an
25 open channel?

1 ** WITNESS TESTIMONY **

2 MR. FERRY: Well, that can't
3 be done because I can't collect surface runoff
4 through an underground pipe. I need to collect
5 the entire amount of water running down the
6 hillside.

7 I could only -- I would only be
8 allowed or capable of collecting a portion of
9 it if it were to be done underground through
10 pipes.

11 MR. TUCCERI: Ms. Blackburn,
12 who's comment is that?

13 MS. BLACKBURN: That was on
14 the Gateway reports.

15 MR. TUCCERI: Joe, do you have
16 a comment about that?

17 MR. SITES: I would like to
18 look at it further and respond later.

19 MS. BLACKBURN: Page 39. And
20 they were referencing PVE.

21 MR. FERRY: If I may, I think
22 we will also be placed under additional
23 requirements per Pennsylvania Chapter 102
24 regarding stormwater and erosion control, which
25 will require us to collect this water and take

1 ** WITNESS TESTIMONY **

2 it to these facilities for treatment, as well.

3 MS. BLACKBURN: Thank you.

4 MR. FERRY: Thank you.

5 DR. JOHNSON: I have a couple
6 questions.

7 MR. PRATHER: Certainly.

8 DR. JOHNSON: You had stated
9 that 44 percent of the property was going to
10 remain treed, including 17.3 acres of land that
11 could be developed and 10.35 acres of land
12 that's sloped and can't be developed.

13 MR. SAPSARA: No. What I did
14 say was that 17.31 acres will remain treed
15 forever and ever.

16 DR. JOHNSON: Okay.

17 MR. SAPSARA: Okay. And that
18 the blue area, on the current drawing that is
19 shown on the screen right now, represents the
20 rear yards and the ungraded area of the lots.
21 So we are only grading what you see in pink.

22 The area in blue makes up that
23 additional 10 -- I'm not looking at the --
24 makes up the additional 10 acres. And what I'm
25 saying is, in our plan, that's how -- there

1 ** WITNESS TESTIMONY **

2 will be 44 percent of this land that will
3 remain treed.

4 DR. JOHNSON: I just want to
5 clarify that. You mean that it will remain
6 undisturbed or you mean when the plan is
7 completed and all of the trees have been
8 replanted, it will be 44 percent?

9 MR. SAPSARA: No. It will be
10 44 percent as it's shown in the light blue/
11 green, whatever you want to call it, and the
12 blue, that will be 44 percent and does not
13 include the 1,092 trees that we will still be
14 planting along the road and on the individual
15 lots.

16 DR. JOHNSON: Okay. So 44
17 percent will remain undisturbed?

18 MR. SAPSARA: In that plan
19 that's shown there currently, yes.

20 DR. JOHNSON: Okay. And then
21 my other question is: One of the exceptions
22 that you're requesting is reduction in the open
23 space. The zoning ordinances required 25
24 percent of the required open space be located
25 on buildable land, which is suitable for active

** WITNESS TESTIMONY **

1 recreation.

2
3 You're requesting that only 2.98
4 acres surrounding the existing pond be
5 classified as that. I can't find it right now,
6 but I want to say that the minimum required is
7 5.96 acres.

8 So you're asking for a change of
9 about half?

10 MR. SAPSARA: Yeah. And as
11 far as any specificity to that, I would call
12 one of my engineers to comment on that for you.

13 MR. TUCCERI: Please state and
14 spell your last name.

15 - - - - -

16 ED MOORE,

17 having been previously sworn, testified as
18 follows:

19 MR. MOORE: Sure. Ed Moore,
20 M-O-O-R-E, with Sheffler & Company. If I sort
21 of understand the question, 25 percent of the
22 required open space shall be on slopes of zero
23 to 15 percent, which I interpret that to be the
24 buildable area that the ordinance is referring
25 to. On our proposed plan, overall plan in the

1 ** WITNESS TESTIMONY **

2 open space, zero to 15 percent slopes, we
3 calculate 7.6 acres. That's all the open
4 space. We have, in the zero to 15 percent
5 slopes, we have 7.6 acres which we're
6 considering buildable land.

7 Does that answer the question?

8 DR. JOHNSON: So what would be
9 the minimum required by the ordinance?

10 MR. MOORE: The minimum
11 required that we understand is 25 percent of
12 the required.

13 DR. JOHNSON: Which would be?

14 MR. MOORE: 10.91. Which
15 equals 2.72 acres. Again, we're at 7.6. I
16 know it's a lot of numbers and a lot of math.

17 DR. JOHNSON: So it sounds to
18 me that you're saying that you're meeting the
19 ordinance. So why are you requesting a waiver
20 of it?

21 MR. MOORE: Well, this is
22 buildable land. 25 percent of our open space
23 needs to be buildable land and we have met
24 that.

25 MR. PRATHER: The modification

1 ** WITNESS TESTIMONY **

2 request relates to the space, the recreational
3 space. Is it active recreation or is it just
4 open space?

5 So active recreation, you know, the
6 question would be do we have to put in a tennis
7 court? Do we have to put in a soccer field?

8 We're proposing to put in a walking
9 trail and the balance of the open space to
10 remain so we meet the open space requirements.
11 It's just a question of the recreation space.
12 And it's the definition of "active".

13 We're proposing that our -- the
14 definition of active can certainly include the
15 walking trail. You can be as active as you
16 want on a walking trail. You can run it.

17 It's going to be a future-planned
18 community. Should the planned community
19 association, after the transfer of control,
20 want to put in a fitness trail, they can
21 certainly do that.

22 But from experience, and this is a
23 comment that was provided at the planning
24 commission, you know, tennis courts, some of
25 those courts go unused and, frankly, with

1 ** WITNESS TESTIMONY **

2 regard to planned communities, we find that it
3 ends up being more of an expense than an asset
4 that would be used by the association members.

5 we certainly like to have the space
6 available and at the time that the community
7 becomes fully occupied, you know, that open
8 space, they could then apply to put in some
9 sort of active recreational facilities if
10 they were so inclined.

11 But that is the basis of the
12 modification. It's really the definition of
13 recreation, passive versus active.

14 MR. PETERS: One question I
15 have: If I understand this, one of the
16 modifications you're asking for is to the pond
17 setbacks.

18 Is that only on the existing pond?

19 MR. PRATHER: Yes, existing
20 pond.

21 MR. PETERS: And that's so you
22 can fit in a walking trail around that pond?

23 MR. PRATHER: Yes. There's a
24 walking trail and then there's other --

25 MR. SAPSARA: A drainage swale.

1 ** WITNESS TESTIMONY **

2 MR. PRATHER: There's a
3 drainage swale.

4 Anything else around the existing
5 pond?

6 Okay. A walking trail and a
7 drainage swale.

8 MR. PETERS: And you don't
9 feel that the reduction of that setback will
10 affect the pond?

11 MR. PRATHER: In one of the
12 comments we received at planning was that they
13 suggested that, you know, an investigation be
14 performed in the pond, and we're willing to do
15 so.

16 To the extent that we receive
17 evidence that, you know, there will be an
18 impact on the integrity of the pond, then we
19 will have to do what it takes to get it
20 prepared for what we're proposing.

21 MR. SAPSARA: Can I add a
22 comment to that?

23 MR. PRATHER: Sure.

24 MR. SAPSARA: We also -- it
25 was our understanding that the way that that

1 ** WITNESS TESTIMONY **

2 ordinance was written, it's really as it more
3 pertains to building a structure adjacent to a
4 pond such as this and it wasn't really -- it
5 didn't really fit the narrative for a walking
6 trail or a drainage swale.

7 so, hence, we still have to ask for
8 the modification because those two things do
9 impede.

10 As Matt said, we will conduct an
11 additional geotechnical, you know, boring if we
12 need to, whatever the case may be, to show
13 adequacy of the current pond design.

14 MR. PETERS: Okay.

15 MR. TUCCERI: Perhaps to
16 follow up on that for our engineers, is it my
17 understanding that something of the nature of a
18 walking trail does comport with use in a
19 buffer?

20 MR. SITES: I think it comes
21 down to what comes down to the definition of
22 active and passive recreation, the interpretation.

23 AUDIENCE: Can you speak into
24 the microphone?

25 MR. LOCHNER: You have talk

1 ** WITNESS TESTIMONY **

2 into the mics, guys.

3 COURT REPORTER: I don't know
4 your name.

5 MR. SITES: Joe Sites, S-I-T-E-S.

6 I think it all comes down to how you
7 interpret the difference between active and
8 passive recreation.

9 MR. TUCCERI: Mr. Bandfield,
10 any comment?

11 MR. BANDFIELD: Yes. Andy
12 Bandfield with PVE.

13 Just, again, staying with the
14 buffers, if it's a stream buffer type, if
15 you're doing riparians and that -- riparian
16 buffers, walkways and such are permitted in
17 there.

18 But, again, that's what our
19 interpretation of the ordinance is, the buffer,
20 because you have an existing pond that we have
21 no idea about what's going on there. So that's
22 why the buffer is needed, whatever the distance
23 ends up being.

24 MR. PETERS: Thank you.

25 Does anybody have any other

1 ** WITNESS TESTIMONY **

2 questions?

3 MS. BLACKBURN: Yes. I'm
4 sorry. I can't shake the question that my
5 colleague asked previously about the open space
6 and the variance that you're asking again.

7 I'm looking at the Gateway report,
8 page 18, here, and it references the 25
9 percent, the 5.96 acres and the variance that
10 you're asking that it be reduced to a 2.9 acres.

11 It also says here that the zoning
12 ordinance requires a minimum of 30 percent open
13 space for the development, but you request that
14 this be verified since they have not designated
15 as open space on -- the site plan and
16 subdivision plan are not in agreement.

17 It goes on to talk about some other
18 things. It says, again, this requirement has
19 not been met. So I know that you're asking for
20 a variance on this.

21 I can't tell if there's two different
22 issues going on here. Maybe someone from
23 Gateway can help me decipher this because then
24 it does go on to say, the ordinance states 25
25 percent of the required open space must be

1 ** WITNESS TESTIMONY **

2 located on buildable land for active recreation.

3 so I feel like there's two different
4 ordinances that play here; you're asking for a
5 variance on one but you haven't complied with
6 the other.

7 Is that how you would interpret it?
8 I mean, is that what you're trying to say here?

9 MR. SITES: Considering all
10 the confusion with this, I would like to look
11 at this a little closer and get back to you
12 with a written response.

13 MS. BLACKBURN: Okay. Thank you.

14 MR. MOORE: Ed Moore, M-O-O-R-E,
15 with Sheffler & Company.

16 A lot of this is confusing so I'm
17 even a little bit sometimes. What we're
18 required is is that the total amount of open
19 space required is 30 percent of the developable
20 area of the site. Okay. So that is 10.91 acres.

21 Of that, we have proposed 20.51 acres.
22 Now, there may be some sort of discrepancy
23 between our open space plan and the recorded
24 plan.

25 On our open space plan, when you

1 ** WITNESS TESTIMONY **

2 look at -- when you consider the open space
3 calculation on the open space plan, we're
4 required to take out the areas of the detention
5 basins, but on the recorded plan, that entire
6 area is included in the open space number.

7 so there are two different numbers
8 there that we're talking about: one on the
9 open space plan and then one on the recorded
10 plan.

11 I don't know if that's more
12 confusing or if that helps.

13 MR. PETERS: So are you saying
14 on the recorded plan you show more open space?

15 MR. MOORE: Yes. Because the --

16 MR. PETERS: Because you
17 haven't taken out the space for the pond?

18 MR. MOORE: Correct. Correct.
19 Again, we have more open space than what's
20 required on both plans.

21 MR. PETERS: Okay. So on your
22 plan, though, you've exceeded the open space --

23 MR. MOORE: Yes, on the open
24 space plan. So even though you're taking out
25 detention basins, we still provided more open

1 ** WITNESS TESTIMONY **

2 space than is required.

3 MS. BLACKBURN: So there's
4 open space and then there is active recreation
5 space. Okay. All right.

6 DR. JOHNSON: So you've exceeded
7 the open requirements but you're asking for
8 modification on the active recreation space?

9 MR. SAPSARA: I believe that
10 is correct.

11 MR. MOORE: Yes, that is correct.

12 DR. JOHNSON: And we are going
13 to try to determine what exactly that means.
14 Thank you.

15 MS. BLACKBURN: Thank you.

16 MR. PRATHER: Additional comments?

17 MR. SAPSARA: Again, we think
18 that there's a lot of subjectivity between the
19 words "active" and "passive."

20 As it was said at the planning
21 commission meeting, and they sort of concurred
22 that they would consider a walking trail active
23 recreation.

24 It's not uncommon for any of us to
25 think that there are some grades and that we

1 ** WITNESS TESTIMONY **

2 can get our heart rate up on a walking trail or
3 a running trail.

4 so we ask for your consideration
5 that that is considered an active space.

6 DR. JOHNSON: But even so,
7 even if that is considered an active recreation
8 area, it's 2.96 -- or sorry, 2.98 acres and the
9 requirement is for 5.96.

10 MR. MOORE: Matt, is that
11 correct? I don't think that's correct.

12 MR. PRATHER: No, that's not
13 correct.

14 MR. SAPSARA: I don't think
15 that's correct.

16 MS. BLACKBURN: No.

17 MR. MOORE: I might be able to
18 clear this one up now. Ed Moore, M-O-O-R-E,
19 Sheffler & Company.

20 The active recreation required is 25
21 percent of the buildable open space area and
22 that, we believe, is 2.9 -- well --

23 MS. BLACKBURN: You're asking
24 for the variance for it to be 2.9.

25 DR. JOHNSON: On page 19 you

1 ** WITNESS TESTIMONY **

2 say, based on the total, the required areas to
3 be located on buildable land is 5.96 acres,
4 with 2.98 being utilized for active recreation
5 that requires structures and/or permanent
6 facilities.

7 MR. MOORE: And as far as
8 buildable land is concerned, we have almost 8
9 acres of buildable land, and that's more than
10 what's required.

11 So, yeah, active recreation, we're
12 at 2.98. So, yeah, there is a little bit of
13 play with the numbers and sorting that out.

14 MS. BLACKBURN: We'll have to,
15 after the hearing we'll sit down and take a
16 look at those and come back with questions for
17 the engineers, if needed.

18 MR. MOORE: Any more?

19 MS. BLACKBURN: I had another
20 question for the stormwater expert. I'm
21 looking at the PVE report on this one, page 3,
22 number 6.

23 MR. FERRY: Graham Ferry,
24 F-E-R-R-Y.

25 MS. BLACKBURN: So you know,

1 ** WITNESS TESTIMONY **

2 I'm fortunate or unfortunate enough to have
3 personal experience with stormwater maintenance
4 and it not working for me so well on my
5 property, so that's why I'm really honing in on
6 this.

7 so in this particular report, which
8 I have no idea which exhibit this is, but I
9 think you've all seen it, it's dated January
10 28. It lists multiple lots that seem to need
11 additional attention to make sure that the
12 stormwater drainage is, you know, properly
13 done.

14 MR. FERRY: Yes.

15 MS. BLACKBURN: I would also
16 say number 6, it states that the proposed
17 permanent drainage swales exceed the maximum
18 slope of 9 percent. The slopes must be between
19 2 and 9 percent per the township ordinance.
20 Justification for these slopes should be
21 provided.

22 So my question is: Do you intend to
23 fix the slopes or justify them?

24 MR. FERRY: Would you like me
25 to address the lot question first or the

1 ** WITNESS TESTIMONY **

2 channels?

3 MS. BLACKBURN: However you
4 want.

5 MR. FERRY: I will deal with
6 the lots first.

7 MS. BLACKBURN: Okay.

8 MR. FERRY: Typically, on a
9 development like this, the way that the grading
10 is done it's more of a mass grading approach
11 because the individual lots, the grading on
12 those individual lots will be sort of
13 fine-tuned at the time that the individual
14 house is constructed on the lot. So it's not
15 uncommon to leave off, sort of, that finer type
16 of grading.

17 Mr. Bandfield has requested that we
18 provide additional information to him for
19 review for each individual lot to give him more
20 of an assurance, that even though we can't
21 guarantee what we're doing right now, that the
22 proper drainage can be provided at the time of
23 the development of the individual lots.

24 MS. BLACKBURN: I did see
25 that, yes.

1 ** WITNESS TESTIMONY **

2 MR. FERRY: And that's what
3 we've attempted to do. I believe there are a
4 few outstanding lots where additional
5 information has been requested.

6 MS. BLACKBURN: Yes.

7 MR. FERRY: And we can gladly
8 provide that.

9 MS. BLACKBURN: And is that
10 relevant, then, for the swales that are not at
11 the correct grade?

12 MR. FERRY: No, it's not.
13 It's somewhat unrelated.

14 Yes. Justification was required for
15 the slopes being in excess of the requirements
16 or the allowable slope.

17 I've discussed it with
18 Mr. Bandfield. I think that -- and he can
19 speak to this, if he would like -- that we've
20 provided justification and that he and I sort
21 of have worked out a way of addressing this
22 simply by providing a heavier type of liner in
23 each of those channels to sort of compensate
24 for the fact that the channels are a little bit
25 in excess of the required maximum slopes.

1 ** WITNESS TESTIMONY **

2 MS. BLACKBURN: Okay.

3 MR. FERRY: Thank you.

4 MR. PETERS: I'm sorry. Just
5 to follow up.

6 MR. FERRY: Sure.

7 MR. PETERS: If the swale --
8 and this is just for my edification -- but if
9 the swale is steeper than the maximum slope --

10 MR. FERRY: Yes.

11 MR. PETERS: -- that would
12 indicate that the runoff would be greater?

13 MR. FERRY: Not that the
14 runoff would be greater but the velocity of the
15 runoff would be greater.

16 MR. PETERS: Okay. So that's
17 why you're going --

18 MR. FERRY: Yes. That's why
19 we're going to, yes, to put a little bit more
20 of an excessive amount of protection in the
21 channel as to prevent any type of accelerated
22 erosion.

23 MR. PETERS: Okay. Are you
24 okay?

25 MS. BLACKBURN: I'm okay for

1 ** WITNESS TESTIMONY **

2 now, yes.

3 MR. FERRY: Thanks.

4 MR. TUCCERI: Has the
5 developer concluded the presentation of their
6 case?

7 MR. PRATHER: Yes. We're
8 inclined to rest at this point. We would like
9 to reserve the opportunity to provide a
10 rebuttal, should any of the public comments
11 merit that. Okay.

12 MR. TUCCERI: Understood.

13 MR. PRATHER: Thank you.

14 MR. PETERS: At this time I
15 think we're going to take a ten-minute break
16 because I'm sure everybody would like to get up
17 and stretch their legs.

18 (Short break from 9:16 p.m. to
19 9:32 p.m.)

20 MR. PETERS: At this time, if
21 any of the residents have any questions for the
22 developers, we will take questions. But please
23 be reminded, it's not testimony but if you have
24 any questions.

25 MR. LOCHNER: Don't forget

1 ** WITNESS TESTIMONY **

2 name and address. Okay. Spell it too.

3 - - - - -

4 STAN OSTROWSKI,

5 having been first duly sworn, testified as
6 follows:

7 MR. OSTROWSKI: Stan Ostrowski,
8 O-S-T-R-O-W-S-K-I. 2749 West Bardonner Road.

9 The question that I have, it's going
10 to be real quick. I guess it's probably to our
11 engineers.

12 I understand that once this
13 development goes through, as they start
14 excavation, as they start building, we were
15 told that our inspectors and our engineers are
16 going to keep an eye on everything that
17 happens.

18 what's going to happen as far as the
19 digging? And I guess what I'm really concerned
20 with is these detention ponds, primarily the
21 one on the south, I guess it would be southwest
22 down by where I live. That's a substantial
23 piece of ground that they're going to be taking
24 out of there.

25 Now, if they find out that --

1 ** WITNESS TESTIMONY **

2 largely, most of this material is going to be
3 clay. If that's the case and it's not
4 conducive to good drainage, is there a plan B
5 or backup plan?

6 what are they going to do to get
7 that water out of there in a safe fashion, or
8 is it all going to be ducted down behind
9 Graphic's and into what I call Chalfant stream?

10 The second question, I guess, is --

11 MR. TUCCERI: Let's answer the
12 first question.

13 MR. PETERS: Let's answer the
14 first one.

15 Andy, have you been sworn?

16 MR. BANDFIELD: I wasn't
17 actually sworn in.

18 MR. PETERS: Any of the
19 engineers who haven't been sworn, please stand
20 and do so.

21 (Jointly sworn.)

22 MR. TUCCERI: I think that
23 question is for Mr. Bandfield, who is the
24 stormwater expert.

25 MR. BANDFIELD: There's always

1 ** WITNESS TESTIMONY **

2 an option for a plan B. If for some reason
3 they can't infiltrate, which is something that
4 they have to do based on state regulations --
5 let's say the clay content is too high, they
6 have the option then to go to an extended
7 detention, which means all the water will be
8 held longer in the basin and released out at a
9 slower rate.

10 If there's no availability for an
11 infiltration there, that's the option we're
12 going to direct them to.

13 MR. OSTROWSKI: Because from
14 what I can see of this thing, we already get a
15 lot of water down the back of Graphic's because
16 of Lakewood stormwater runoff and, I guess, the
17 wetlands coming from the existing pond.

18 Now the way it looks is that this
19 detention pond, which is huge -- it's over one
20 acre big -- and now that I see that the swale
21 rundown is going to be a little bit more rapid,
22 that thing to me is going be filling up quite
23 rapidly.

24 The way it looks is that water is
25 going to now be mixed in with the water that is

1 ** WITNESS TESTIMONY **

2 already coming down there and it's going to be
3 a tremendous burden on the people, as well as
4 my property and in the back.

5 And I guess the other question I
6 have is: I just recently found out that the
7 existing pond that's up there has an earthen
8 dam.

9 Has anybody really investigated that
10 and seen how substantial that is and taken that
11 into any consideration? Because that's
12 probably going to get -- even though they don't
13 intend to -- it's probably going to get some
14 water runoff, too, just by an act of God, just
15 because of all the impervious areas.

16 Nobody has control over which way
17 water really goes so if that thing -- is it
18 a possibility that that could weaken and cause
19 a lot of water damage downwind? Because,
20 unfortunately, we're all at the mercy of
21 gravity down there.

22 Just walking down yesterday, I
23 looked -- I walk along West Bardonner Road and
24 I can see, what I call, Chalfant Run which
25 crosses that pipeline down there. That filled

1 ** WITNESS TESTIMONY **

2 up pretty darn good with the snow melt and all
3 the heavy rain.

4 Then as that further goes on down
5 into Crouse Run and eventually into Pine Creek,
6 the people downstream are going to start
7 catching hell over all this stuff.

8 So I just hope everything works and
9 you guys are going to keep checking into
10 this as they develop this; right?

11 MR. BANDFIELD: Right.
12 Anything on the stormwater side of it would be
13 basins and the outfield structures on that that
14 we inspect and make sure that it goes into
15 whatever ends up being the final product and
16 whether it's approved by this board.

17 MR. OSTROWSKI: Okay. And
18 you're also going to look into that earthen dam
19 of the existing pond?

20 MR. BANDFIELD: That's why we
21 made our comments about the buffer. Without
22 any information regarding that existing basin,
23 we recommend that the buffer stay at the zoning
24 requirement.

25 If they're willing to provide us

1 ** WITNESS TESTIMONY **

2 with additional information as to the
3 stability, the outlet of the -- excuse me, the
4 outlet structure for the pond, then we will
5 evaluate that.

6 we did not evaluate it at this point
7 in time because they aren't proposing it to use
8 it as part of their stormwater management
9 system.

10 If anything, less water will go to
11 -- will be directed to that pond. So they're
12 not using it as a stormwater facility.

13 we're just looking at it from the
14 safety standpoint now, and that's why we
15 decided to keep the buffer. If not, we'll get
16 some more geotech information from them to see
17 if it's safe.

18 MR. OSTROWSKI: Thank you very
19 much.

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1 ** WITNESS TESTIMONY **

2 MAUREEN LAH,

3 having been previously sworn, testified as
4 follows:

5 MS. LAH: Hi, Maureen Lah.

6 That's L-A-H. 2617 Lah Road.

7 I just have a question for Wooster.

8 The PennDOT permit, is that -- is there a new
9 study or a new permit or is it the one that was
10 in May?

11 MR. PETERS: You're going to

12 have to go to the mic.

13 MR. WOOSTER: I don't recall

14 the date of actual highway occupancy permit
15 application that we made, Nut there's only one
16 application that's been made for the permit on
17 to West Hardies.

18 MS. LAH: Okay. Do I tell --

19 do I get to tell him why I asked the question?

20 MR. PETERS: (Nodding head.)

21 MS. LAH: The reason why I ask

22 that question is because in that time frame
23 back in the spring, there was no connection on
24 South Pioneer Road, and so that would change
25 the traffic patterns from the residents exiting

1 ** WITNESS TESTIMONY **

2 the plan.

3 MR. WOOSTER: It doesn't
4 change the HOP at all.

5 MS. LAH: Can you tell me what
6 the HOP is?

7 MR. WOOSTER: Highway occupancy
8 permit. It's being issued for a local road.

9 MS. LAH: Okay. Even though
10 it intersects at Route 8?

11 MR. WOOSTER: It doesn't --
12 our driveway doesn't intersect Route 8. It
13 intersects West Hardies Road as a local road.

14 MS. LAH: But the South Pioneer
15 connection, though, will intersect Route 8 at
16 Pasquale's. So will that need another permit?

17 MR. WOOSTER: No. South Pioneer,
18 your road, it doesn't need a highway occupancy
19 permit from the Department of Transportation
20 because they don't own the road.

21 MR. LOCHNER: Guys, you have
22 to keep remembering to tell us who you are.
23 okay? The stenographer has no chance without
24 knowing who you are.

25 - - - - -

1 ** WITNESS TESTIMONY **

2 TIM STACK,

3 having been previously sworn, testified as
4 follows:

5 MR. STACK: Good evening. Tim
6 Stack, 5148 Lakewood Drive.

7 My first question is -- well, we had
8 Trees of Pittsburgh come out, and there was
9 sworn testimony, that was among the other
10 things that were referenced here by counsel for
11 the developer.

12 They said that their engineers and
13 other people, arborists and people that weren't
14 here refuted those and, you know, pretty much
15 said they weren't viable arguments.

16 So my question is, were those sworn
17 statements?

18 MR. LOCHNER: You mean the
19 testimony that they presented this evening?

20 MR. STACK: Was it actual
21 testimony that the people that refuted all the
22 other people that we had in here, like the
23 environmental -- like the arborists that's not
24 here, the engineer? Because we had -- like
25 Trees of Pittsburgh was here. They were in the

1 ** WITNESS TESTIMONY **

2 room and sworn testimony.

3 So, I mean, you should have sworn
4 testimony against sworn testimony, is what I'm
5 getting at.

6 MR. TUCCERI: I'm sorry. I
7 don't understand the question.

8 MR. PRATHER: Yes, I don't
9 either.

10 MR. STACK: Do you recall
11 earlier saying that you addressed all the
12 issues that the people had that were against
13 the plan?

14 MR. PRATHER: My suggestion
15 was that there were exhibits that were
16 submitted --

17 AUDIENCE: Talk into the mic.

18 MR. PRATHER: I had suggested
19 earlier that there had been exhibits that were
20 submitted in advance of today's hearing.

21 Many of those exhibits were previously
22 submitted and they have been reviewed by the
23 township engineers.

24 The township engineers, with regard
25 to stormwater and planting, have provided

1 ** WITNESS TESTIMONY **

2 letters in response to some of the exhibits
3 that were previously provided, which appear to
4 be the same exhibits which were provided this
5 evening.

6 MR. STACK: Okay. There was
7 nothing else, then, except for those. Okay. I
8 will accept that. I just thought that there
9 were some other expert people that you had that
10 provided information that refuted.

11 MR. PRATHER: No. My previous
12 comment related to the two township engineering
13 letters that were in response to previous
14 public comments.

15 MR. STACK: Thank you.

16 For the Chalfants: I'm not going to
17 say I knew Dana that well. I talked to him on
18 the phone once, met him out in the woods for a
19 walk.

20 Simple question -- and you said he
21 drew plans up before. Did he ever -- did he
22 ever approach that number, that number of
23 houses back there?

24 MS. CHALFANT: More. There
25 were more on that, on those initial plans.

1 ** WITNESS TESTIMONY **

2 MR. STACK: Fair enough.

3 Okay. Thank you.

4 I hope never to see a connector
5 between Crestwood (sic) -- Crestview Drive in
6 there. That would just destroy the home values
7 on Lakewood Drive where my property is and
8 everybody else's. And it would be a safety
9 thing and also a financial loss for people.
10 And we certainly wouldn't need sidewalks if
11 that was --

12 MR. PETERS: Mr. Stack, do you
13 have a question?

14 MR. STACK: Okay. There's --
15 we've heard before that you have to -- that the
16 PA municipal codes are what regulate everything.
17 So there's like four different codes in there
18 that give you the power to control what goes on
19 in the township.

20 I've seen this in other places,
21 other townships. I've been around, paying
22 attention to things. So the power is there.

23 Then when I hear other township
24 boards saying they don't have the power, I want
25 to know, is the failure then -- is it because

1 ** WITNESS TESTIMONY **

2 our codes that we made didn't make full use of
3 that or is it because there's a lot -- I mean,
4 I have some codes I could read really quick. I
5 could give you a couple section numbers.

6 MR. TUCCERI: If your question
7 for this council is, is the zoning ordinance
8 and subdivision land development ordinance and
9 PRD ordinance, stormwater ordinance all in
10 compliance with the state codes, the answer is
11 yes.

12 MR. STACK: Yeah, that wasn't
13 really my question. It's because we're not
14 controlling what happens in our townships.
15 We're not --

16 MR. TUCCERI: Wait a minute.
17 In what respect? I don't --

18 MR. STACK: In respect to the
19 development. there's environmental aspects and
20 there's historical aspects. Each aesthetic
21 things.

22 I know these aren't as tangible as
23 numbers and it's not things that, you know, you
24 can just get an engineer to come out and give
25 you a quick statement on it, but there is --

1 ** WITNESS TESTIMONY **

2 there's some broader views out there. And, I
3 mean, I would like to know who is our liaison
4 that interprets those laws and brings them back
5 and sets ours up?

6 MR. TUCCERI: All of the
7 experts including ourselves (indicating).

8 MR. STACK: Okay.

9 MR. TUCCERI: We have
10 stormwater. We have general engineering. We
11 have legal. We have traffic consultants.

12 MR. STACK: Right.

13 MR. TUCCERI: So it's all of
14 us.

15 MR. STACK: Okay.

16 MR. TUCCERI: And we try to do
17 our best to make sure that they're complying
18 with all the requirements.

19 MR. STACK: I apologize.
20 Sorry. I'm just trying to help out a lot of
21 people. You know, the masses need to be served
22 instead of a few people.

23 we seem to have a -- people buy a
24 farm and they think they're entitled to make a
25 million bucks on it. That's not necessarily

1 ** WITNESS TESTIMONY **

2 true.

3 MR. PETERS: Wait a minute.
4 Wait a minute. I'm going to stop you right
5 there.

6 MR. STACK: Not a question.

7 MR. PETERS: Nope, not a
8 question.

9 MR. STACK: Okay. I'm done.
10 Thank you.

11 MR. PETERS: Sure. So if
12 there's no other questions, then we'll proceed
13 to the testimony portion. I would like to call
14 Bill Moul and have him talk first.

15 MR. MOUL: Thank you,
16 Mr. President.

17 - - - - -

18 BILL MOUL,
19 having been previously sworn, testified as
20 follows:

21 MR. MOUL: Bill Moul, M-O-U-L,
22 president of the North Area Environmental
23 Council.

24 North Area Environmental Council is
25 an all volunteer non-profit organization that's

1 ** WITNESS TESTIMONY **

2 been active in the Pine Creek watershed for 50
3 years. In fact, this is our 50th year
4 anniversary.

5 One of the first things we did was a
6 study of sensitive lands in the Pine Creek
7 watershed back in 1972. Anyway, thanks very
8 much for the opportunity to speak a little bit
9 this evening.

10 I've been a member or officer of the
11 North Area Environmental Council for just a bit
12 over 25 years. I'm currently president of the
13 North Area Environmental Council.

14 During that time I've participated
15 in a number of studies and plans for the Pine
16 Creek watershed including, in 2005, a watershed
17 assessment protection and restoration plan, the
18 Pine Creek watershed Act 167, stormwater plant
19 update in 2008 -- 2009 -- I'm sorry. That was
20 -- yeah, 2009, Pine Creek section -- EPA,
21 Section 319 watershed improvement plan, been
22 very well used by Etna, 2010 Pine Creek
23 watershed channel riparian assessment program
24 and a 2010 Pine Creek watershed conservation
25 plan.

1 ** WITNESS TESTIMONY **

2 So I've been able to see a lot of
3 what goes on in the Pine Creek Watershed as far
4 as the environment is concerned, and I do have
5 enough background that I will call myself an
6 expert. Some people probably not, but I will
7 call myself an expert.

8 I have some copies with me of
9 something called the Pine Creek Watershed --
10 Pine Creek Watershed and You: A Partnership
11 for the Future (indicating).

12 I have enough here for council, if
13 they would like to have them. Otherwise, I
14 will take them home with me.

15 MR. TUCCERI: Would you please
16 make certain that counsel for the developer has
17 a copy, as well?

18 MR. MOUL: Certainly.

19 What really brings me here this
20 evening is, in part, the Windmont Development,
21 but it's really a bit more. It's really about
22 the future of the Pine Creek Watershed.

23 Stormwater has kind of been the vein
24 of the watershed since its early developments.
25 There have been a lot of methods of stormwater

1 ** WITNESS TESTIMONY **

2 control and it's evolved over the years and it
3 keeps evolving.

4 Finally, we're beginning to
5 recognize the control really begins where the
6 rain falls. Stormwater control begins on the
7 roads, on the driveways, on the roofs,
8 everywhere it falls. That's where we have to
9 start controlling it.

10 We we can't really wait until it's
11 in the creeks to try to control it. We don't
12 have the money to do it and it's actually too
13 late once it gets in the streams.

14 So what's coming along, what has
15 come along, a green infrastructure and low-
16 intensity development.

17 Green infrastructure, these are two
18 movements that really hold promise for managing
19 stormwater without massive investment in what's
20 so-called gray infrastructure, the cement-based
21 things, the huge buried pipelines, the huge
22 buried storage structures that ALCOSAN needs to
23 provide some of to control stormwater.

24 Where do developments like Windmont
25 fit into this? Well, in part, it's the trees.

1 ** WITNESS TESTIMONY **

2 In part, it's really the trees. Trees not only
3 help a lot to mitigate heat effects in the
4 summertime, but they're a very, very useful
5 tool for stormwater control.

6 The average Pittsburgh rainwater
7 event is about a quarter of an inch. Not a
8 whole lot. presently, it takes less than a
9 tenth of an inch to begin to cause stormwater
10 over -- or to cause sewage overflows into the
11 streams. That's from the 3 Rivers Wet Weather
12 by the way.

13 It's estimated that a mature tree
14 and its soils can hold an inch of the water.
15 They can hold four average rainfalls before
16 they begin to -- before they begin to express
17 water into the watershed and into the drainage
18 areas.

19 It's the roots, and it's the leaves,
20 it's the transpiration of water from the soil
21 through the leaves, so that tends to dry out
22 the soil.

23 It's the accumulation of rain on the
24 leaves, on the bark that keeps it from getting
25 down into the soil and if it's good soil, that

1 ** WITNESS TESTIMONY **

2 good soil will hold a lot of water and it will
3 hold it easily for 24 hours before it starts to
4 run out.

5 24-hour control is the most we ask
6 from our stormwater basins. In fact,
7 stormwater basins, I think, want to be rid of
8 it in 24 hours, if I'm correct.

9 So, again, windmont, removal of
10 mature trees from a densely wooded area is
11 going to have a significant effect on
12 stormwater runoff volumes.

13 Admittedly, there is -- it's been
14 stated that something like 20 acres is going to
15 not be modified at all and the trees that are
16 there now will stay there.

17 But there are 30 minus 60 --
18 something like 30 acres -- 30 to 40 acres that
19 are going to have their trees removed.

20 Some of them are going to be
21 replanted, but those replanted trees are going
22 to take decades, they're going to take 20 years
23 or more before they have the same stormwater
24 control effect that the existing trees do. It
25 will take a while.

1 ** WITNESS TESTIMONY **

2 It will come back, but what happens
3 in the meantime? What happens in the meantime
4 to that stormwater?

5 We're seeing severe weather events
6 and increasing temperatures and those appear to
7 be in our future. It seems like it's not going
8 to get better. It seems like it's probably
9 going to get more severe and warmer. We

10 Need to protect and enhance natural
11 resources like trees if we're to cope well with
12 these changes.

13 I believe the retention of mature
14 trees is one element of that coping. Perhaps
15 that can be addressed in the Windmont plan
16 development. Maybe it can't. It may
17 be too late to try to address that in Windmont,
18 but it's something that deserves a lot more
19 attention in township ordinances and municipal
20 ordinances: trying to retain mature trees as a
21 method of stormwater control, as a method for
22 energy control.

23 A mature tree makes things a lot
24 cooler and not just from shade, transpiration,
25 the expression of moisture really chills the

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** WITNESS TESTIMONY **

air significantly, up to like 8 or 10 degrees in some cases. Then there's, of course, the aesthetic effect of trees, which most of us like.

Some of us don't like to pick up after them. We don't like to pick up after kids either, but we do like kids.

At any rate, that's the extent of my comments for this evening. I appreciate the time to speak with you. And I wish you good luck in deciding what to do with this development. Thank you much.

MR. TUCCERI: And your report will be made a part of record.

MR. MOUL: That's fine. Thank you.

(Public Exhibit No. 1 was marked for identification.)

MR. PETERS: I understand we have some students here that would like to present.

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1 ** WITNESS TESTIMONY **

2 BURKE CAMPER,

3 having been previously sworn, testified as
4 follows:

5 MR. CAMPER: Good evening. My
6 name is Burke Camper. It's spelled B-U-R-K-E
7 for the first name and C-A-M-P-E-R for the last
8 name.

9 For the most part, I'm not going to
10 try to repeat what was already repeated. But
11 I'm here with the AP Environmental Science Club
12 and with my peers and my teacher.

13 We've conducted our own research in
14 terms of these plans in particular, as well as
15 teachings throughout the class about trees and
16 their importance to our environment.

17 So as already said, a single
18 deciduous tree can intercept 500 to 760 gallons
19 of water per year. That's a lot of water just
20 for one tree.

21 When you take out this amount of
22 trees, obviously, stormwater is going to be a
23 major concern as to where is it going to go and
24 how much more additionally are we going to have
25 with the decrease in number of trees.

1 ** WITNESS TESTIMONY **

2 In addition, the small stormwater
3 ponds that were mentioned in these plans will
4 just not be enough for the amount of flood
5 water that's going to ensue from the decreased
6 amount of trees.

7 In addition to the walking pond
8 trail that was mentioned, this is going to take
9 even more trees to grade and potential effects
10 of eutrophication could ensue on the pond.

11 What eutrophication basically is is
12 the nutrients from the soil that comes from
13 runoff, goes into this lake -- or, excuse me,
14 pond, and it can affect any sort of organism
15 that is in that pond and potentially destroy
16 the ponds.

17 Also, with the degradation -- or
18 deforestation of trees, there are organisms
19 that already live in these wildlife areas and
20 with the deforestation, these animals will have
21 to go somewhere else and until they plant more
22 mature trees they will not be able to live in
23 these conditions.

24 With the sudden development of this
25 housing, the organisms will be more present in

1 ** WITNESS TESTIMONY **

2 these residential areas and could potentially
3 cause harm to pets and children depending on
4 what type of animals are present in these
5 ecosystems.

6 Also, as mentioned, trees do provide
7 natural heating and cooling. And with the
8 deforestation of these trees, homeowners could
9 experience increased bills in their heating and
10 cooling depending on the time of year.

11 Also, in this particular location,
12 being so close to the turnpike, trees provide
13 natural noise reduction. With the amount of
14 trees that are being taken out, a sound barrier
15 might be an extra cost due to the deforestation
16 that's happening.

17 so instead of necessarily
18 deforesting and having to build extra, we could
19 just keep these natural noise reducers and it
20 would not only prevent more noise from coming
21 into these neighborhoods, it will also do a lot
22 more in terms of what was already discussed
23 with the flood water and saving wildlife.

24 That is all I have. Thank you very
25 much for your time, I appreciate it.

1 ** WITNESS TESTIMONY **

2 (Applause).

3 MS. BLACKBURN: I would like
4 to ask a question, either of the students or
5 Mr. Moul or our own expert here.

6 Has any analysis been done of, kind
7 of, you know, based on our weather patterns,
8 how much runoff you anticipate and the capacity
9 of these basins in terms of the retention
10 of water?

11 Because the two things that I've
12 heard from both the students and Mr. Moul is
13 that these trees and the soil absorb a
14 considerable amount of water. If you take them
15 away, that water is not absorbed.

16 So has an analysis been done on
17 whether or not these basins have the capacity
18 to absorb the water that the removed trees will
19 no longer be able to handle?

20 MR. BANDFIELD: Again, Andy
21 Bandfield with PVE.

22 That's a more intense question than
23 just how does this work? Because what you do
24 is, when the trees are on a piece of land they
25 extract a certain amount of water from the

1 ** WITNESS TESTIMONY **

2 ground.

3 when it's developed, that cover
4 changes. That has what they call a certain
5 curve number, and this is using the calculations
6 we do.

7 I don't want to bore everybody with
8 a discussion of hydrograph theory, which I
9 could talk about for a few hours.

10 But it changes the land type, so
11 those are put into the models that we review
12 that are provided by them, what the increase
13 will be.

14 They are showing an increase in
15 runoff, and that happens as soon as the first
16 tree is removed, whether it's a 50-acre
17 development or a half-acre lot.

18 So as soon as that first tree goes
19 away there's more runoff. So that's why we
20 require the stormwater basins to hold that
21 runoff back.

22 Late in the 2008 time frame that
23 Mr. Moul was talking about, with the new
24 watershed ordinances now, we are now
25 considering infiltration and returning more

1 ** WITNESS TESTIMONY **

2 water to the groundwater, groundwater table.

3 So a part of that storm they will
4 have to infiltrate or show some other type of
5 return on the site that that water has to stay
6 on there for what they call a one-year storm,
7 which is about two inches in 24 hours.

8 It has to stay on-site for 24 hours
9 to match those values that we have and that is
10 not an easy thing to do. That's why we go
11 through those calculations with a fine-tooth
12 comb and make sure that that's what we are
13 looking at.

14 The extra benefit that is in this
15 particular watershed and where they are located
16 is they have a release rate percentage.

17 So even if, let's say, there was ten
18 gallons of water that came off of a treed lot
19 and you cleared that treed lot and it became 20
20 gallons of water that comes off of there, it's
21 at a release rate -- it can only release 75
22 percent of what was there before it was built.

23 So if it was ten before, it can only
24 be seven and a half now. So there's a
25 reduction in that. So there's even a further

1 ** WITNESS TESTIMONY **

2 reduction from just the basic methods that
3 they're doing for stormwater management.

4 Just to give you an idea of what
5 they're saying -- and what they're saying is
6 true with the operations and everything that's
7 put together -- and I appreciate the students'
8 knowledge -- I think they have another
9 stormwater engineer coming down the pipe, which
10 is good. But that's the basis behind it.

11 MS. BLACKBURN: Okay. And the
12 reason for my question is, you know, as we talk
13 about moving the trees --

14 AUDIENCE: The mic.

15 MS. BLACKBURN: -- removing
16 the trees and it not being absorbed, I know
17 that the residents are highly concerned about
18 the additional runoff and the flooding.

19 I just wanted to confirm that the
20 infrastructure that the developer is putting in
21 place can absorb --

22 MR. BANDFIELD: That's why
23 they have to put the basins in, to take that
24 anticipated --

25 MS. BLACKBURN: You feel that

1 ** WITNESS TESTIMONY **

2 they can take that -- have sufficient
3 capacity --

4 MR. BANDFIELD: Yes. At this
5 point in time, with the supplemental, yeah.

6 MS. BLACKBURN: Okay. Thank you.

7 - - - - -

8 LARRY GALE,

9 having been previously sworn, testified as
10 follows:

11 MR. GALE: Good evening. My
12 name is Larry Gale. That's G-A-L-E. I reside
13 at 4574 Nature Trail Drive.

14 I am here before you as a concerned
15 citizen and also as a subject matter expert
16 with over 32 years experience with respect to
17 environmental compliance and impacts. So
18 that's what I'm going to do.

19 I took a deep dive into these
20 documents, and I don't know if this gentleman
21 here was talking about the information that I'm
22 going to be presenting to you as not having a
23 chance to review it, and I apologize for that
24 because, really, it was brought to attention --
25 this was brought to my attention and so I

1 ** WITNESS TESTIMONY **

2 decided to look at some of these documents.

3 what I'm going to present to you
4 today are -- and I'm sorry it's so small -- but
5 some of my thoughts and some of the conclusions
6 that I've come to.

7 Basically, I'm going to be looking
8 at wetlands and the baseline environment and
9 just running through what you normally do with
10 a project, you establish baseline environment.

11 Then you do your engineering and
12 planning, and you would avoid, minimize,
13 impacts to the extent practical, and then do
14 permitting. So I'm going to just comment on
15 that stuff.

16 The first report that I reviewed was
17 the wetland investigation report. The purpose
18 of that report is to delineate jurisdictional
19 wetlands. They use the '87 manual and the
20 regional supplements, which is what you're
21 supposed to do.

22 Basically a JD -- and it should
23 be a preliminary JD -- and I don't know why
24 they wouldn't consider it and just call it a
25 preliminary JD because, basically, it's a legal

1 ** WITNESS TESTIMONY **

2 instrument that the corps uses -- it's a legal
3 instrument that the corps uses to define waters
4 of the United States and so that has legal
5 ramifications and consequences.

6 So I'm not going to go into great
7 detail about some of the omissions and minor
8 things that are of issue with the report, but I
9 will hit on a couple things that are important.

10 If you're going to do a pre JD, the
11 first thing you are going to have to have --
12 how do you advance this?

13 MR. LOCHNER: You did it.
14 There you go.

15 MS. BLACKBURN: I'm sorry,
16 could you say what a pre JD is?

17 MR. GALE: Yeah, a preliminary
18 jurisdictional determination for waters of the
19 United States and State waters.

20 MS. BLACKBURN: Thank you.

21 MR. GALE: And the Corps of
22 Engineers, the Pittsburgh district would be the
23 ones that would review that document. If it's
24 a complicated delineation, they would go out in
25 the field and verify and adjust those

1 ** WITNESS TESTIMONY **

2 delineations. Then that report would be
3 updated and that would act as your official
4 delineation of regulated waters.

5 So the first thing is, when you do
6 something like this, is that they use what's
7 called the routine on-site determination
8 method.

9 That's basically -- it's totally
10 acceptable, but it's based on contour. So the
11 mapping that they're showing in their report
12 isn't sufficient or in of enough detail for the
13 Corps of Engineers to even consider that
14 acceptable for identifying wetlands.

15 Now, what you typically do, you go
16 out and you delineate wetlands. You use what's
17 called a GPS. They use the handheld GPS. And
18 the report doesn't say whether they used a GPS
19 like a Trimble XT Explorer that has submeter
20 accuracy, or whether they used like a Garmin
21 handheld that has 30-foot accuracy.

22 That's a big deal. They really
23 should have that in their report.

24 And is it okay if these folks answer
25 some questions? Or should you just keep going?

1 ** WITNESS TESTIMONY **

2 MR. TUCCERI: I thought we
3 were already past the questions.

4 MR. GALE: Okay. So there are
5 questions about the accuracy of their wetland
6 delineations.

7 The other things that you typically
8 have in a pre JD is a compilation within the
9 area of interest, a table that identifies the
10 wetlands by their class, by their size and that
11 includes streams.

12 with streams, you typically have
13 them broken into stream sections, stream order,
14 which we don't have. You have area and linear
15 feet. None of that information is in the
16 report so it makes it very difficult to
17 determine exactly what's in the AOI. All that
18 is of concern.

19 But the real concern -- and I have
20 been sitting here listening to everybody talk
21 about this pond. I'm here to tell you, that
22 the pond is a wetland. You know, people may
23 not want to hear that.

24 But wetland Z, all right, is --
25 wetland Z is the pond. And even the author

1 ** WITNESS TESTIMONY **

2 of the report identified the pond as having
3 open water and a palustrine emergent fringe.
4 well, open water, by definition, is a POWZ.
5 And they also said that it's only 10 feet deep,
6 it's inundated to 10 feet deep.

7 so I would like to know how they
8 determined that, whether they did a bathymetric
9 survey of some sort. But the whole point about
10 that is that this pond is actually composed of
11 three sections.

12 It's got a -- it has a deep water
13 section that is over two meters, 5.6 feet,
14 6-point whatever, 6.56 feet.

15 It has what's called a submergent
16 littoral zone, which is the PUBH part of it.
17 That's aquatic vegetation that's submerged.
18 Then it's got the fringe. So that's a wetland.

19 It's connected to waters in the
20 United States. If you're going to a Rapanos
21 review and say that that's an isolated wetland,
22 well, that hasn't been done.

23 so it is what would be considered a
24 jurisdictional wetland. And that has
25 ramifications because once you establish that

1 ** WITNESS TESTIMONY **

2 they don't consider that a wetland, the
3 baseline of your -- all of the information
4 you're using to develop your plans, it's not
5 included.

6 So when they actually do their
7 permits, you're misrepresenting what's actually
8 there. And it has issues, which I will get to.

9 There are errors and omissions that
10 I'm really not going to go into because I don't
11 want to bore you. But I do want to tell you a
12 couple things about the report.

13 When I was going through the report,
14 simple things such as wetland data forms,
15 right -- there's three parameters for a wetland
16 and the data forms, basically -- here is
17 an example:

18 Sp-4, all right, that's an upland
19 data. That's an upland sample point. It just
20 so happens that sample point 4 is in the middle
21 of wetland A. Okay?

22 Sample point 3 is actually the
23 wetland A data form, but there is no sample
24 point 3 on their figure. I mean, it's -- you
25 know, it's not a big deal, but that tells me

1 ** WITNESS TESTIMONY **

2 that the QA/QC really wasn't very good with
3 this report.

4 Technically, if this had got into a
5 legal mess, people would be scrutinizing these
6 sorts of things.

7 Another point is, above the pond on
8 the north side they identify a watercourse.
9 well, that watercourse isn't identified or
10 discussed, and it's probably just an omission
11 or an error because the CAD, the AutoCAD that
12 they used, it just goes beyond what they
13 thought it should be.

14 They also have omissions or just
15 things -- common sense things. Like if you're
16 in a wetland and it says that you have
17 saturated soils, well, if you put your foot in
18 it, your foot is going to get wet.

19 Yet, their tables show that the
20 water table is unknown. Intuitively, that's
21 impossible. It should be within six inches of
22 saturation.

23 so it's these little things that,
24 you know, you have to -- when they keep building
25 and building, that you start questioning

1 ** WITNESS TESTIMONY **

2 things. I really didn't take any more of a
3 dive with the data forms than that.

4 There is one thing that's important
5 here, is that when you do a wetland delineation
6 you have a photo log, a preliminary JD. The
7 photo log identifies where the photo is taken
8 and in the direction the photo is taken.

9 There is no photo log or any key
10 that keys these figures to something on a
11 figure. Why is that important?

12 Well, as an example, if you look at
13 this picture -- and it's hard to see -- this is
14 watercourse D. They have -- you can't see it,
15 but there's some emerging vegetation coming up.
16 It looks like skunk cabbage. That may not be a
17 big deal, but that could be a fringe wetland, a
18 PEM wetland that's associated with that
19 watercourse.

20 Well, so what? Well, the problem
21 is, is that that watercourse is where they want
22 to put a stormwater basin and they're applying
23 for what's called a PA- -- it's a -- the GP-5
24 permit, which is Pennsylvania State --

25 AUDIENCE: Programmatic.

1 ** WITNESS TESTIMONY **

2 MR. GALE: -- programmatic
3 General Permit-5. And they're asking for a
4 waiver. It's a waiver to non-reporting
5 impacts. They have two of those.

6 That's the extent of the
7 environmental review that they're requesting
8 from the state with these two programmatic
9 waivers.

10 The point is is that if you have
11 wetlands in the watercourse, the waiver is
12 good. If you have less than 100 acres, less
13 than 250 feet of stream impact, 68, less than a
14 10th of an acre of wetland impact, provided you
15 don't discharge into a watercourse that has
16 fringe wetlands.

17 so it would be nice to know where
18 that photo is in relation to their basins.

19 Moving on to the vegetation wildlife
20 report. Fruit from the poison tree, I don't
21 know what that means. But again, they're
22 showing it as a pond and not as a wetland and
23 I'm really at a loss to know why.

24 Just so you know, Wetland A
25 actually -- as the gentleman was talking about

1 ** WITNESS TESTIMONY **

2 the stability of that earth and berm, wetland A
3 actually creeps up the berm which, you know,
4 indicates infiltration of the water coming
5 through -- through the berm.

6 so if you're going to put a ten-foot
7 gravel road on top of that, you may have some
8 geotechnical stability issues that you're going
9 to want to make sure you shore up

10 The real point of this vegetation
11 wildlife report is that they did what's called
12 their Pennsylvania National Diversity Inventory
13 review. I'm sure all of you are familiar with
14 that.

15 when they did their -- the search
16 results for that review came back with no
17 further review required for all agencies. And
18 so pretty much, that's your get-out-of-jail-free
19 card, because if you come back with that, that
20 means you -- to the state, you don't have any
21 issues.

22 If it's a nonreporting impact, then
23 the Corps of Engineers doesn't even review this
24 permit. It's equivalent of a Nationwide Permit
25 29 nonreporting impact, in other states.

1 ** WITNESS TESTIMONY **

2 It's a programmatic agreement in
3 Pennsylvania. That means that they didn't even
4 have to do a preliminary JD. That's why they
5 didn't call it a preliminary JD because they
6 didn't need to -- I don't know if it's going to
7 be reviewed.

8 The problem with this is that
9 there's been a lot of discussion about forest
10 and how much is being impacted. We tried to
11 replicate the amount of forest that is going to
12 be cleared.

13 They contend that 39 acres -- 1 to
14 39 acres is going to be cleared. The next
15 question that's of relevance is: Are you
16 clearing 40 or more acres?

17 well, that threshold, if they said,
18 yes, would have kicked in further review with
19 the U.S. Fish and Wildlife Service with respect
20 to the Indiana bat because at 40 acres you
21 basically have an effect.

22 The question is whether the effect
23 is an adverse effect or whether it's an effect
24 likely to adversely affect it, not a lot of
25 determination. Why is that important?

1 ** WITNESS TESTIMONY **

2 That's important because, basically,
3 under Section 10, Dangerous Species Act, you
4 have what's called an unauthorized -- a take,
5 an authorized take of a species.

6 So if you have 40 acres, you have to
7 either -- assume presence of the species and
8 you do a PEP. It's Preservation Enhancement
9 Plan.

10 You have a great tree survey. You
11 can identify all of the PRTs and primary,
12 secondary PRTs on the property. You figure
13 out, through a section 10 biologist, how many
14 bat boxes you got to do, offsite preservation
15 and all this stuff within perpetuity,
16 conservation easements, maybe working with the
17 DNR.

18 But you either do that or you don't
19 assume presence and you do mist netting. If
20 you don't capture anything, then great, you
21 don't have to worry about anything except maybe
22 seasonable clearing.

23 The point here is that if you don't
24 do either -- and I can't -- you can't replicate
25 what they're saying is their impact, because

1 ** WITNESS TESTIMONY **

2 NPDES impact totals is 57 acres. They're going
3 to have a permit that says you can clear 57
4 acres.

5 What agreement you guys have is
6 irrelevant to the state in terms of the state.
7 They have no -- there's no fight with them.
8 It's only with you.

9 So let's say there's a bat in
10 someone's garage and they run it over. And
11 it's determined to be an Indiana bat. Well,
12 you have an unauthorized take under Section 10
13 of the ESA.

14 I can tell you that you can do a
15 forensic analysis to determine how many acres
16 of forest we're taking out. I've done this in
17 the past. We've encountered this with state
18 DOTs. It can be done. And there's criminal
19 and civil liability with that.

20 So I'm just making you aware of that
21 as part of your decision-making process and we
22 would really appreciate it.

23 I think you should have the actual
24 polygons that they used to calculate forest
25 impact because that PND is one of the major

1 ** WITNESS TESTIMONY **

2 items of issue.

3 I'm going to talk about the
4 stormwater management very briefly. It's
5 listed as an existing stormwater pond.

6 well, I can tell you from years and
7 years of design bid, build, design build, that
8 when a contractor gets plans, after you go
9 through a NEPA process and you figure out all
10 the commitments -- maybe you got a bridge
11 that's going to bridge brook trout.

12 Ten years later the contractor gets
13 the plans. They look at it and go, why are we
14 doing this? This is crazy. Put a culvert in,
15 save a couple million. well, there's a reason
16 why the bridge was there.

17 so when you call a wetland a
18 stormwater pond, then that -- if I was a
19 contractor -- and I'm not saying that this
20 would happen -- but I would be like, why am I
21 wasting all this money and time diverting all
22 this water to basin 2, when I could put a
23 little bit over here into this pond, into the
24 stormwater pond. well, that's my point.

25 My bigger point here -- and this is

1 ** WITNESS TESTIMONY **

2 why it's important -- if you're going to call
3 this a wetland, which it is, you see here
4 (indicating), this diversion ditch, well,
5 they're diverting -- it looks -- I wanted to
6 calculate this but I couldn't.

7 It looks like they're diverting
8 about 40 percent of the watershed away from
9 wetland Z and hence wetland A as well. That
10 would be an indirect impact on that wetland.
11 Indirect and possibly direct due to filling
12 because lot 108 has uncontrolled stormwater
13 coming down.

14 The point of that is that that is
15 not disclosed or discussed in any of their
16 permit application submissions.

17 This brings me to this limit. If
18 you look here, this is wetland Z, this is
19 wetland A. Their limit of disturbance for
20 their NPDES permit encroaches upon wetland A
21 and wetland Z.

22 If you look over at this other
23 figure, this is a 25-foot buffer for wetland A.
24 So clearly they're anticipating, with their
25 NPDES permit, that they're going to do some

1 ** WITNESS TESTIMONY **

2 sort of earth disturbance clearance. They're
3 permitting that, the potential that they may
4 have to do that. I'm assuming that these are
5 all temporary impacts.

6 To an engineer, temporary impact is
7 not the same as that to a normal human being.
8 No slight on engineers. But the reality is is
9 that a temporary impact or a TCE to an engineer
10 means clearing and grubbing everything, doing
11 what you need to do, run 100-ton cranes over it
12 and then reclamate it.

13 But to a biologist, ecologist or a
14 bat, you're removing their habitat. Yeah, it
15 will grow back, but what I'm saying is, is that
16 is the boundary that should be used to
17 calculate forest impact because there's no
18 guarantee to the state that they won't impact
19 all 57 acres.

20 Even if we use that number and we
21 back out some things, we still come out to
22 roughly 45 acres of forest impact.

23 I'm going to just briefly run
24 through this. They said that they submitted an
25 NPDES application and it's pending approval.

1 ** WITNESS TESTIMONY **

2 well, the PNDI info, they say there's no
3 issues. The NPS permit does not show a
4 disclosed regulated waters in the United
5 States, meaning wetland A, wetland Z.

6 wetland Z is over an acre. They're
7 basically saying they have less than a quarter
8 of an acre lake of wetland in the total project
9 area, which is not true.

10 They haven't disclosed or identified
11 all the section 106 Historic preservation
12 activities that should be going on. I could
13 tell you, I find it kind of strange that you
14 have a historic property boundary within a
15 development that's going to completely change
16 the character and look and feel of that
17 particular resource.

18 It's going to be an adverse effect.
19 It will be interesting how they resolve that.

20 The NPDES application also talks
21 about having less than a quarter acre and then
22 putting in perpetuity a conveyance for
23 environmental for the pond -- I'm calling it a
24 pond -- a wetland.

25 well, I think the regulations say

1 ** WITNESS TESTIMONY **

2 that you can't disturb what's in that
3 conservation easement. You're supposed to
4 leave it natural. That's not your ordinance.
5 That's what the GP-5 says. So you may want to
6 review that.

7 with respect to 106, I provided you
8 the regulations and a lot of information. I'm
9 not going to go into any of it, really, other
10 than to say that, you know, you have to define
11 an area of potential effect and you do
12 archaeology -- phase 1 archaeological survey.

13 I don't know whether that's taken
14 place or not. If -- whether they've identified
15 any potential phase 2's and whether there's a
16 potential for any data recovery under phase 3.
17 None of that's been disclosed.

18 By the way, Section 106 also has a
19 public involvement component. So we would be
20 interested in knowing who is going to be
21 invited to participate in that sort of dialogue.

22 with respect to the historic
23 resources, this is a little different. The APE
24 of the historic resources basically has a
25 viewshed. So when you do your survey for

1 ** WITNESS TESTIMONY **

2 potentially eligible resources, if it's within
3 the viewshed of the project, you have to
4 consider the effect on that particular resource.

5 So I don't know whether they've done
6 their determination of eligibility studies and
7 whether they've SHPO insurance on their APE or
8 whether they've done their criteria of effects.

9 It's an effects analysis on the
10 historic resources. But these are all
11 considerations that go into a permit and it's
12 unknown at this time.

13 That's interesting (indicating).

14 MR. LOCHNER: You lost it.
15 There it is.

16 MR. GALE: So I know I'm
17 boring you to death, I think. I'm not sure.
18 But let's get to the PAS/GP-5 permit. You may
19 not realize this, but the PA -- the permit is
20 actually an expedited permitting process.

21 It's basically -- you basically have
22 a foregone conclusion in that anything that's
23 permitted under a GP-5 is, by definition, an
24 incident impact.

25 So, really, what they're looking at

1 ** WITNESS TESTIMONY **

2 are just those two small areas. They're not
3 looking at the cumulative impacts. They're not
4 looking at anything except those specific
5 waiver areas.

6 why is that important? well, first,
7 I think we've demonstrated that they don't
8 qualify for a waiver for various reasons. In
9 fact, I think they may not qualify for a GP-5.

10 They may have to go and get what's
11 called a joint 404/105 individual permit, and
12 that's a much more rigorous activity and it has
13 an element called NEPA. Okay.

14 Basically, you don't assume that the
15 alternative that you prepared is the least
16 environmentally damaging practical alternative.
17 You go through what's called a section
18 404(b)(1) alternatives analysis, and that's a
19 NEPA analysis that's done by the Corps.

20 That requires secondary indirect
21 cumulative impact analysis beyond -- the only
22 cumulative impact analysis you have is traffic.
23 So this could be forested -- the amount of
24 forest left in Hampton Township.

25

1 ** WITNESS TESTIMONY **

2 The amount of wetlands, the amount
3 of repairing green space, repairing corridor,
4 whatnot. You have no baseline, this would help
5 you for future endeavors knowing how much of
6 what you got left in the Hampton Township.

7 The point is, is that the cumulative
8 impacts analysis doesn't happen under the GP-5.
9 It only happens under the 404/105 joint
10 process.

11 What happens, too, which is very
12 bizarre, is that the EPA actually has
13 commenting authority under Section 309 under
14 the Clean Air Act. They actually review that
15 permit for cumulative impacts, and things of
16 that nature in addition to streams.

17 So I'm going to basically wrap this
18 up and leave you with a question to ponder. As
19 I talked previously, a GP-5 permit, whether
20 nonreporting permit or even a GP-5, has a de
21 minimis impact; by definition, it's
22 insignificant.

23 That means that if you were to
24 permit this type of project in Hampton Township
25 once or 500 times, by definition it would have

1 ** WITNESS TESTIMONY **

2 an incident impact in the eyes of the state as
3 long as they met those requirements of stream
4 impact.

5 The logic is good. It's sound
6 logic. But, in reality, it's completely flawed
7 because you and I know that Hampton Township
8 cannot sustain even four or five more of these
9 types of projects.

10 So I guess what you have to ask
11 yourself is, when you look at the traffic
12 study, the traffic studies' conclusions
13 basically said that in 2018 these side roads
14 are at a level service D/E. All right.

15 In 2022, the level of service is
16 going to be F, with or without the project and
17 the conclusions are that, well, it
18 will only be two or three more seconds because
19 of the project.

20 And I don't know if the fellow from
21 wooster would validate this, but there's a lot
22 of stochastic events that happen and so when
23 you reach a level service F, it's really
24 bad.

25 The point is is that that is a

1 ** WITNESS TESTIMONY **

2 wake-up call for you all because do you -- you
3 will be in a situation one day where you're
4 driving around saying what happened to us.
5 what happened to Hampton Township.

6 Do we want to be like Freedom Road
7 over in MCKnight Road? Do we want to be the
8 422 corridor? Because that happens without you
9 knowing it, because of the GP-5 permits and not
10 doing a 404 permit.

11 with that, I will leave you with one
12 last thing. Imagine wetland Z has one lily pad
13 in it and in 30 days you know that that wetland
14 will be completely filled with lily pads and
15 the lily pads grow exponentially.

16 what day will that pond or that
17 wetland be filled with lily pads; on the 29th
18 day? And that's what your traffic study is
19 telling you. Thank you.

20 (Applause.)

21 MS. BLACKBURN: Sir. Sir.
22 Mr. Gale, I have a question.

23 MR. GALE: Yeah.

24 MS. BLACKBURN: So that was
25 very detailed. Thank you. I just want to make

1 ** WITNESS TESTIMONY **

2 sure that I am capturing the highlights of your
3 presentation.

4 I wrote down a few highlights and
5 maybe you can tell me either if I'm flawed or
6 if I've forgotten something that was credible
7 to what you were trying to convey.

8 At the beginning of your
9 presentation I felt like your takeaway was that
10 you were unclear about whether they evaluated
11 the topography correctly?

12 MR. GALE: No.

13 MS. BLACKBURN: Because you
14 were speaking of GPS and how --

15 MR. GALE: When you do a
16 pre-JD and you use a routine on-site
17 determination method instead of the
18 intermediate or comprehensive, you're basically
19 doing a delineation based on topography.

20 It would be nice to see the mapping,
21 if they had that mapping and used it, to
22 delineate those wetlands.

23 MS. BLACKBURN: So perhaps
24 you're unclear about the technique they used
25 for the mapping?

1 ** WITNESS TESTIMONY **

2 MR. GALE: Well, it's unclear
3 because it's not disclosed in their document,
4 just as other items aren't.

5 MS. BLACKBURN: Just their
6 mapping technique?

7 MR. GALE: Right.

8 MS. BLACKBURN: And you were
9 critical of the fact that they did not classify
10 the pond as a wetland, and that could be
11 fundamental to some of their calculations; is
12 that correct?

13 MR. GALE: Well, by
14 definition, that is a wetland. It's not a
15 feeling. It's not, "I think it should be."
16 It's a wetland.

17 MS. BLACKBURN: Okay.

18 DR. JOHNSON: I think the
19 question is, does that change, impact --

20 MR. GALE: It absolutely does.
21 It absolutely does. Because they didn't
22 disclose those -- the amount of wetland in
23 their NPDES permit.

24 MS. BLACKBURN: Okay. And
25 then the other thing that I heard you say was

1 ** WITNESS TESTIMONY **

2 that had they exceeded 40 acres of development,
3 because it looks likes right now, they're
4 saying that it's 36.38 acres.

5 If they, exceeded 40 acres --

6 MR. GALE: No.

7 MS. BLACKBURN: -- of
8 development, then they would have had to do an
9 additional review of species and --

10 MR. GALE: No, that's not what
11 I'm saying. What I'm saying is that they
12 disclosed on PNDI that 1 to 39 acres of forest
13 are going to be impacted.

14 The problem with that is that you
15 cannot replicate that number based on the
16 information they provided. If they can provide
17 us with a polygon that identifies the cleared
18 area, then we can validate that 39 acres of
19 forest are being removed.

20 The problem is that the NPDES permit
21 identifies 57 acres of cleared impact, which,
22 to the state, they don't care about your trees
23 and what you-all are doing with the developer.

24 If they violate -- they're not
25 violating the NPDES permit.

1 ** WITNESS TESTIMONY **

2 MS. BLACKBURN: And then
3 lastly, they are doing a GP-5 permit which
4 indicates that there's not a significant
5 impact, where you would recommend a 404 or a
6 105 permit?

7 MR. GALE: The DEP determines
8 that. They are doing a GP-5 permit but they're
9 requesting a waiver, a DEP-5 W2 waiver at the
10 two locations where they are actually having
11 stream impact.

12 There are certain stipulations and
13 requirements to do that. However, part of it
14 -- part of the analysis also requires
15 considering all of the other issues.

16 The only reason that they have to
17 deal with the Endangered Species Act or the
18 Natural Preservation Act is because of the
19 Federal Nexus.

20 Basically, they have to get a
21 federal permit. That is the federal action.
22 If they didn't have to get a Clean Water Act
23 permit, they wouldn't have to do any of this.

24 MS. BLACKBURN: Okay. Thank
25 you.

1 ** WITNESS TESTIMONY **

2 MR. GALE: Yep.

3 MR. TUCCERI: Can I just ask
4 you one question?

5 MR. GALE: Sure.

6 MR. TUCCERI: Did counsel have
7 a copy of this report? Is this one of the
8 reports that you referred to that they didn't
9 have in advance of --

10 MR. PRATHER: Yeah. I'm under
11 the impression this was submitted today.

12 MS. BLACKBURN: We received it
13 via email today.

14 MR. TUCCERI: Okay. I'm
15 assuming counsel would like to have an
16 opportunity to have your experts review it?

17 MR. PRATHER: We'll take a
18 look at that. If it's warranted, what we would
19 like to do is maybe submit a letter in response
20 to that.

21 However, you know, he did get pretty
22 heavy into the environmental reports and I
23 would like to, you know, at this time allow our
24 consultant who prepared the reports come up and
25 rebut some of the questions that he had with

1 ** WITNESS TESTIMONY **

2 regard to that report, then, obviously,
3 potentially the township's stormwater engineer
4 and maybe our engineer with regard to some of
5 the questions with regard to the stormwater.

6 MR. TUCCERI: Can I just ask a
7 question of Mr. Bandfield?

8 MR. PRATHER: Sure.

9 MR. TUCCERI: Andy, you just
10 got -- you haven't even had a chance to --

11 MR. BANDFIELD: Yeah, we're
12 not going to be responding to anything tonight
13 until we have time to review it.

14 MR. TUCCERI: You haven't even
15 had a chance to look at this?

16 MR. BANDFIELD: Yes.

17 - - - - -

18 ANDY LONGENECKER,

19 having been previously sworn, testified as
20 follows:

21 MR. LONGENECKER: My name is
22 Andy Longenecker from Ajay Environmental.
23 Longenecker is spelled, L-O-N-G-E-N-E-C-K-E-R.
24 Thank you, Mr. Gale, for your testimony.

25 I don't even know where to start. I

1 ** WITNESS TESTIMONY **

2 mean, Mr. Gale has made multiple accusations
3 that aren't true. I mean, obviously, we'll
4 respond in a letter, but as far as for your
5 edification, is there an opportunity for you
6 guys to ask -- for council, excuse me, to ask
7 questions of me?

8 Because right now you're presented
9 this information that's just not true, and
10 because we didn't have a chance to review it, I
11 mean, what's the procedure here?

12 Because now everybody in this crowd
13 obviously thinks that Mr. Gale is an expert
14 on this.

15 MR. GALE: I --

16 MR. PETERS: No. No. No.

17 MR. LONGENECKER: I mean, the
18 guy just basically just ripped apart my
19 professional opinion and expertise.

20 MR. TUCCERI: I think, as when
21 we started this, there was some indication that
22 there were documents that were recently
23 received.

24 MR. LONGENECKER: Correct.

25 MR. TUCCERI: And we

1 ** WITNESS TESTIMONY **

2 understand that it would be completely unfair
3 to anyone, either them or you, to not have an
4 opportunity to, one, review it, and then have
5 an opportunity to address it.

6 MR. LONGENECKER: Okay.

7 MR. TUCCERI: What I am
8 recommending to counsel is is that you have
9 just seen the report, okay, yesterday, today,
10 whatever the case may be.

11 Certainly, my recommendation to them
12 is to give you folks an opportunity to review
13 it so you can respond to it.

14 MR. LONGENECKER: Okay.

15 MR. TUCCERI: Obviously, we're
16 going to ask Mr. Bandfield to also do that as
17 our stormwater expert. My recommendation to
18 this council is hold your opinion about what
19 was reported until people have had a chance to
20 review it. Okay?

21 MR. LONGENECKER: Very good.
22 All right. Thank you very much.

23 MR. PETERS: Just to make
24 clear -- I'm sorry, but just to make clear,
25 it's obvious that we're probably going to try

1 ** WITNESS TESTIMONY **

2 to end this by 11:00, but it's going to be --

3 MR. LONGENECKER: Thank you.

4 MR. PETERS: But it's going to
5 be continued until March 13. So that will give
6 you time to review Mr. Gale's presentation and
7 give Mr. Bandfield time.

8 At that time, I'm assuming all three
9 of you can come back on March 13?

10 MR. LONGENECKER: Yes.

11 MR. PETERS: And we can have
12 that discussion then.

13 MR. LONGENECKER: Okay.

14 MR. PETERS: Then we will also
15 be hearing anybody who wants to give testimony
16 that gets cut off tonight because we're going
17 to leave before midnight.

18 We will also be able to testify on
19 the 13th too, so just to clear up.

20 MR. LONGENECKER: Sounds good.

21 MR. LEE: Question. Are those
22 accusations or is this gentleman relying on
23 the records --

24 MR. LOCHNER: Excuse me. You
25 can't do that, Mr. Lee. You're going to have

1 ** WITNESS TESTIMONY **

2 to come up to the microphone and you're going
3 to have to tell us who you are.

4 Again, we're really sorry about
5 this, but you have to remember there's a
6 stenographer that's taking a record of this.
7 so you have to come up to the mic.

8 MR. LEE: I have often heard
9 during the --

10 MR. LOCHNER: Sir, you have to
11 tell her who you are.

12 MR. LEE: I'm Joseph R. Lee,
13 4925 South Pioneer Road.

14 I have often heard during the
15 meetings accusations of falsehoods, lies and so
16 forth. I just heard this gentleman accuse that
17 gentleman (indicating) of lying.

18 Do we tolerate that? Can we
19 tolerate that? It is on the record; correct?

20 MR. TUCCERI: I think what he
21 said is what he said. I think what he accused
22 him of is --

23 MR. LEE: Lying.

24 MR. TUCCERI: -- inaccuracies.

25 MR. LEE: I heard lying.

1 ** WITNESS TESTIMONY **

2 MR. TUCCERI: You heard what
3 you heard. The reporter took it down.

4 MR. LEE: It will be on the
5 record; right? Very good.

6 Could I request one other
7 thing? will we have access to all the people
8 who signed in tonight?

9 MR. LOCHNER: Sure.

10 MR. LEE: That will be on the
11 record, also?

12 MR. LOCHNER: All you have to
13 do is file a right-to-know request. We will
14 give you a copy of the page.

15 MR. LEE: Okay. Very good.
16 Thank you.

17 MR. GALE: I would like to --

18 MR. LOCHNER: No. No. No.
19 Back to the mic. Back to the mic.

20 MR. GALE: I would like to
21 read in the record my biography of my resume.

22 MR. LOCHNER: You really don't
23 need to do that Mr. Gale. Believe it or not,
24 we have and counsel has the extensive eight- or
25 nine-page copy that you provided. We have it

1 ** WITNESS TESTIMONY **

2 for the record.

3 MR. GALE: Thank you very
4 much.

5 MR. PETERS: Before you
6 continue, I just -- I have a question that I
7 would like to ask Merrit.

8 MS. DESLAURIERS: Yes.

9 MR. PETERS: Do you have other
10 experts that are going to be testifying on the
11 13th?

12 MS. DESLAURIERS: Yes. I
13 submitted their resumes a week or two ago.

14 MR. TUCCERI: Can you come to
15 the podium, please?

16 MS. DESLAURIERS: Sure.

17 MR. PETERS: I'm sorry.

18 MS. DESLAURIERS: would you
19 like -- I'm sorry. My name is Merrit
20 DesLauriers, D-E-S-L-A-U-R-I-E-R-S. 5152
21 Lakewood Drive.

22 Should I read their names into the
23 record?

24 MR. TUCCERI: That would be
25 great.

1 ** WITNESS TESTIMONY **

2 MS. DESLAURIERS: Okay. Kelly
3 Rieger is one of our experts, And she --

4 MR. TUCCERI: Can you spell
5 that for us?

6 MS. DESLAURIERS: R-I-E-G-E-R.
7 Okay. I'm sorry. And Werner --

8 MR. TUCCERI: Back up. And
9 the offer of proof with regard to this person
10 would be? What is it that you would anticipate
11 she would testify to?

12 MS. DESLAURIERS: She is
13 testifying to environmental impacts and maybe
14 some stormwater-related issues and other
15 sensitivities of the impacts of this.

16 MR. TUCCERI: Did she prepare
17 a report?

18 MS. DESLAURIERS: No. Because
19 that's why we asked for a continuance because
20 we did not receive the engineer reports until
21 February 1st. So there was not enough time for
22 her to prepare for today.

23 MR. TUCCERI: Is it your
24 intention -- is it her intention to submit a
25 report.

1 ** WITNESS TESTIMONY **

2 MS. DESLAURIERS: Most likely,
3 yes.

4 MR. TUCCERI: I'm sorry. I
5 was under the impression, and you can clarify
6 this for me, that I received an email or copied
7 on an email that had a curriculum vitae, if you
8 will, of two experts --

9 MS. DESLAURIERS: Yes.

10 MR. TUCCERI: -- and one of
11 them was that person.

12 MS. DESLAURIERS: Yes.

13 MR. TUCCERI: And the other
14 was?

15 MS. DESLAURIERS: Werner,
16 W-E-R-N-E-R, is his first name. I think I know
17 how to spell his last name. Maybe not how to
18 pronounce it. IT is L-O-E-H-L-I-N (sic).

19 MR. PETERS: E-I-N.

20 MS. DESLAURIERS: E-I-N, okay.
21 You know better than I do.

22 MR. PETERS: I have a document.

23 MS. DESLAURIERS: You have it
24 printed. Okay. I apologize.

25 MR. TUCCERI: Did you submit

1 ** WITNESS TESTIMONY **

2 that to the township?

3 MS. DESLAURIERS: Yes. I
4 submitted both of their resumes, their names
5 and that they would be present on March 13th.

6 MR. TUCCERI: For some reason,
7 we seem -- I don't think I have it, but now we
8 do --

9 MS. DESLAURIERS: I did.

10 MR. PRATHER: We have never
11 received any of those CVs, any of this
12 information.

13 MR. LOCHNER: Neither have we.

14 MR. TUCCERI: We don't have it
15 either.

16 MS. DESLAURIERS: I emailed it
17 to the township. I forwarded everything. It's
18 in my sent files.

19 MR. TUCCERI: I remember having
20 seen it but I couldn't find it.

21 MS. DESLAURIERS: Yes, I did.
22 In a very timely manner.

23 MR. TUCCERI: Can you do me a
24 favor?

25 MS. DESLAURIERS: would you

1 ** WITNESS TESTIMONY **

2 like it sent again?

3 MR. TUCCERI: Would you do
4 that?

5 MS. DESLAURIERS: Absolutely.

6 MR. LOCHNER: If you wouldn't
7 mind, because for some reason --

8 MS. DESLAURIERS: Absolutely.

9 MR. TUCCERI: That way we can
10 share it with the developer, as well.

11 MS. DESLAURIERS: Yes.

12 MR. LOCHNER: And then I guess
13 the question -- the reason I'm asking these
14 questions is: I'm trying to at least establish
15 some time frame for dealing on the 13th of
16 March.

17 MS. DESLAURIERS: Makes sense.

18 MR. TUCCERI: Council
19 recognizes that the residents didn't have the
20 opportunity, for whatever reason --

21 MS. DESLAURIERS: Right.

22 MR. TUCCERI: And we want to
23 get the information and note the objection by
24 the developer, but let's at least get the
25 information and get it in some timely fashion

1 ** WITNESS TESTIMONY **

2 so we can be ready for the 13th of March.

3 MS. DESLAURIERS: Right.

4 MR. TUCCERI: So you would
5 have -- it's your anticipation to have two
6 experts, additional experts --

7 MS. DESLAURIERS: Yes.

8 MR. TUCCERI: -- testify?

9 MS. DESLAURIERS: Yes.

10 MR. TUCCERI: Who couldn't be
11 here this evening?

12 MS. DESLAURIERS: Yes.

13 MR. TUCCERI: Or couldn't
14 provide the testimony?

15 MS. DESLAURIERS: Both, actually.

16 MR. TUCCERI: And so if
17 council were inclined, they could postpone --
18 or not postpone, but continue the hearing to
19 the 13th of March to give you the opportunity
20 to present that information?

21 MS. DESLAURIERS: Correct.

22 MR. TUCCERI: Okay. All
23 right. And would that be the extent of it, is
24 it two?

25 MS. DESLAURIERS: There might

1 ** WITNESS TESTIMONY **

2 be a third. We are not sure yet. Because we
3 are not sure if there are going to be new
4 submissions from the developer, also.

5 So if you are able to establish a
6 timeline this evening of when -- I just don't
7 know if there are going to be new submissions
8 from the developer, and we have to invest our
9 monies wisely.

10 If the plans are going to get -- if
11 they're going to be updated again, that might
12 not be feasible. So...

13 MR. TUCCERI: Correct me if
14 I'm wrong, from the developer's perspective, do
15 you have any plan to submit additional plans
16 with regard to this matter?

17 MS. DESLAURIERS: Or new
18 exhibits.

19 MR. PRATHER: We're certainly
20 going to have a response to some of the
21 testimony with regard to the environmental.

22 MR. TUCCERI: Understood.

23 MR. PRATHER: We should be
24 able to have that. How much time do we need?
25 By next week?

1 ** WITNESS TESTIMONY **

2 A couple things, I'm not sure as far
3 as documents being provided to the neighborhood
4 opposition. I'm not sure why February -- you
5 know up until February 1st you're claiming you
6 didn't have any of those documents, because I
7 believe they were submitted before that.

8 MR. TUCCERI: Let us address
9 that. Let us address that.

10 But the point being is is that I'm
11 just trying to get a determination from her as
12 to how many experts she would intend to have,
13 who those people are and we would like to have
14 a report so that you folks will have an
15 opportunity to review it.

16 MR. PRATHER: What's the offer
17 of proof with regard to Mr. Loehlein? What is
18 he going testify to?

19 MS. DESLAURIERS: Stormwater
20 issues.

21 MR. LOCHNER: And we have the
22 email. We just sent it all the way around.

23 MS. DESLAURIERS: You have the
24 email. Good.

25 MR. LOCHNER: Thanks a lot.

1 ** WITNESS TESTIMONY **

2 Sorry about that.

3 MS. DESLAURIERS: No, that's
4 okay. That's okay. Did you have any other...

5 MR. PETERS: Nope. That's it.

6 - - - - -

7 WAYNE LUSEBRINK,

8 having been previously sworn, testified as
9 follows:

10 MR. LUSEBRINK: The name is
11 Wayne Lusebrink, L-U-S-E-B-R-I-N-K. The
12 address is 5086 Lakewood Drive, Gibsonia. And
13 I'm here today to talk about the post
14 construction stormwater management report
15 (indicating).

16 what I'm going to do now is I'm
17 going to put Hampton on notice that the
18 incorrect soil data was entered into the
19 calculations.

20 I'm not going to bring up any new
21 documents. I'm only going to use the existing
22 documents that Sheffler has submitted.

23 Now, what was used in these
24 calculations was the USDA soil survey data. if
25 anyone doesn't know, that's actually a document

1 ** WITNESS TESTIMONY **

2 that set up in 1973, USDA. It's like your meat
3 package. You know, it's more like agricultural
4 and it's approximate information in order to
5 get a -- something going where you have nothing
6 else. Okay?

7 MR. TUCCERI: Excuse me for
8 just one moment. I apologize and I know you
9 and I had a chance to talk at the prior matter.

10 Can you do us a favor? Can you
11 identify your credentials to speak in this area
12 so that if counsel would like to examine you,
13 voir dire your credentials, he may. Okay?

14 MR. LUSEBRINK: Yes. I have
15 an engineering degree from the University of
16 Pittsburgh. I'm a registered engineer in
17 Pennsylvania and two other states, civil
18 engineer. I also have an MBA from the University
19 of Pittsburgh.

20 MR. TUCCERI: Excuse me one
21 second.

22 Counsel, any questions about his --
23 were assuming what you're testifying to was
24 within the classification of civil engineering?

25 MR. LUSEBRINK: Yes, absolutely.

1 ** WITNESS TESTIMONY **

2 Now what should have been used for
3 the input soil data was the site-specific data
4 that ACA provided October 5, where they
5 actually went out and they took soil borings.

6 Some of the borings went down 20
7 some feet. The USDA data, when you go and you
8 look into it, it was a geologist walking around
9 with a shovel and a notepad.

10 So I'm going to read to you out of a
11 document here, which I have 12 copies of. It's
12 Soil Survey Uses and Limitations. It's from
13 the USDA, the same people.

14 Now, I want to say something about
15 the USDA system. There's two parts of it. One
16 is the calculation part where they come up with
17 their flows and all of the fancy numbers. No
18 problem with that.

19 The other part is the map. What the
20 map is, when you glance through the
21 geotechnical report or the stormwater report
22 you will see a map (indicating) that looks
23 something like this, where they give you
24 different types of soil. That comes out of the
25 USDA report. Okay?

1 ** WITNESS TESTIMONY **

2 So when you go in here to this USDA
3 Soil Survey Uses and Limitations it's like four
4 or five pages, but I'm going to go here and I'm
5 going to read number 6.

6 Limitations of the Soil Survey:
7 soil survey data seldom contains detailed
8 site-specific information. They are not
9 intended for the use of primary regulatory
10 tolls in site-specific permitting decisions.

11 They are, however, useful for broad
12 regulatory planning and application. Okay.

13 Here is another, printed right
14 off the website. Anyone can look it up right
15 on your phones.

16 Soil surveys can be used for general
17 farm, local and wider area planning. On-site
18 investigation is needed in some cases such as
19 soil quality, assessments and certain
20 conservation and engineering applications.
21 Okay.

22 Here is another report, and this is
23 a PE-stamped report from a company called
24 Terracon, one of the biggest geotech companies
25 in the country. I just pulled this off of the

1 ** WITNESS TESTIMONY **

2 web, the email or whatever, the website.

3 It says here, it should be noted
4 that soil survey is not intended as a
5 substitute for site-specific geotechnical
6 exploration.

7 Rather, it is a useful tool in
8 planning a project scope in that it provides
9 information on soil types likely to be
10 encountered. Boundaries between adjacent soil
11 types on the soil survey maps are approximate.
12 Okay.

13 So what I'm telling you is that
14 this ACA report (indicating) has been in
15 everyone's hands for over four months. This is
16 -- all of the documents here, especially this
17 document (indicating), it's a misrepresentation
18 of the soil that's on the site.

19 The soil that's on the site is
20 between six -- six-feet-thick clay layer to
21 18-and-a-half-foot-thick clay layer.

22 I went through the ACA report with a
23 fine-tooth comb, and when you come through here
24 there's only, I think, two soil borings that
25 were analyzed in the lab and they didn't do the

1 ** WITNESS TESTIMONY **

2 hydrometer.

3 But whenever you go through the
4 calculations and all of the output data, what
5 it does is it throws the category of soil from
6 C to D.

7 It's a four-category system: A is
8 excellent, B is a little worse, C is not too
9 good, D is horrible. So in order to get any
10 type of clay into the C category, it has to
11 have less than 40 percent clay.

12 When you go through the ACA
13 information, you're over 50 percent clay. So
14 this soil, whenever you come through here, you
15 got a bunch of -- you got tables that are used
16 in the Sheffler, and these CN numbers that Andy
17 Bandfield talked about, okay, you go over and
18 you put your meadow on the left of the
19 woodlands, whether it's fair, good, bad,
20 whatever.

21 You come down A, B, C, D. You come
22 down, you get a CN number. It's called
23 a curve number and from this information I can
24 tell you that everything should have been
25 pulled out of D, not out of C.

1 ** WITNESS TESTIMONY **

2 All these numbers, all your runoffs,
3 are going to increase, your pond size is going
4 to -- the design will change, ponds will
5 increase.

6 That means your lots are going to
7 change. Your slopes are going to change.
8 Everything downhill from this document changes.
9 Every permit changes (indicating). Okay.

10 You know there's some other things
11 here in this report besides the C and the D.
12 One is when they pulled some of their data off
13 this site, they used a 117-acre plot of land.
14 It sort of skews the data.

15 Let me tell you, this C to D, it's
16 not like green apples and red apples. It's
17 apples and oranges when it comes to the two
18 types of soil that's present.

19 So I think, at the moment, these
20 calculations need to be updated for soil
21 category D per the site-specific information
22 that's been in everyone's hands for four
23 months.

24 It's been ignored, maybe it was
25 inconvenience, maybe it was an error, maybe it

1 ** WITNESS TESTIMONY **

2 was a blunder. Who knows what the reason was
3 that it was ignored. But it's right here.
4 It's their documents and it was never taken
5 care of.

6 So I think everything needs to be
7 put on hold until you get the basic documents
8 in place and everything flows downhill from
9 those.

10 MR. TUCCERI: Now I'm assuming
11 that you did not prepare a written report to
12 that effect, but you're offering that oral
13 testimony; correct?

14 MR. LUSEBRINK: Yes, I am.

15 MR. TUCCERI: Okay. Has
16 counsel for the developer heard this testimony
17 before?

18 MR. PRATHER: I have not. But
19 as you know, I just stepped in recently.

20 MR. TUCCERI: Gotcha.

21 MR. PRATHER: Did not hear
22 this testimony at the first --

23 MR. TUCCERI: How about the
24 developer, have you heard this yet?

25 MR. SAPSARA: No.

1 ** WITNESS TESTIMONY **

2 MR. TUCCERI: So you will be
3 given an opportunity to address it.

4 Andy, have you had any chance to
5 hear any of this previously?

6 MR. BANDFIELD: Again, we're
7 taking all the comments we get tonight and
8 putting together a corresponding response so
9 that the township knows exactly how things are
10 being applied.

11 MR. LUSEBRINK: I have brought
12 clay up, a massive clay layer up in here at
13 least a dozen times. I bring it up hoping that
14 someone is going to act on it, and what
15 happens --

16 MR. TUCCERI: And when you say
17 "brought it," you haven't --

18 MR. LUSEBRINK: In this room.

19 MR. TUCCERI: Right. But if
20 you remember, I think that what the problem was
21 is that we weren't in this hearing and I asked
22 you --

23 MR. LUSEBRINK: Last month I
24 wasn't given 30 seconds.

25 MR. TUCCERI: We asked you to

1 ** WITNESS TESTIMONY **

2 come back when the appropriate time was.

3 MR. LUSEBRINK: And that's
4 today.

5 MR. TUCCERI: Correct.

6 MS. BLACKBURN: So I just want
7 to confirm that I got the highlights of what
8 you were trying to say, like I did with Mr. Gale.

9 So, essentially, you're saying that
10 they did not use the soil samples that AC took,
11 they used general soil calculations found on
12 the USDA website?

13 MR. LUSEBRINK: No. The
14 calculations are fine. The system, it's called
15 SCS -- it's the SCS system. It uses a TR55
16 manual -- I have copies of it over here --
17 that's all legitimate.

18 But where we run into problems is
19 that whenever -- the soil is just much more
20 conducive, it was more economical for the
21 ponds.

22 However, whatever -- maybe they just
23 didn't -- never thought about it. Something as
24 simple as using the site-specific soil
25 information. I can't speak -- I wasn't in

1 ** WITNESS TESTIMONY **

2 their office. I can't speak for why this 1973
3 soil data was used when you had 2008 data in
4 their hands.

5 DR. JOHNSON: So it's your
6 opinion that basically bad data was put into
7 the calculations. That the calculations are
8 fine, but different data should have been
9 started with?

10 MR. LUSEBRINK: What happens
11 is that this data is very good when you have
12 nothing else to work with, in the planning
13 stage.

14 When you get down the road and you
15 get your "site-specific" data, your soil data,
16 you then replace it and an engineer uses his
17 judgment, is it the same, is it different, is
18 it better, maybe we can make the pond smaller.

19 Maybe it turned out better. Maybe
20 it turned out the same. Maybe it turned out
21 worse. For whatever reason, this comparison
22 between the 1973 soil data in your actual site
23 specific data never took place.

24 MR. LOCHNER: Translate that
25 then means that there's a difference between

1 ** WITNESS TESTIMONY **

2 the C and the D classification, and the US data
3 information was based on the D classification
4 and the site specific was based on the C
5 classification -- or the other way around?

6 MR. LUSEBRINK: The other way
7 around.

8 MR. LOCHNER: The other way
9 around. that being the case, that the
10 calculations would then have to be based on the
11 different classification than that what it was
12 provided?

13 MR. LUSEBRINK: Yes. It
14 should be based on the site specific.

15 MR. LOCHNER: I got it.

16 MR. LUSEBRINK: Especially
17 when there's such a vast difference. You're
18 going to have massive amount of additional
19 stormwater, pipes, designs, your lots are going
20 to change, everything downhill -- downstream
21 from this changes.

22 MS. BLACKBURN: And you're
23 saying that, in fact, they had the site-specific
24 data in the AC report but then they did not use
25 that data in the calculations?

1 ** WITNESS TESTIMONY **

2 MR. LUSEBRINK: I don't know.
3 It's not in the calculations.

4 MS. BLACKBURN: It's not in
5 the calculations?

6 MR. LUSEBRINK: Here in the
7 calculations you can go here to the revisions,
8 they were done in June 2018, July '18, October
9 '18. Okay. So maybe this one was done around
10 October 5th when the report came out.

11 They were revised November 18, a
12 month later and revised January, a couple
13 months later. So this has been revised several
14 times since the geotechnical site-specific
15 information has come out.

16 MS. BLACKBURN: Again, just so
17 that I understand, you've got class C and then
18 you've got class D soil. And you're saying
19 that the AC report indicated that this would be
20 site -- really, there's more than 50 percent
21 clay in that soil sample, so it would be class
22 D. And that that soil type affects how
23 absorbent --

24 MR. LUSEBRINK: Yeah. The CN
25 number.

1 ** WITNESS TESTIMONY **

2 MS. BLACKBURN: -- the runoff
3 is. So when I asked the question earlier about
4 whether they had built enough capacity to
5 absorb the runoff, that calculation could be
6 altered by the fact that there was a difference
7 soil calculation --

8 MR. LUSEBRINK: Yes.

9 MS. BLACKBURN: -- that might
10 have -- and they will respond, I know that they
11 will. But they used a higher class. So,
12 therefore, they actually need more capacity for
13 the runoff because the soil is more clay than
14 as indicated?

15 MR. LUSEBRINK: Yes. The CN
16 number will go up substantially, that means
17 your runoff goes up.

18 MS. BLACKBURN: I understand
19 there will be a response and I will listen to
20 that, too, but I wanted to make sure I
21 understood the highlights of your testimony.

22 MR. BANDFIELD: I just want to
23 say that I strongly suggest that township
24 council wait until we have our review of this
25 and bring up some salient points that is based

1 ** WITNESS TESTIMONY **

2 on township safety and things like that.

3 MS. BLACKBURN: There was a
4 lot of technical information in both of these
5 presentations.

6 MR. BANDFIELD: There is.

7 MS. BLACKBURN: And I just
8 have to make sure I understand what their point
9 is. I'm not judging whether it's right or
10 wrong. I just need to make sure --

11 MR. BANDFIELD: As long as
12 that's what you're doing, then that's fantastic.

13 MS. BLACKBURN: I'm just
14 taking notes on what the highlights are, yes.

15 MR. LOCHNER: Thank you.

16 MR. LUSEBRINK: Is there
17 anything that anyone wants to ask me?

18 So if you're wondering why you're
19 getting more water, that's why you potentially
20 get more water.

21 MR. LEE: Can I ask one basic
22 question from his testimony?

23 (Applause.)

24 MR. LEE: My name is Joseph
25 Lee. I live on Pioneer. He just testified

1 ** WITNESS TESTIMONY **

2 that the land quality or the soil quality is of
3 a lesser grade than necessary. Okay. And now
4 if I understand it or not, in western
5 Pennsylvania the soil -- all over western
6 Pennsylvania is bad soil, let's put it that
7 way. Okay.

8 Are you saying, Wayne, with the
9 reduced classification from C to D and the
10 massive amount of trees that are being cleared,
11 and matured trees that are not being replaced
12 and downstream there's another development
13 that's clearing trees out right now, okay, do
14 we have the possibility of landslides coming to
15 this?

16 Because have we heard about
17 landslides? I've heard of two of them on the
18 news today in the Pittsburgh area.

19 I don't want land coming cascading
20 into my property. Yet I have -- where Crouse
21 runs through my property, there is repairs to
22 the roadway by my entrance to my driveway that
23 is undermined right now.

24 You already have one guardrail here
25 and another one up here. It's a disaster

1 ** WITNESS TESTIMONY **

2 waiting to happen. It's infrastructure that's
3 failing.

4 Now we're looking at putting in a
5 site, as many homes in as this in such a small
6 area, stripping out trees and running the risk
7 of landslides. That's my question.

8 MR. LUSEBRINK: Pittsburgh is
9 at, like, the northeast corner, the landslide
10 capital of the United States.

11 There's like a big area that goes
12 down into West Virginia, as the red clays, the
13 gray clays and it's just -- when there's water,
14 it's -- that's why you have the two-to-one
15 banks, you know, the slope requirements.

16 But, yeah, you're going to -- I'm
17 going to need to look through the other plans
18 and see if we find any more similar errors or
19 overlooked information that -- because I can
20 tell you, over 12 years that water on Crouse
21 Run has doubled from the storms.

22 I used to need to go down and get
23 ready to help someone unload their basement,
24 okay, whenever it would rain four, five, six
25 days. Now it's two and three days. And it's

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2 happening five and six times a year and not
3 once or twice a year.

4 so I know that that water coming
5 down Crouse Run and the accumulative effect is
6 incremental, it's exponential now. So if we
7 don't put the right ponds in -- and I will tell
8 you, it's like, you know, the people that would
9 potentially buy a new house, they want to buy a
10 house that isn't going to impact anyone
11 downstream. They want to feel good about it.

12 what happens if they buy it and then
13 they find out, we got class D not C. Not a
14 good thing.

15 Thank you.

16 (Applause.)

17 MR. PETERS: Okay. We're at
18 11:00. I would like to continue this hearing
19 until March 13 because I have a sense that
20 there's a lot more to hear.

21 So without any objections can I get
22 a motion? Do I need a motion for that?

23 MR. TUCCERI: Yeah, you do. I
24 guess just as a point of order -- as a point of
25 order, so that we're not continuing this again

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2 after the 13th of March, can we establish some
3 timelines so that the information that's being
4 supplied by the experts who are going to
5 testify be exchanged in advance of the 13th of
6 March so that everybody will be ready to
7 address those comments?

8 I guess I'm looking to counsel to
9 tell us what they would like to have by way of
10 a deadline for that.

11 so we're talking March the 13th for
12 the hearing to be repositioned. How much time,
13 when would you like to have the reports
14 submitted?

15 MR. PRATHER: We're going to
16 ask for a week to prepare, you know, a written
17 response to what we've heard tonight. And we
18 would similarly ask that, you know, opposition
19 that if they're going to submit reports that
20 they would also have those reports filed within
21 a week's time.

22 AUDIENCE: We can't do that.

23 MS. DESLAURIERS: My name is
24 Merrit DesLauriers, D-E-S-L-A-U-R-I-E-R-S.
25 5152 Lakewood Drive. Our expert, Kelly Rieger,

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2 is out of town and will be for the rest of the
3 week. So it is not possible for us to meet
4 with her and to come up and have a complete
5 examination.

6 A week is not sufficient for us. So
7 I would ask perhaps two weeks, that would be
8 sufficient time for us to meet with these
9 experts especially since we for sure --

10 MR. TUCCERI: What you're
11 saying is the 27th of February?

12 MS. DESLAURIERS: Yes, is that
13 a Friday or?

14 AUDIENCE: That's a Wednesday.

15 MS. DESLAURIERS: It's a
16 Wednesday.

17 DR. JOHNSON: That's two weeks
18 from today.

19 MS. DESLAURIERS: Okay.

20 MR. TUCCERI: I think what
21 Ms. Blackburn is suggesting is perhaps we
22 extend it to Friday, the 1st of March.

23 MS. DESLAURIERS: Yes, I think
24 that is better.

25 MR. TUCCERI: That way it

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2 gives you enough time, and obviously gives the
3 developer more than sufficient time to respond.

4 Here is my problem, at least in
5 terms of trying to move this along:

6 understanding that we want to hear everything
7 you folks have to say, the civil engineer who
8 just testified said I will have a chance to
9 kind of go back and look through the plans.

10 If you're planning on doing that,
11 could you please do that and get us something
12 as to your comments by the 1st of March so that
13 everybody can take a look at it so we're not
14 here on the 13th and people are saying, well, I
15 need take a look at more plans. And I have
16 more experts.

17 We want it to happen. We just like
18 to have it happen in a timely fashion.

19 MS. DESLAURIERS: Before there
20 is an official ruling, can I reach out to my
21 experts via email tomorrow to see if that is
22 sufficient time?

23 I didn't consider that it might not
24 be for them.

25 MR. PETERS: The problem is,

1 ** WITNESS TESTIMONY **

2 Merrit, we --

3 MS. DESLAURIERS: I get it.

4 MR. PETERS: We give you more
5 time and then we squeeze them.

6 MS. DESLAURIERS: It's a back
7 and forth, yeah.

8 MR. PETERS: Then they're
9 going to want to come back, and so it's -- I
10 think we're going to settle with -- what did we
11 say? March 1st?

12 MS. DESLAURIERS: That's
13 acceptable for me.

14 MR. PETERS: And then we just
15 have to do the best with what we have.

16 MS. DESLAURIERS: I agree.

17 MR. PETERS: From the
18 developer's standpoint, does that give you
19 enough time?

20 MR. PRATHER: As I said, we
21 needed a week for the letters that we intend to
22 prepare. A week was fine for us. So, you
23 know, if March the 1st is what your
24 determination is, then that's what we'll abide
25 by.

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2 MR. SPEAKMAN: But you need
3 time to review their stuff.

4 MR. TUCCERI: Here is the
5 problem that we have though, okay: The report
6 that the gentleman in black provided, you have.
7 okay. You already have and you will be able to
8 address that, but you will not have the reports
9 from these experts until the 1st of March.

10 So now you respond by having
11 somebody come here to testify in response to
12 those reports. Then do we hear from the
13 residents that we now need an opportunity to
14 respond to the testimony that your people have
15 provided? Okay.

16 MR. PRATHER: I will submit to
17 you the reports that we're relying upon, have
18 been available for -- since at least the middle
19 of January.

20 MR. TUCCERI: I understand.

21 MR. PRATHER: So now we're
22 here being told we have a request to now have
23 someone evaluate that. Now we're going to
24 retain an expert. Now we're going to go and
25 we're going to extend more of these hearings.

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2 As you know, the whole intent of
3 this process is to try to expedite it. We are
4 at the tentative approval phase.

5 MR. TUCCERI: I understand.

6 So here is my recommendation to
7 counsel: There will be a deadline established
8 of March the 1st to receive expert reports. If
9 the report is not provided, the expert will not
10 be permitted to testify. Okay.

11 We will conclude this hearing on the
12 13th of March. That's my suggestion to
13 counsel. Okay.

14 MS. DESLAURIERS: Thank you.

15 MR. PRATHER: Thank you.

16 MR. PETERS: So can I get a
17 motion to adjourn the public hearing until
18 March 13th -- continue?

19 MS. BLACKBURN: Continue.

20 MS. GOLD-LUCAS: Continue
21 until March 13. Roll call.

22 Dr. Johnson?

23 DR. JOHNSON: Favor.

24 MS. GOLD-LUCAS: Ms. Blackburn?

25 MS. BLACKBURN: Favor.

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MS. GOLD-LUCAS: Mr. Dunlap?

MR. DUNLAP: Favor.

MS. GOLD-LUCAS: Mr. Peters?

MR. PETERS: Favor.

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(Hearing adjourned at 11:11 p.m.)

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C E R T I F I C A T E

I hereby certify that the transcript of the proceedings and evidence contained herein are a true and accurate transcription of my stenographic notes taken by me at the time and place of the within cause; that the transcription was reduced to printing by me; and that this is a true and correct transcription of the same.

Kimberly Ann Deitrick, Notary Public
in and for the Commonwealth of
Pennsylvania

My Commission expires December 1, 2019.

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