

1                   BEFORE THE BOARD OF SUPERVISORS  
2                   OF EAST WHITELAND TOWNSHIP, PENNSYLVANIA

3 IN RE:   APPLICATION OF 2018-08-CU for Flat Road

4  
5                   A hearing was held before the Board of  
6 Supervisors of East Whiteland Township, 209 Conestoga  
7 Road, Frazer, Pennsylvania, taken before Elaine  
8 Gallagher Parrish, RPR, CRR, on Wednesday,  
9 August 29, 2018, at 7:10 p.m.

10 BEFORE:

11                   SUSAN DRUMMOND, CHAIRMAN  
12                   BILL HOMES, MEMBER  
13                   SCOTT LAMBERT, MEMBER

14                   JOSEPH McGRORY, ESQUIRE  
15                   On behalf of the Board

16                   JOHN NAGEL, Township Manager

17                   ZACH BARNER, Director of Planning & Zoning

18 APPEARANCES:

19                   GEORGE BROSEMAN, ESQUIRE  
20                   On behalf of the Applicant

21  
22 **\*\*PLEASE NOTE THAT THIS TRANSCRIPT MAY NOT**  
23 **BE COPIED WITHOUT THE EXPRESS PERMISSION OF**  
24 **ELAINE G. PARRISH, RPR.\*\***

25                   ELAINE G. PARRISH, RPR, CRR  
26                   341 Marshall Road  
27                   Downingtown, Pennsylvania 19335  
28                   610-942-4376

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WITNESS

PAGE

Jon Buzan  
John W. Benson, III

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EXHIBITS

MARKED

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A-1  
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1 MS. DRUMMOND: All right. We're going to  
2 start the meeting. Welcome to the August 29th  
3 conditional use hearing of the Board of Supervisors.  
4 Everybody please stand for the pledge of allegiance.

5 (Whereupon the pledge of allegiance was  
6 recited.)

7 MS. DRUMMOND: I am going to turn  
8 everything over to Joe to run this tonight if he's  
9 ready.

10 MR. McGRORY: With that I'll open the  
11 conditional use hearing and I'll introduce into the  
12 record the following exhibits:

13 Exhibit B-1 is the application for the  
14 conditional use with all its attachments.

15 B-2 is the legal notice of tonight's  
16 conditional use hearing.

17 B-3 is the proof of publication in the  
18 daily newspaper for August 14 and August 21.

19 Board Exhibit 4, proof of submission of  
20 the application to the Township Planning Commission.

21 Board exhibit 5 is the affidavit of  
22 notice attesting the applicant provided notice to  
23 adjoining landowners by mail or personal delivery.

24 And Board Exhibit 6 is the affidavit of

1 posting of party -- of the parcel subject to tonight's  
2 hearing by the Township planner, and that's dated  
3 August 20th, 2018.

4 Any objection to the submission of the  
5 Board exhibits?

6 MR. BROSEMAN: None.

7 MR. McGRORY: I'll note for the record  
8 that George Broseman is the attorney for the applicant  
9 and you're entering your appearance as such.

10 Let me start by explaining to the  
11 audience how a conditional use hearing is conducted  
12 and what you can expect from the testimony. A  
13 conditional use hearing is a judicial process.  
14 It's no different than appearing in Court, except in  
15 this case the Board is the judge. So they're not  
16 allowed to talk to anybody about this case other than  
17 in the presence of the court reporter, opposing  
18 counsel and the confines of the four corners of this  
19 record. So when you reach out to them and they don't  
20 respond to you, please understand that they're not  
21 permitted to respond to you.

22 Also, certain things are relevant to  
23 these proceedings, others are not. What the applicant  
24 needs to prove is that the proposal meets all the

1 criteria of the Ordinance, and once the applicant has  
2 proven that, if they can prove it, then the burden  
3 would shift to someone opposing the plan to show how  
4 this is injurious to the public safety, health and  
5 welfare other than what would normally be contemplated  
6 when the conditional use was originally put into the  
7 Ordinance.

8           It's a formal proceeding. There is  
9 witnesses that will be sworn. There is direct  
10 examination, cross-examination. There will be  
11 objections. If you hear an objection, stop testifying  
12 and we will address the objection before you go on.  
13 And I would caution everyone to not clap when they  
14 hear something they like and not boo when they hear  
15 something they don't like, and this Board has been  
16 notorious for conducting hearings with the utmost  
17 etiquette and respect for all the people that are  
18 talking and testifying, whether they agree with their  
19 positions or not. I would ask the people in the  
20 audience to show that same kind of respect and  
21 etiquette to whoever is testifying, regardless of what  
22 the testimony may be.

23           This is not a popularity contest. This  
24 is a legal proceeding to determine whether they comply

1 with our ordinances.

2           So that being said, we have a couple  
3 constraints tonight. The Board member seated next to  
4 me unfortunately broke his neck in four places and  
5 he's undergoing that recovery which has been very  
6 significant. He is not going to be able to sit  
7 through more than a couple hours of the hearing. So  
8 what we propose is to end the hearing at 9:00.

9           Any objection to that, Mr. Broseman?

10           MR. BROSEMAN: No objection.

11           MR. McGRORY: It will be continued. If  
12 the hearing ends at 9, it just means there will be  
13 another hearing and another opportunity for the  
14 hearing to conclude and for everyone to be heard.  
15 It's possible that we may not get to public comment  
16 tonight, so people may not have an opportunity to talk  
17 tonight, but I will guarantee you that everyone will  
18 have an opportunity to talk at some point in this  
19 hearing process. It could end up being next month or  
20 the following month, but whatever. If we don't get to  
21 you tonight, don't feel slighted. We just have to  
22 follow a certain order of how everything is presented,  
23 and the public comment would be at the end of the  
24 meeting.

1                   Speaking of that, I am going to open the  
2 floor to anyone who would wish to enter their  
3 appearance as a party. If you are a party to the  
4 proceedings you would have a right to appeal a  
5 decision that you may not be happy with. On appeal  
6 you could be asked to post a bond. Sometimes judges  
7 require that, but not always. And by entering your  
8 appearance you would have the right to cross-examine  
9 witnesses and even offer testimony yourself as formal  
10 testimony, pro or con, to the application.

11                   There are certain standards to determine  
12 who has the right to enter their appearance as a  
13 party. So you'll be asked to come up, state where you  
14 live and I'll ask the applicant's counsel if he'll  
15 agree or if they won't then there will be some  
16 questions for you to determine whether you're a proper  
17 person to be entering your appearance. A lot of it  
18 has to do with proximity to the site, what impact it  
19 would have on you or your property, et cetera.

20                   So with that, I'll open the floor to  
21 anyone who wants to enter their appearance. Let's  
22 start with entering their appearance in opposition; is  
23 there anyone here that wants to enter their appearance  
24 in opposition as a party?





1 Road, Malvern, Chairman of the Historical Commission.

2 MR. McGRORY: Spell your last name for  
3 the record, please.

4 MR. TIM CABAN: C-a-b-a-n.

5 MR. McGRORY: How close are you in  
6 proximity to the subject parcel?

7 MR. TIM CABAN: I live in the Township  
8 but I'm not close to it.

9 MR. McGRORY: And what is your role in  
10 the Township?

11 MR. TIM CABAN: I'm the Chairman of the  
12 Historical Commission.

13 MR. McGRORY: Will you stipulate that he  
14 can enter his appearance as a party or do you want to  
15 voir dire him?

16 MR. BROSEMAN: I'm a little confused why  
17 he's opposing the application when the Historical  
18 Commission recommended approval.

19 Are you opposing the application?

20 MR. TIM CABAN: I'm not opposing it.  
21 Sorry. If you want I should wait.

22 MR. McGRORY: Are you in support of it?

23 MR. TIM CABAN: I just want to read some  
24 things into the record with regard to the historical

1 report that we were given yesterday and with regard to  
2 the 200-26.F that we have considered before our  
3 Commission.

4 MR. McGRORY: So you're not opposing or  
5 supporting it necessarily, you just want to enter as a  
6 party so you can testify?

7 MR. TIM CABAN: Yes.

8 MR. McGRORY: Any objection?

9 MR. BROSEMAN: We don't object.

10 MR. McGRORY: Thank you. You're a party.  
11 Anybody else want to be a party?

12 Come up to the microphone, please. State  
13 your name and address.

14 MR. BOB MALOSKEY: My name is Bob  
15 Maloskey. I live at 25 Flintshire Road.

16 MR. McGRORY: Spell your last name,  
17 please.

18 MR. BOB MALOSKEY: M-a-l-o-s-k-e-y.

19 MR. McGRORY: How close are you in  
20 proximity to the subject parcel?

21 MR. BOB MALOSKEY: Approximately a half a  
22 mile away, but I've also appeared in the past  
23 representing the Spring Mill Farm Civic Association as  
24 a president.

1 MR. McGRORY: And is that civic  
2 association located close to the parcel?

3 MR. BOB MALOSKEY: Yes, sir. It  
4 encompasses all the properties near the location.

5 MR. McGRORY: Are you entering your  
6 appearance individually or are you entering your  
7 appearance as the association?

8 MR. BOB MALOSKEY: As the association.

9 MR. McGRORY: Do you have any questions?

10 MR. BROSEMAN: Was there a meeting of  
11 your organization that authorized you to come and seek  
12 party status at this hearing?

13 MR. BOB MALOSKEY: Yes.

14 MR. BROSEMAN: And do you have any  
15 writing to show that?

16 MR. BOB MALOSKEY: Not currently.

17 MR. BROSEMAN: Does your association own  
18 any land that is contiguous to the subject property?

19 MR. BOB MALOSKEY: Our membership does,  
20 yes.

21 MR. BROSEMAN: Does the association.

22 MR. BOB MALOSKEY: The association  
23 itself, no.

24 MR. BROSEMAN: I am going to object at

1 this time. They don't own land that's adjacent and I  
2 had requested proof of the authorization to be here  
3 for that entity.

4 MR. McGRORY: Do you own any land within  
5 500 feet of the parcel?

6 MR. BOB MALOSKEY: Personally, no.

7 MR. McGRORY: The association?

8 MR. BOB MALOSKEY: The association, no.

9 MR. McGRORY: Can you tell me how the  
10 association is affected by this proposal that would be  
11 different from how the rest of the Township would be  
12 affected?

13 MR. BOB MALOSKEY: Well, we're a  
14 volunteer association and our membership does comprise  
15 the owners of the homes in direct relation to the  
16 proposed project. Many of the properties along Dale  
17 and Forge Lane which abut directly to this project are  
18 members of ours and we have been asked to represent  
19 them in a capacity for their interests.

20 MR. McGRORY: Are those members here  
21 tonight?

22 MR. BOB MALOSKEY: Some of them are.

23 MR. McGRORY: Some of them that are  
24 adjacent?

1 MR. BOB MALOSKEY: Yeah.

2 MR. McGRORY: I think it would be clear  
3 that if the people that own land closer in proximity  
4 to this property entered their own appearance rather  
5 than the association, because I haven't heard anything  
6 as an association how you would be impacted  
7 differently as an association than other residents in  
8 the Township. So instead of entering as the  
9 association, you could pretty easily get your point  
10 across with individual members and they can enter  
11 themselves as a party.

12 MR. BOB MALOSKEY: Okay.

13 MR. McGRORY: With that being said,  
14 anyone else want to enter as a party?

15 MR. DOUGLAS ATLAS: I have a question.

16 MR. McGRORY: Well, first come up to the  
17 microphone.

18 MR. DOUGLAS ATLAS: Forgive me. Douglas  
19 Atlas. My question is very confusing for those of us.  
20 If we don't come up here and give you our name and our  
21 address, that means we can not provide testimony or if  
22 we come up here and give you this information we have  
23 the right to appeal what is determined?

24 MR. McGRORY: If you don't enter as a

1 party, you have a right at the end of the hearing to  
2 share with us your comments.

3 MR. DOUGLAS ATLAS: We don't have a right  
4 to testify.

5 MR. McGRORY: Everyone has a right to be  
6 heard.

7 MR. DOUGLAS ATLAS: I'll still enter my  
8 name, since I live close. I live at 12 Dale Lane. I  
9 live within 500 feet of this property.

10 MR. McGRORY: I didn't catch the address,  
11 nor did I get the spelling of your last name.

12 MR. DOUGLAS ATLAS: Atlas, A-t-l-a-s,  
13 Douglas. I'm at 12 Dale Lane.

14 MR. McGRORY: How close is that to the  
15 subject property?

16 MR. DOUGLAS ATLAS: It's one lot over,  
17 perhaps 300 feet.

18 MR. McGRORY: Any objection?

19 MR. BROSEMAN: I'm objecting. It's not  
20 contiguous. We're only here for seven additional  
21 homes at this point, so I don't believe he would have  
22 any greater impact to his personal property than  
23 anyone else in the immediate area, and I say that with  
24 respect.

1                   MR. McGRORY:   Zach, in our Ordinance how  
2 far out do we give notice?

3                   MR. BARNER:   So Township staff posted the  
4 property. The applicant provided the neighbor  
5 notification.

6                   MR. McGRORY:   And how far out does that  
7 notification go or is it required to go?

8                   MR. BARNER:   I have with me a copy of the  
9 letter but not the list of the recipients.

10                   George, do you have a list of the  
11 recipients?

12                   MR. BROSEMAN:   We do, but I believe the  
13 Code provision that we used talked about contiguous  
14 property owners. I'm looking for that provision.

15                   MR. BARNER:   I believe it says contiguous  
16 and maybe across the street as well. I don't believe  
17 there is a linear.

18                   MR. McGRORY:   In what way do you perceive  
19 this application as having an impact on your property?

20                   MR. DOUGLAS ATLAS:   It's well within  
21 sight of our property. It's what -- there is only one  
22 lot between ours and the close property.

23                   MR. McGRORY:   I am going to overrule the  
24 objection. You're admitted as a party.

1 MR. DOUGLAS ATLAS: Thank you.

2 MR. McGRORY: Anyone else? Please state  
3 your name and address for the record.

4 MR. BOB LARSON: Yes. Bob Larson, 313  
5 Sidley Road.

6 MR. McGRORY: Spell your last name.

7 MR. BOB LARSON: L-a-r-s-o-n.

8 MR. McGRORY: How close are you to the  
9 subject property?

10 MR. BOB LARSON: Within sight of it. I'm  
11 a less than half a mile away. Our homeowners  
12 association has possession of the 11-acre tract that's  
13 immediately adjacent. I'm not here as a  
14 representative of the homeowners association. I'm  
15 here as a member myself, but we own that piece of 11  
16 acres that abuts the development property.

17 MR. McGRORY: Any objection?

18 MR. BROSEMAN: Yes, I object. I think  
19 he's quite far removed and his personal property  
20 wouldn't be affected in any particular way different  
21 than other people that far away.

22 MR. McGRORY: Can you see the subject  
23 property from your house?

24 MR. BOB LARSON: Sure. There is nothing



1 behind us. There is no buildings at all behind us.

2 MR. McGRORY: I am going to overrule your  
3 objection. You'll be admitted as a party. Anyone  
4 else want to join as a party?

5 MR. MATT HANCOCK: Hi. My name is Matt  
6 Hancock.

7 MR. McGRORY: I'm sorry. I can't hear  
8 you.

9 MR. MATT HANCOCK: Matt Hancock, 17 Almy  
10 Drive.

11 MR. McGRORY: Could you spell your last  
12 name, please?

13 MR. MATT HANCOCK: Just like John  
14 Hancock, H-a-n-c-o-c-k, 17 Almy, A-l-m-y, Drive, and  
15 it's directly contiguous to the property.

16 MR. McGRORY: Any objection?

17 MR. BROSEMAN: You said you're  
18 contiguous?

19 MR. MATT HANCOCK: Yes.

20 MR. BROSEMAN: I don't object.

21 MR. McGRORY: All right. Admit him as a  
22 party. Anyone else?

23 MS. KATHY PRIBLE: I'm Kathy Prible, 3  
24 Oak Glen Drive. And, first of all, there has been --

1 none of us in the back can hear you, so we're a little  
2 -- we just wish would you be more up front. It sounds  
3 like the sound of silence is important.

4 Besides that, I have noticed that it  
5 seems that you should clarify who's allowed to come up  
6 here and not take it one by one and have them turned  
7 down. It would be much easier and more expeditious if  
8 you would just say which people's property is allowed  
9 to come up here.

10 MR. McGRORY: Actually, I started this  
11 proceeding explaining that. The only one we have  
12 denied so far is the community organization. So  
13 whoever feels that they want to be a party, come up to  
14 the microphone and we'll ask them.

15 MS. KATHY PRIBLE: And then deny it?

16 MR. McGRORY: Deny it, approve it,  
17 whatever the appropriate action is.

18 MS. KATHY PRIBLE: It would be easier if  
19 you told us ahead of time who is not allowed to come  
20 up.

21 MR. McGRORY: Actually, I told you ahead  
22 of time. Everyone is allowed to come up here.

23 MS. KATHY PRIBLE: And be denied one by  
24 one?

1                   MR. McGRORY: But if you're going to be  
2 approved as a party you have to be in the immediate  
3 vicinity of the subject property or have some impact  
4 on your property more than what the average citizen  
5 has across the Township. That's the standard. Other  
6 than that, everyone who wants to be known as a party  
7 is welcome to come up and do it.

8                   MS. KATHY PRIBLE: I would like to put my  
9 name in and then I'll wait for you deny me and I will  
10 stand here until you make that decision.

11                  MR. McGRORY: All right. What was your  
12 name?

13                  MS. KATHY PRIBLE: Kathy Prible, 3 Oak  
14 Glen Drive.

15                  MR. McGRORY: Spell your last name,  
16 please.

17                  MS. KATHY PRIBLE: P-r-i-b-l-e.

18                  MR. McGRORY: And how close are you to  
19 the property?

20                  MS. KATHY PRIBLE: He's got a map. He  
21 can look and see.

22                  MR. McGRORY: Well, if you're not going  
23 to give us the answer --

24                  MS. KATHY PRIBLE: I don't know. I don't

1 know estimates beyond six feet. I live on the --

2 AUDIENCE MEMBER: It's approximately 600  
3 feet.

4 MR. McGRORY: Can you see the property?

5 MS. KATHY PRIBLE: Yeah, I can see it.

6 MR. McGRORY: How do you think this  
7 proposal impacts you more than other people?

8 MS. KATHY PRIBLE: I think it impacts  
9 more than just the people that touches it. It impacts  
10 the traffic and impacts the school and it impacts --

11 MR. McGRORY: I started the hearing  
12 asking that you don't applaud on things you like  
13 hearing or that you don't boo or make comments on  
14 things that you don't like hearing. This is a formal  
15 litigation hearing. This is not a popularity contest.  
16 We know where people stand on the road, we have a real  
17 good idea, but we don't need the clapping and the  
18 hollering and the cheering. It's inappropriate for  
19 this kind of proceeding. So please refrain from doing  
20 that.

21 You can see the property from where you  
22 are?

23 MS. KATHY PRIBLE: I can see parts of the  
24 property. But is that -- is that a criteria for

1 whether or not you can comment?

2 MR. McGRORY: There is many --

3 MS. KATHY PRIBLE: Or whether you're  
4 affected by it?

5 MR. McGRORY: There is many criteria. To  
6 me, that's one that's important. There is many  
7 criteria. You can comment. Anyone can comment. You  
8 don't have to enter your appearance as a party in  
9 order to comment at this hearing.

10 MS. KATHY PRIBLE: It seems like people  
11 come up and then you can get turned down if you don't  
12 live right next door to it but you can see it.

13 MR. McGRORY: We only turned down a  
14 community organization so far. So I don't know who  
15 these people are that you're talking about.

16 Do you have any questions for this  
17 person?

18 MR. BROSEMAN: I don't have any  
19 questions. I would object. I don't believe she has  
20 standing. I'm looking at a plan, we have a location  
21 map on our plan which goes out a fairly far distance,  
22 and I don't see that street on the location map.

23 MS. KATHY PRIBLE: Do you have Lapp Road  
24 on it?

1                   MR. BROSEMAN: I think she's fairly far  
2 away and would have no greater impact than other  
3 people in the general area as you have said is the  
4 test, so I am going to object.

5                   MR. McGRORY: I am going to recommend  
6 sustaining your objection. But I do want to encourage  
7 you to comment. You have a right to comment and you  
8 should comment to whatever you want to comment about.  
9 You'll be given that opportunity.

10                  MS. KATHY PRIBLE: I will. I will.

11                  MR. McGRORY: Okay. Thank you. Next.

12                  MR. JOHN McMASTER: Can I come up and ask  
13 a question?

14                  MR. McGRORY: Yes.

15                  MR. JOHN McMASTER: My name is John  
16 McMaster. I live at 21 Flintshire Road. The question  
17 I'd like to ask is who is the germane -- if you would  
18 explain to us what determines who will be affected  
19 proximity. We hear 500 feet. I know I'm farther away  
20 than that, so you can get your map out, I don't  
21 qualify in that regard, but I'm curious as to first  
22 you mentioned whether people are going to be any more  
23 affected than others in the Township. I think I heard  
24 that. The Township is pretty big. So I would suggest

1 that everybody in this room, first of all, is going to  
2 be affected more than other people in the Township, by  
3 schools, by traffic, by everything else. I'm about a  
4 half mile away, so I understand that I'm not -- I  
5 don't see the property except when I drive that  
6 direction. But I also understand that it's going to  
7 affect us from traffic, from taxes and from everything  
8 else that goes on, housing values.

9 MR. McGRORY: You will have the  
10 opportunity to state whatever you like.

11 MR. JOHN McMASTER: I understand that. I  
12 appreciate that.

13 MR. McGRORY: But to enter yourself as a  
14 party there are certain legal standards associated  
15 with that.

16 MR. JOHN McMASTER: Okay.

17 MR. McGRORY: And it doesn't preclude you  
18 from speaking or testifying. It just gives you the  
19 ability whether you cross-examine or don't  
20 cross-examine, or whether you have the right to take  
21 an appeal.

22 MR. JOHN McMASTER: But I just wanted to  
23 ask the question, though, what is the determination of  
24 the proximity within which people are going to be

1 affected by someone's determination.

2 MR. McGRORY: Under the Provco case the  
3 determination is whether you live within the distance  
4 our Codes calls for getting notice, then you're  
5 automatically admitted as a party if you want to be a  
6 party. If you're outside of that distance, which  
7 apparently in our Code just means adjacent or across  
8 the street, if you're outside that area then my next  
9 question is how are you impacted by this project  
10 differently than what someone else is impacted by in  
11 the Township. And if you're able to show that you  
12 have some kind of special impact, then you're admitted  
13 as a party. Obviously the whole Township is impacted.  
14 Everyone is impacted, but it's a matter to what degree  
15 in that determining whether you can be a party or not.  
16 And I really don't want to get too hung up on this  
17 party stuff because everybody is going to have a  
18 chance to say whatever they want to say.

19 MR. JOHN McMASTER: I understand that,  
20 but in terms of the fact that unless you're a party  
21 you don't get to appeal, this could be important. And  
22 whether the Township proximity is adjacent to or is  
23 within some distance that we're not even sure what it  
24 is except for the objections here, it is still very



1 important. I'm not certain that the rules are clearly  
2 understood by the people who would like to voice an  
3 objection to this or to become a party.

4 MR. McGRORY: Anyone who wants to be a  
5 party, come on up, and we'll take a look at your  
6 situation and we'll rule accordingly.

7 MR. JOHN McMASTER: Okay. Thank you.

8 MR. McGRORY: It's impossible for me to  
9 give you a thousand cases and say this is what it is.  
10 I mean it's a judgment call. We have to hear what  
11 everyone has to say and make a determination.

12 Yes, ma'am.

13 MS. LAUREN NAYLOR: Good evening. I'd  
14 like to enter an appearance.

15 MR. McGRORY: Your name.

16 MS. LAUREN NAYLOR: Lauren Naylor,  
17 N-a-y-l-o-r.

18 MR. McGRORY: Address?

19 MS. LAUREN NAYLOR: 10 Forge Drive.

20 MR. McGRORY: How close are you in  
21 proximity to the parcel?

22 MS. LAUREN NAYLOR: There are two lots  
23 between my home and the proposed subdivision and I  
24 have full view of the entire area.

1 MR. McGRORY: Any objection?

2 MR. BROSEMAN: I object for the record.

3 MR. McGRORY: I'll overrule the  
4 objection.

5 MS. LAUREN NAYLOR: Thank you.

6 MR. MICHAEL McCARTHY: Good evening. I  
7 am Michael McCarthy, M-c-c-a-r-t-h-y, 19 Almy Drive,  
8 adjacent to the property.

9 MR. McGRORY: Any objection?

10 MR. BROSEMAN: No objection.

11 MR. JOHN WHITELOCK: John Whitelock, 7  
12 Forge Drive.

13 MR. McGRORY: How close are you to the  
14 property?

15 MR. JOHN WHITELOCK: Our lot borders up  
16 to what they are proposing.

17 MR. McGRORY: Any objection?

18 MR. BROSEMAN: So you're contiguous to  
19 the property?

20 MR. JOHN WHITELOCK: Yes, we are.

21 MR. BROSEMAN: No objection.

22 MR. McGRORY: Next one.

23 MR. CHRISTOPHER IRELAND: I'd like to  
24 enter. My name is Christopher Ireland. I'd like to

1 enter an appearance.

2 MR. McGRORY: How do you spell your last  
3 name?

4 MR. CHRISTOPHER IRELAND: Like the  
5 country. I-r-e-l-a-n-d.

6 MR. McGRORY: Your address?

7 MR. CHRISTOPHER IRELAND: 12 Lapp Road.

8 MR. McGRORY: How close are you to the  
9 parcel?

10 MR. CHRISTOPHER IRELAND: I'm about a  
11 quarter mile away.

12 MR. McGRORY: How would this project  
13 impact your particular land that you own more than  
14 others throughout the Township?

15 MR. CHRISTOPHER IRELAND: I have a son  
16 with an extreme special needs, and the traffic that  
17 goes through the neighborhood as it is right now is  
18 way more. He gets off his bus right in front of our  
19 house. It's become very dangerous. People go 50  
20 miles an hour up and down that road instead of 25.  
21 There really isn't a lot of enforcement of that in  
22 this Township, so it puts a big hardship and a very,  
23 very great safety risk with my disabled son and my  
24 other son as well.

1                   MR. McGRORY: You're not going to object  
2 to this one, are you?

3                   MR. BROSEMAN: I'm afraid I do. I  
4 sympathize with the situation but he is far away and  
5 traffic grounds for a conditional use like this aren't  
6 really a reason a Board could even deny an application  
7 like this. So with great respect and understanding of  
8 your situation, I have to lodge an objection for the  
9 record.

10                  MR. McGRORY: I am going to grant the  
11 objection but I am going to explain why. If traffic  
12 is the only impact for you having a special needs  
13 child for a conditional use, when the Board puts a  
14 conditional use in the Zoning Ordinance they have  
15 already contemplated there will be appropriate traffic  
16 resulting from that, so you can't deny the conditional  
17 use generally just based on traffic. You can for  
18 certain unsafe movements and particular traffic  
19 issues, but volume of traffic is not a reason that we  
20 can deny a conditional use. So, unfortunately, we're  
21 going to have to sustain the objection.

22                  MR. CHRISTOPHER IRELAND: Thank you for  
23 your time.

24                  MR. McGRORY: But if I was the attorney

1 for the applicant I would not have objected.

2 MR. CHRISTOPHER IRELAND: I understand.

3 MR. McGRORY: Anyone else? One more.

4 MR. GORDON MACKLEM: Hi, everybody. Good  
5 evening. Thank you. My name is Gordon Macklem, Jr.  
6 I live at 10 Dale Lane. I'm at three lots -- two lots  
7 -- three lots from the end of Dale.

8 MR. McGRORY: Any objection?

9 MR. BROSEMAN: You're not contiguous to  
10 the property? You said you're three lots away?

11 MR. GORDON MACKLEM: I'm 10 Dale, and 12  
12 Dale is the last house.

13 MR. BROSEMAN: I would object.

14 MR. GORDON MACKLEM: I'm not surprised.

15 MR. McGRORY: So there is only one house  
16 between you and this parcel?

17 MR. GORDON MACKLEM: I'm sorry, sir?

18 MR. McGRORY: There is only one house  
19 between you and this parcel?

20 MR. GORDON MACKLEM: No, sir. There is  
21 two.

22 MR. McGRORY: Two. Can you see this  
23 parcel from your property?

24 MR. GORDON MACKLEM: I can see it. I can

1 smell it. I can hear it, yes, sir. I'm not trying to  
2 be smart.

3 MR. McGRORY: I am going to overrule the  
4 objection.

5 MR. GORDON MACKLEM: M-a-c-k-l-e-m. I'm  
6 a Junior.

7 MR. McGRORY: Anyone else? Okay. We  
8 have cleared that part of the hearing.

9 With that, Mr. Broseman, do you want to  
10 start?

11 MR. BROSEMAN: Sure. Good evening. For  
12 the record, my name is George Broseman. I'm  
13 representing Artisan Construction Group, LLC and Flat  
14 Road Development, LLC. The property that is the  
15 subject of this application is approximately 39 acres.  
16 It's located on the south side of Flat Road.

17 I have an exhibit package that I'll be  
18 handing up and within that package is a deed dated  
19 July 18, 2018. It's in the package at A-1. It shows  
20 that Flat Road Development, LLC is the -- now the  
21 record owner of the subject property, and Artisan  
22 Construction Group, LLC is a related entity to that  
23 entity.

24 And we're here this evening for

1 conditional use approval in accordance with Section  
2 200-26.F, and, as you know, that section provides for  
3 a 25 percent - it's termed a density bonus - for  
4 cluster developments within the R-1 Zoning District,  
5 and that is allowed when there is an identified  
6 historical resource that is essentially being  
7 preserved. On July 12th of 2018, conditional use  
8 application was filed seeking approval for this  
9 increase and it's related to a land development  
10 application that is also pending before the Township  
11 and that has undergone some reviews by the Township's  
12 consultants.

13 The plan that is subject to this  
14 application is a plan that has proposed 47 dwelling  
15 units and that plan is in our exhibit package at A-2,  
16 and it's a plan dated January 9th, 2018, and at that  
17 time it was last revised May 25th, 2018.

18 As I mentioned, the land development plan  
19 had been reviewed by Township consultants. In our  
20 exhibit package we have some of the review letters  
21 that we had received. We'll see those at A-3, A-4 and  
22 A-5.

23 And, as the Board may know, we appeared  
24 before the Township Historical Commission with this

1 application and it did receive a recommendation of  
2 approval subject to conditions, and we did appear  
3 before the Township Planning Commission, I believe it  
4 was last week, and they did not recommend approval.

5           There was an agreement executed with the  
6 Historical Commission that is in our exhibit package  
7 at A-6 and it underscores the steps that would be  
8 taken that were requested by the Historical Commission  
9 and also some heirs of people that are buried in the  
10 cemetery that is a historical resource on this  
11 property.

12           At that Planning Commission meeting there  
13 were some issues that were raised, more relating to  
14 the land development plan, but I believe it was the  
15 first time we had been alerted to them by Mr. McGrory,  
16 and they had to do with how the open space, the  
17 required open space was calculated, and whether the  
18 developable area on the tract had been properly  
19 calculated and there were a couple other comments. To  
20 make a long story short, having received those  
21 comments just recently, we do have a plan that will be  
22 -- that we do have in our exhibit package as A-7 that  
23 we did in response to those comments. We know that  
24 the Township Engineer has not had an opportunity to



1 review that yet. We have supplied it to the Township  
2 Engineer, but we will have testimony to indicate  
3 generally how we addressed the comments that we heard.

4           And you will see that the plan, the  
5 revised plan, is slightly reducing the density down to  
6 44 units instead of 47. That addressed one of the  
7 issues that had been raised about the way that you  
8 could round off the density modification that we  
9 requested. And we believe that plan addresses how to  
10 calculate the open space and how to calculate the  
11 developable area of the tract.

12           So rather than quibble with those  
13 reviews, and we believe we have positions under the  
14 ordinances that allowed the open space to be  
15 calculated the way we did, we thought it was most  
16 prudent to revise the plan to address the comments.  
17 So you'll see on that plan at A-7, and we have a  
18 colored copy of that up there on the easel that the  
19 witnesses will be referring to, we will walk you  
20 through that.

21           Before I call my first witness who will  
22 be John Benson, I wanted to make a few more remarks.  
23 Just to put this in context, I know there is a big  
24 crowd here. We understand that a lot of people aren't

1 happy with this. But we would ask the people and the  
2 Board to take into account that what we're really here  
3 for, this property is zoned Residential. It's zoned  
4 R-1 Residential. There is a residential development  
5 permitted on this property, whether we would seek this  
6 conditional use approval or not. In fact, the Board,  
7 it's my understanding some years ago, approved a  
8 residential development for this property that did not  
9 move forward, but it had been approved.

10                   And since the time of that approval, it's  
11 my understanding that the Township amended its  
12 ordinances and they allowed for clustering and that is  
13 what we were proceeding under now. And I submit to  
14 you that clustering is a recognized -- a very good  
15 land planning principle that the Township amended its  
16 ordinances with, and essentially what it does is that  
17 it basically requires a large amount of open space to  
18 be preserved, and it essentially means that there  
19 would be less impact to the site.

20                   So after that original plan was approved,  
21 the Township did adopt this clustering ordinance. It  
22 basically is meant to encourage people to preserve  
23 open space, and, quite frankly, although this plan  
24 does have some more units than the old plan, if you

1 look at this plan those units and the area of  
2 disturbance for those units is pulled further away  
3 from the residential homes of many of the people that  
4 are here and there is preserved open space, much more  
5 on this plan than would have been allowed had the  
6 Township not had the wisdom to put in the clustering  
7 Ordinance.

8           Even with the clustering ordinance the  
9 density that is allowed is essentially one unit to the  
10 developable acre. In my opinion that's not a high  
11 density. That's one unit to the acre. So even though  
12 we're clustering here, the Township isn't permitting a  
13 large density here.

14           And as part of the clustering Ordinance,  
15 they included provisions to incentivize preservation  
16 of historic resources. That's another very  
17 well-recognized, good land planning principle and the  
18 Township had the foresight to put that in. And  
19 essentially there is a historic resource. This whole  
20 property is listed as a historic resource, and Mr. Ott  
21 will be testifying, but there is a historic cemetery  
22 on this property. And I know at the Planning  
23 Commission some people took issue with whether that  
24 was, you know, had merit to be preserved. We think it

1 did, and the Historical Commission thinks it does.

2           So what the Ordinance recognizes is that  
3 to incentivize preserving historic resources there is  
4 a relatively small increase in density that's  
5 permitted in your Ordinance that is applicable to  
6 this; it's 25 percent. So we'll have testimony to  
7 show that we believe the yield on this property is 37  
8 units. We would be entitled to a 25 percent increase  
9 on that. The revised plan wouldn't be taking full  
10 advantage of that. We're essentially seeking seven  
11 additional units under this provision to preserve the  
12 historic resource. And we'll get into the testimony,  
13 but -- and we believe we meet all of the requirements.

14           The fifth requirement I know is probably  
15 the biggest issue, and it talks about basically  
16 without the bonus you're supposed to show it wouldn't  
17 be feasible to do this. And we have evidence on that,  
18 but I wanted to remind the Board, and I have seen this  
19 type of provision in many municipal ordinances, it  
20 doesn't call for a precise mathematical finding or  
21 ruling by the Board. I think the Board has within its  
22 discretion to make that type of ruling, and we -- but,  
23 nonetheless, we have specific financial data to  
24 provide in that regard.

1           So, you know, in a nutshell, we do know  
2 we have opposition, but we have a permitted use,  
3 residential development on this tract. We're using  
4 the cluster ordinance which allows for a great amount  
5 of open space. We're providing a larger buffer and a  
6 landscape buffer that wouldn't otherwise be required,  
7 and at the same time we're preserving a historic  
8 resource. And I have had cases involving cemeteries  
9 and they can be problematic, especially going forward,  
10 who is going to be responsible to maintain them.  
11 That's a problem in many municipalities. In this  
12 application there is going to be a homeowners  
13 association formed that is going to be in control of  
14 that and responsible to maintain that. So I think  
15 those are real benefits of this plan.

16           And, with that introduction, I would like  
17 to call my first witness.

18           MR. McGRORY: Proceed.

19           MR. JON BUZAN: Excuse me. May I ask a  
20 question?

21           MR. McGRORY: Not at this point, sir.

22           MR. JON BUZAN: If we had an attorney  
23 representing us would there be opportunity to object  
24 to what they just said and then --

1                   MR. McGRORY:   Anyone with or without an  
2 attorney has a right to make evidentiary objections if  
3 they are a party.   What he just did was argument.  
4 None of it's testimony.   None of it's being considered  
5 by the Board as evidence.   So there is nothing to  
6 object to.

7                   MR. JON BUZAN:   But there is a procedural  
8 question that I have.

9                   MR. McGRORY:   What's your question?

10                  MR. JON BUZAN:   Jon Buzan.   I just heard  
11 that they had changed the plan within the last six  
12 days.   We all came here prepared based on the plan  
13 that's been out there for a long time.   We have a  
14 conditional use application that we reviewed that not  
15 only does it say that Glasgow still owns the property,  
16 it talks about things that no longer exist from what I  
17 just heard.   It's not 47, it's 44 now.   So these are  
18 things that are material that, again, I'm just  
19 speculating, that it sounds a little unfair.

20                  I also would say we got a report, a  
21 historic report within a day, which will come up  
22 later.   If it's the wrong time, I apologize.

23                  MR. McGRORY:   No.   I appreciate your  
24 comments.   The historic report the Township got

1 yesterday. So they circulated it to whoever as fast  
2 as they can. The engineer's report came out this  
3 morning and I sent it over to Mr. Broseman and in  
4 response they changed their plan, but we didn't send  
5 that to them until this morning, so we didn't get  
6 their plan back until today because of it.

7           So we are not going to be concluding this  
8 hearing tonight. I don't think there is any way we're  
9 going to conclude it tonight because we only have an  
10 hour left. But I would suspect that everyone will  
11 have an opportunity to look at the plan, look at our  
12 engineer's comments, have our engineer look at the new  
13 plan, and some time at the next hearing be prepared to  
14 address those issues that may have come up from the  
15 changes.

16           Will you agree with that, Mr. Broseman?

17           MR. BROSEMAN: Yes, I agree with that,  
18 and I'm glad you pointed it out, we did receive the  
19 review letter just this morning, and, you know, we  
20 believe we have the right to respond to comments that  
21 we get and we appreciate you giving us that  
22 opportunity. And I'm guessing that people aren't  
23 going to object that we reduced it from 47 to 44  
24 units, but I guess that remains to be seen.





1 the parcel on the side of Flat Road?

2 MR. McGRORY: Yeah.

3 MR. BROSEMAN: Yes. I think that is a  
4 cleanup item that we're -- the property -- we will  
5 amend that to include the property that is in the deed  
6 which is all of the property I am going -- on our side  
7 of Flat Road, south side. So I do make that  
8 amendment.

9 MR. McGRORY: Okay. And I'd recommend we  
10 grant that amendment. So you will have an  
11 opportunity.

12 MR. JON BUZAN: So they'll be allowed to  
13 change the application and all those aspects and we'll  
14 review it?

15 MR. McGRORY: Well, they're changing the  
16 application in response to concerns the Township  
17 brought up. I don't want to stop them from changing  
18 their application because it's in response to things  
19 that we wanted to see different.

20 MR. JON BUZAN: That's fine. So, again,  
21 they change -- I got it. I got it.

22 Just a general procedural question: They  
23 have the right to object to anyone that comes up here  
24 or says something. Do we have at any point the right

1 to object without us all shouting objection?

2 MR. McGRORY: Well, I'd prefer you not  
3 all shout objection. As a party litigant you have the  
4 right to object but it has to be founded on  
5 evidentiary standards, and for a conditional use  
6 formal rules of evidence don't apply, but objections  
7 based on relevance are the most common one I see, or  
8 even hearsay, things of that nature, you have to base  
9 it on rules of evidence.

10 MR. JON BUZAN: Can I assume or not  
11 assume that anyone up on the Board or yourself would,  
12 if you knew something was inappropriately said at the  
13 time, can we assume you would object or make mention  
14 of it?

15 MR. McGRORY: We are not allowed to  
16 object. We sit as a judge. So we can't object. We  
17 just hear the case.

18 MR. JON BUZAN: Okay.

19 MR. McGRORY: So you have citizens over  
20 here with their interests they're protecting. You  
21 have a landowner over here with their interests that  
22 they're protecting, they'll both state their cases and  
23 then this Board rules.

24 MR. ORLOW: Correct me if I'm wrong, but

1 I think the question might be more specific as to the  
2 timing of their objection, if there is an objection.

3 MR. JON BUZAN: Procedure and timing.

4 MR. ORLOW: Right.

5 MR. McGRORY: Anyone who is a party can  
6 object, state the reason for the objection, this Board  
7 will rule on it.

8 MR. JON BUZAN: At any point in time?

9 MR. McGRORY: When you hear it. When you  
10 hear it.

11 MR. JON BUZAN: From the audience we can  
12 yell objection?

13 MR. McGRORY: You're a party. Pretend  
14 you're sitting up here at the table and you're an  
15 attorney.

16 MR. JON BUZAN: Fine. That's all I need  
17 to know. Thank you.

18 MR. McGRORY: Go ahead.

19 Mr. Benson is your first witness?

20 MR. BROSEMAN: Was he sworn in? I can't  
21 remember.

22 JOHN W. BENSON, III,

23 having been first duly sworn according to law, was  
24 examined and testified as follows:

1 MR. McGRORY: State and spell your name.

2 THE WITNESS: John W. Benson, III.

3 MR. McGRORY: And your address?

4 THE WITNESS: John W. Benson, III, 206  
5 Old Lancaster Avenue, Devon, Pennsylvania, 19333.

6 BY MR. BROSEMAN:

7 Q. John, can you describe your professional and  
8 educational background?

9 A. I have 25 years in the building business. We  
10 have completed over 30 communities in about 15  
11 different municipalities in both Chester, Delaware  
12 County, Montgomery County. We've either developed or  
13 built over a thousand homes over that time period. I  
14 have a Bachelor's Degree in business management and  
15 economics.

16 MR. McGRORY: Zach, is there another  
17 microphone we can give them?

18 MR. BROSEMAN: Can we just use this?

19 MR. McGRORY: Yeah. Until someone comes  
20 up you can use it.

21 THE WITNESS: Is that better?

22 MR. BROSEMAN: I would like to offer  
23 Mr. Benson as an expert in real estate development.

24 MR. McGRORY: What's your offer of proof?

1                   MR. BROSEMAN: He's going to be speaking  
2 to some of the conditional use standards when we get  
3 to it. Some of the reasons why he's done the plan  
4 this way and his opinions about the conditional use  
5 standards as his experience as a real estate  
6 developer.

7                   MR. McGRORY: I don't know what  
8 conditional use standards you're referencing that  
9 require an expert real estate developer.

10                  MR. BROSEMAN: He's going to be talking  
11 about the - to the extent they're relevant - the  
12 general conditional use standards, impacts and things  
13 like that, and he is also going to talk, along with  
14 others, on that condition number five regarding the  
15 feasibility of the development and the improvements  
16 that he's making with regard to the historic resource.  
17 So I feel that he is qualified as the developer to be  
18 able to give you his opinion on that.

19                  MR. McGRORY: We would accept his opinion  
20 but not necessarily as an expert opinion. He  
21 certainly could be a fact witness. He owns the  
22 property he's proposing to develop.

23                  MR. BROSEMAN: Okay. Could I approach  
24 and hand out some exhibit packages?

1 MR. McGRORY: Yes.

2 BY MR. BROSEMAN:

3 Q. John, in the exhibit package that I handed up  
4 at A-1, is this a copy of the deed for Flat Road  
5 Development, LLC?

6 A. Yes, it is.

7 Q. And are you a principal of that entity?

8 A. Yes, I am. I'm also the managing member.

9 Q. And how long has Flat Road Development owned  
10 the subject property?

11 A. Since July.

12 Q. 2018?

13 A. Yes.

14 Q. And what's your relationship with Artisan  
15 Construction Group, LLC?

16 A. Artisan is a related company. It's a general  
17 contracting company that works along with the  
18 different entities that own different properties I'm  
19 in control of.

20 Q. And are you familiar with the subject  
21 property and the general area?

22 A. Yes, I am.

23 Q. And how long have you been involved with this  
24 particular property?

1           A.     I've been involved with the property for over  
2 12 years.

3           Q.     And can you describe for the Board your  
4 history with this property and the process of design  
5 and development leading up to today's hearing?

6           A.     Yes.  I started out working on the property  
7 in 2005 with myself and Sal Paone.  We were going to  
8 be partners in the project and we worked between 2005  
9 and about 2007 with the Township and the Township  
10 staff Township consultants, neighbors, different  
11 committees, outside agencies to talk through the land  
12 development procedures that were going to be required.  
13 In that two-year period we pretty much vetted a lot of  
14 the objections that we're currently hearing tonight  
15 regarding how many lots, sinkholes, traffic, quarry  
16 operations, infiltration, traffic, schools and we  
17 thought that most of those issues were vetted in that  
18 time period.  At the end of 2007 the Township did  
19 grant primary/final land development approval for 23  
20 acre plus lots on the road system that's basically  
21 shown on our exhibits today.

22          Q.     And, John, am I correct that in March of this  
23 year you filed an application for land development  
24 approval seeking approval of a cluster development

1 with 47 units?

2 A. Yes. That's true.

3 Q. And in the exhibit package, the original plan  
4 you filed, is that here in exhibit A-2?

5 A. Yes, it is.

6 Q. That's a lengthy plan set?

7 A. Yes, it is.

8 Q. And has that application undergone some  
9 review by the Township consultants?

10 A. Yes, by numerous of their -- Township  
11 Engineer, Township landscaping and Township traffic  
12 and Township Sewer Authorities.

13 Q. Now, we didn't have the letter that we  
14 received this morning, but -- about the conditional  
15 use application, but at A-3 and A-5 are these the  
16 copies of the letters you had received thus far?

17 A. Yes, it is.

18 Q. And have you met with the Township Historic  
19 Commission about this project?

20 A. Yes, we have, numerous times. Both on this  
21 application as well as during the approvals in 2005,  
22 '6 and '7.

23 Q. And was the cemetery an important resource?

24 A. Yes. It always was. It was the main reason



1 for the meetings that we would have about the impact  
2 that development and/or traffic would have on the  
3 historic resource.

4 Q. Were there others involved in the meetings  
5 including I guess it would be some of the heirs of  
6 those who are buried in the cemetery?

7 A. Yes. The Historical Commission at the recent  
8 meetings in 2018 invited a couple descendants of the  
9 Zooks who came and gave some testimony about who is in  
10 the cemetery and a couple things that they would like  
11 to have enhancements made to the cemetery.

12 Q. And did all of that culminate in what we're  
13 calling an agreement that is at exhibit A-6?

14 A. Yes, it does.

15 Q. And this lists out various things that you  
16 would be agreeable to?

17 A. Yes, it does.

18 Q. And that was signed by yourself and  
19 Mr. Caban?

20 A. Yes.

21 Q. Now, you heard me -- or I should ask, did you  
22 hear my opening remarks?

23 A. Yes, I did.

24 Q. And you heard me describe the comments we had

1 recently received from the Township, is that correct?

2 A. That's correct.

3 Q. And you heard me indicate that there was a  
4 revised plan, one sheet at exhibit A-7, that -- was  
5 that plan submitted in response to the recent comments  
6 we had received?

7 A. Yes, it was.

8 Q. And you heard me ask to amend the application  
9 which amendment was granted to essentially proceed in  
10 this proceeding with this version of the plan --

11 A. That's correct.

12 Q. -- is that correct?

13 And can you briefly describe this new  
14 plan or this revised plan and what has changed from  
15 the 47-unit plan that had originally accompanied the  
16 application?

17 A. Yes. From the comments that we received from  
18 the Township staff and from a couple of meetings there  
19 was some discrepancy on, number one, a rounding error  
20 that we made by mistake rounding up to a 47 number  
21 instead of rounding down to a 46 unit count. So we  
22 had to adjust the plan to modify that first condition  
23 that was brought up at last week's meeting.

24 The second condition that was brought to

1 us was that the Township Engineer did not believe that  
2 the stormwater management facility/wet pond that we  
3 had designed should be included in the open space.  
4 During our discussions since we did the plans in early  
5 March we were always designing to do the stormwater  
6 management as a wet pond at the discretion of DEP, as  
7 well as all the approvals that we did three years --  
8 or in 2007. But instead of going around and around on  
9 the acreage for that, we had additional open space, we  
10 thought it was easier to process and easier site plan  
11 to describe to the Board by deducting that two acres  
12 of stormwater management pond that's shown in blue on  
13 the site plan listed above as well as your exhibit,  
14 and not fight that argument today.

15 MR. BROSEMAN: That's all I have for  
16 Mr. Benson at this time.

17 MR. McGRORY: Any parties have questions  
18 for this witness? Identify yourself, please.

19 MR. BOB LARSON: Yeah. I'm Bob Larson.  
20 So this was all approved back in 2007. Mr. Benson  
21 went through a couple of objections that they had  
22 looked at, impact on traffic, impact on schools, the  
23 presence of the sinkholes, et cetera, et cetera. That  
24 was 11 years ago.

1 MR. BROSEMAN: Objection. Is there a  
2 question?

3 MR. BOB LARSON: Yes.

4 MR. McGRORY: Please get to the question.

5 MR. BOB LARSON: Is there -- have all  
6 those factors been reevaluated considering that the  
7 Township has grown significantly, the area of  
8 development has changed significantly, have those  
9 factors been looked at anew for this new conditional  
10 application?

11 MR. JOHN BENSON: Yes. We considered the  
12 new application, basically just using what I discussed  
13 as history on the property, that we just didn't start  
14 this process over the last couple of months. Usually  
15 the conditional use process is the beginning of the  
16 process and it's the first time that boards usually  
17 get to talk about a property. I was giving the  
18 background that we have 12 years with this Board, as  
19 well as all the documents. But regarding your  
20 specific question, yes, we updated both the traffic  
21 impact study was recently done in, I believe in the  
22 spring of 2018 with brand new traffic counts that were  
23 submitted to the Township traffic engineer for his  
24 review and comment. We also engaged Earth Engineering

1 who are geologists or structural engineers and to  
2 please come out and do a new geotechnical report for  
3 the project. That was also in the spring of 2018. We  
4 also engaged a seismographic company to come out and  
5 retest for the vibrations for the shocks coming off  
6 the quarry that we did 12 years ago to see if it  
7 changed any from now, and we submitted those reports  
8 to the Township as well.

9           We were also required to - since 2007 we  
10 did receive an NPDES permit for this project, but  
11 NPDES permits are only good for five years, so the  
12 NPDES permit expired and new regulations have come in  
13 effect in that time period. So we were obligated to  
14 restart that whole process over again which was  
15 started in March of 2018 and we're in probably 50  
16 percent through that process with the Department of  
17 Environmental Protection.

18           So I think that we've tried to address as  
19 many of the consultants' issues. We had a new  
20 engineer come in and redraw the brand new -- the plans  
21 as shown and we've tried to reach out to as many of  
22 the neighbors as we did back in 2005, '6 and '7 to try  
23 and get a consensus on the landscaping that we  
24 promised to do before to see if that was still needed

1 or warranted with our new open space plan.

2 So we tried to address the comments to  
3 meet the current application.

4 MR. BOB LARSON: Thank you. That's fair.  
5 I have a question more for the Board.

6 MR. McGRORY: Yeah, the Board is not  
7 subject to questioning.

8 MR. BOB LARSON: I'm trying to keep from  
9 asking stupid things, I guess is what I'm saying.

10 MR. McGRORY: Well, then what?

11 MR. BOB LARSON: So we had this approval  
12 back in 2007. They were -- they were -- or my  
13 understanding they weren't the property owners at that  
14 point in time. It was this company that was  
15 developing, but they didn't actually procure the  
16 property until July of this year, is that correct? So  
17 are we saying that that original 23-unit approval is  
18 in force for this project and all we're arguing about  
19 now is how many additional units are involved or --  
20 and, again, my understanding is that the cluster  
21 ordinance was not passed specifically to do with this  
22 particular project, but they're fairly I think  
23 utilizing something that's just been written into law.  
24 So I'm just trying to figure out, you know, what are

1 we arguing about here?

2 MR. McGRORY: There is an original plan  
3 that was approved for 20 some units.

4 MR. JOHN BENSON: 23.

5 MR. McGRORY: 23 units. That can be  
6 built. They're electing not to go with that plan.  
7 The Township had changed their Ordinance, had nothing  
8 to do with this development, but they changed their  
9 Ordinance to promote open space and so forth, all the  
10 reasons why you pass a cluster ordinance. Their  
11 amending the cluster ordinance gives them a certain  
12 number of houses by right.

13 MR. BOB LARSON: Right.

14 MR. McGRORY: This conditional use is  
15 about the extra seven that they are proposing, and  
16 they are saying that we want seven more houses because  
17 we're preserving a historic feature, and our Ordinance  
18 permits up to 25 percent increase in density if you're  
19 preserving an historic feature. So the only thing  
20 we're here on tonight is those seven houses.

21 MR. BOB LARSON: Got it. So, and I don't  
22 know whether this bears on it or not, but at the  
23 Planning Commission I thought I heard - I might be  
24 wrong - but I thought I heard that the cluster

1 ordinance is in the midst of being either rewritten or  
2 withdrawn, is that true or not?

3 MR. McGRORY: We're in the process of  
4 repealing the 25 percent density bonus and we're in  
5 the process of re-looking -- looking at replacing that  
6 with something more directly related to what's  
7 actually occurring at the historic resource. I don't  
8 know what that will end up being, but the Historical  
9 Commission and the Planning Commission are going to  
10 get together --

11 MR. BOB LARSON: So if they do a cluster  
12 ordinance it may not be this one?

13 MR. McGRORY: No. They're not doing  
14 anything with the cluster, it's only the historic  
15 preservation, and trying to make the density bonus  
16 related to what's actually occurring with the historic  
17 feature. The way it's written right now you can have  
18 a 300-acre parcel and have a tremendous amount of  
19 density, the historic preservation of the one thing  
20 that is significant but not that significant and they  
21 get 25 percent bonus on 300 acres, that didn't make  
22 any sense. So we repealed that and are rewriting it  
23 in such a way that the bonus gets related to what  
24 you're doing.



1 MR. BOB LARSON: Right. So there is not  
2 a circumstance where this will affect this in any way?

3 MR. McGRORY: No. This is under all the  
4 old laws. It's not --if we change Ordinance now, it  
5 doesn't apply to them.

6 MR. JON BUZAN: Jon Buzan. Mr. Benson,  
7 you just said a bunch of things and I wrote notes, so  
8 I am going to try to piece together some questions  
9 that I didn't understand. You mentioned Artisan being  
10 some part of your company. You didn't mention your  
11 ownership. I assume you have an ownership of Artisan?

12 MR. JOHN BENSON: I'm a 100 percent  
13 owner.

14 MR. JON BUZAN: 100 percent. Okay. What  
15 is their role in this project and what will be their  
16 role?

17 MR. JOHN BENSON: Their role is acting as  
18 a developer, and they're also general contractor. So  
19 they hire employees to help with the entitlement  
20 process in the Township.

21 MR. JON BUZAN: Is it your plan now that  
22 they will continue to be the general contractor and  
23 the developer?

24 MR. JOHN BENSON: They're the applicant

1 and party to this hearing right now.

2 MR. JON BUZAN: Is that an answer?

3 MR. McGRORY: He just answered.

4 MR. JON BUZAN: Can I ask for a yes or  
5 no?

6 MR. McGRORY: Yes.

7 MR. BROSEMAN: I am going to object to  
8 that question. I don't know what relevance it has to  
9 the conditional use that we've requested.

10 MR. McGRORY: I am going to sustain the  
11 objection.

12 MR. JON BUZAN: I would just like to know  
13 who I'm talking to in terms of who is going to be  
14 executing this development, for the purpose of  
15 figuring out whether these ten homes are going to be  
16 under conditional use. Can I ask him questions that  
17 are pertinent to costs because is he Artisan and is he  
18 the builder and will he be?

19 MR. McGRORY: Well, he's the applicant  
20 and part of his burden is to show those costs. Do you  
21 plan on doing that with another witness or should we  
22 ask this witness?

23 MR. BROSEMAN: We were going to do it  
24 later in the case through another witness and I'm

1 planning on having Mr. Benson come back to summarize  
2 some of the other things.

3 MR. McGRORY: Recalled for that item?

4 MR. BROSEMAN: Yes.

5 MR. McGRORY: Okay. So there will be a  
6 time in the process where you can ask all those  
7 questions.

8 MR. JON BUZAN: Can I ask questions about  
9 what has been presented on I think it's on the  
10 application about costs?

11 MR. McGRORY: Well, they're going to have  
12 a witness to address that, and after that's in  
13 testimony, you'll have a chance to cross-examine that,  
14 and also introduce any evidence you want later on in  
15 the hearing.

16 MR. JON BUZAN: I was just looking to get  
17 him on the record as confirming, because, again, 47  
18 units changed to 44, I'm wondering if the numbers or  
19 the profit that he gets from the extra houses is  
20 different. That's why I'm trying to confirm that he's  
21 the guy. There is a report that talks about costs.  
22 One of my questions would be have you done a pro forma  
23 or are you relying on the engineer's report that  
24 estimated costs?

1 MR. McGRORY: You can answer that.

2 MR. JOHN BENSON: I'm not sure which  
3 engineer's costs he's referring to.

4 MR. JON BUZAN: In the historic report.

5 MR. JOHN BENSON: We plan on putting on  
6 testimony throughout this conditional use spelling out  
7 the different components of our costs. We have  
8 specific witnesses that have expertise that will  
9 testify to that. I will testify at the end of the  
10 witnesses to summarize the costs that have been  
11 represented to the Township. The costs that are shown  
12 in the historic report are -- had to be included  
13 because they're required by code to be part of the  
14 report. But they're not generated by the historic,  
15 the person who writes the historic impacts, they don't  
16 have the expertise on construction. We have the  
17 people that have the expertise on that cost and we  
18 will call them as witnesses.

19 MR. McGRORY: So you'll have an  
20 opportunity.

21 MR. JON BUZAN: Okay. All right. You  
22 mentioned the Zooks; can you tell me who they are?

23 MR. JOHN BENSON: We were introduced to  
24 the Zooks by the Planning Commission -- or, excuse me,

1 by the Historical Commission. We were told that they  
2 were the closest descendants of the people that are  
3 interred at the property. The Historic Board brought  
4 them to us. They thought they'd have the best  
5 knowledge. They go to the cemetery the most and they  
6 wanted to get their feedback on the gates, placement  
7 of signs, how the underlighting would work, how we  
8 would want to do the parking lot. So they relied on  
9 them for some expertise besides the Board's expertise,  
10 and we listened to them and worked all together to  
11 come up with a list of conditions.

12 MR. JON BUZAN: I apologize. Who are?

13 MR. McGRORY: There is going to be a  
14 historic report that Ray Ott is going to testify about  
15 that I'm sure will get into great depth who is the  
16 owner and the significance of the cemetery.

17 MR. JON BUZAN: How much did you pay for  
18 this property, this Flat Road Development?

19 MR. JOHN BENSON: As one of the exhibits  
20 that George Broseman has handed to the Board we have  
21 documented the value of the property by the deed that  
22 was July of 2018 for \$3,450,000 for the 37 developable  
23 acres and that's an exhibit that's public record now.

24 MR. JON BUZAN: Can I ask how much you

1 spent to date?

2 MR. BROSEMAN: I would object.

3 MR. JON BUZAN: What I'm trying to do is  
4 calculate the burden on him for not having these extra  
5 houses for the historic preservation.

6 MR. McGRORY: When we get into the cost  
7 analysis then we can get into that line of  
8 questioning.

9 MR. JON BUZAN: Fair enough. Can we  
10 reexamine with Mr. Benson or that will be with the  
11 consultant?

12 MR. McGRORY: Depends on what testimony  
13 they present. But they're going to be showing the  
14 financial impact through this whole case. At that  
15 point all the financial questions you have are  
16 probably more appropriate at that time.

17 MR. JON BUZAN: Okay. Did your  
18 organization send letters out as per the conditional  
19 use requirements notifying them of this hearing?

20 MR. McGRORY: Yes. And I made that one  
21 of the exhibits in my exhibits.

22 MR. JON BUZAN: When did they send it  
23 out?

24 MR. McGRORY: When did you send it?

1                   MR. JON BUZAN: And to whom did they send  
2 it to?

3                   MR. JOHN BENSON: We followed the Code as  
4 required and we hand-delivered them to all adjacent  
5 property owners and any property owners across the  
6 street. We documented it by both photographing and  
7 then notarizing the delivery of those notices in the  
8 mailboxes that we delivered to the Township.

9                   MR. JON BUZAN: When?

10                  MR. JOHN BENSON: That was completed on  
11 Monday.

12                  MR. JON BUZAN: Monday was the?

13                  MR. JOHN BENSON: August 27th.

14                  MR. JON BUZAN: 27th. Okay. And does  
15 that meet the requirement that you're aware of?

16                  MR. McGRORY: Zach, we don't have any  
17 timing requirement for that, do we?

18                  MR. BARNER: I believe we do, actually.  
19 Let me -- I have the Code here in front of me. I  
20 apologize for the delay.

21                  MR. BROSEMAN: We didn't see a timing  
22 requirement in 116.B.

23                  MR. BARNER: It appears that the timing  
24 requirement is solely for the posting of the property.

1 I can confirm that. I apologize.

2 MR. JON BUZAN: If it helps you, I'm  
3 reading the conditional use application and it  
4 mentions ten days prior.

5 MR. McGRORY: That's what I'm reading as  
6 well.

7 MR. ORLOW: Ten days, yeah.

8 MR. BARNER: I'm looking on E Code, it  
9 doesn't appear to.

10 MR. JON BUZAN: Refer to Section  
11 200-116.B of the Township Zoning Ordinance.

12 MR. BARNER: Yeah. My understanding was  
13 that the property posting was one week. The neighbor  
14 notification was ten days, but what I'm -- what I'm  
15 reading directly from E Code here doesn't appear to  
16 have a date in there. So I'm not sure what the source  
17 of the discrepancy is.

18 MR. JON BUZAN: I'm reading the  
19 application itself.

20 MR. McGRORY: May I see what you're  
21 reading?

22 MR. BARNER: Yeah. I believe that's the  
23 signed portion, the actual on the back, the portion  
24 where --



1 MR. JON BUZAN: Yeah.

2 MR. BROSEMAN: I'm reading from the Code.  
3 I assume it's current. We printed it off of E Code  
4 and the one week is for the posting. It doesn't say  
5 -- in addition notices by regular first class mail or  
6 hand delivery shall be sent by the application to the  
7 address of record to all owners of properties  
8 contiguous to and directly across the street. It  
9 doesn't have a time limit. And that is not a -- as  
10 you know, required by the M.P.C., and not that it  
11 would matter, but obviously people have known about  
12 this hearing. The Township did a very good job of  
13 publicizing it.

14 MR. McGRORY: I think word got out pretty  
15 well.

16 MR. BARNER: The only thing I would add  
17 to --

18 MR. JON BUZAN: I know some of my  
19 neighbors are not here.

20 MR. McGRORY: We'll have to resolve this  
21 discrepancy. I think what we can do is go forward,  
22 there is very little left of this hearing tonight,  
23 it's 25 of 9, and I think we can just ask questions of  
24 this witness, conclude the hearing at that point, and

1 then I'll ask the applicant to serve the adjacent  
2 property owners and the property across the street  
3 more than ten days before the next hearing. I don't  
4 want to have to go all through the entries of  
5 appearances again. I'll reopen it at the next  
6 hearing, so if someone wasn't notified they have an  
7 opportunity to join in at that point.

8 MR. BARNER: If I can clarify just one  
9 thing quickly? The application says in keeping with  
10 Section 200-116.B and it seems to paraphrase the  
11 requirements, and requests -- essentially says at  
12 least ten days prior to a hearing the applicant is  
13 responsible for providing notice by first class mail  
14 or hand delivery. So it sort of paraphrases that  
15 requirement and it doesn't appear to spell out a  
16 specific time period in the Code, but we can confirm  
17 that.

18 MR. McGRORY: Well, it's not a fatal  
19 defect under the M.P.C., but I would prefer that we  
20 try to follow what's in our conditional use  
21 application. So I would ask the applicant to notify  
22 those people within more than ten days from our next  
23 hearing. Are you in agreement with that?

24 MR. BROSEMAN: We'll send another notice

1 before the next hearing.

2 MR. McGRORY: And then when we open that  
3 hearing I can open the floor for anyone wanting to  
4 enter their appearance and if someone by chance wasn't  
5 aware of this hearing. All right? I think that's a  
6 fair way to approach it.

7 MR. JON BUZAN: This might be for later,  
8 but you're aware of sinkholes, you just mentioned it.  
9 And I saw an estimate for a sinkhole in the estimates  
10 for the cost of moving -- of preserving the historic  
11 landmark. Do you know where that sinkhole is that  
12 your reference is?

13 MR. JOHN BENSON: As I stated earlier, we  
14 will provide witnesses that will testify to each line  
15 item that we have. There are certain witnesses that  
16 have expertise in the different categories that are  
17 listed in our cost breakdown.

18 MR. JON BUZAN: I'm just responding to  
19 the fact that you mentioned all the reports that are  
20 done and this volume might not be privy to that. I  
21 thought you were pretty well aware.

22 MR. BROSEMAN: We will have the geologist  
23 who prepared the report will be testifying. He can  
24 answer that question.

1 MR. JON BUZAN: Fair enough.

2 MR. McGRORY: Mr. Benson just mentioned  
3 that these reports were done. He didn't talk about  
4 the content of the reports. When we get to the  
5 geologist then all those questions of sinkholes would  
6 be most appropriately directed to him.

7 MR. JON BUZAN: Okay. That's all I have.

8 MR. McGRORY: Anyone else have any  
9 questions for this witness? I have a couple  
10 questions.

11 BY MR. McGRORY:

12 Q. In the approval for the 23 lots that you  
13 worked on previously, were there any conditions in  
14 that approval that required the preservation of the  
15 cemetery?

16 A. Yes, there was.

17 Q. And where are they found?

18 A. Excuse me?

19 Q. Where are they in the approval?

20 A. As far as?

21 Q. Are they on a plan? Are they in a  
22 resolution? Are they part of the conditional use?

23 A. I don't have the -- we don't have records  
24 back from 2007. So and the plans that we do have from

1 that don't list the conditions of it because it wasn't  
2 a conditional use and there was no clustering, so this  
3 whole process didn't happen. It was a by-right plan  
4 at the time we went through it. So it never got the  
5 conditions of approval. They asked us would we do  
6 things and we voluntarily said yes. It never got to  
7 this type of formal give and take.

8 Q. Did they pass a resolution to approve the  
9 plan?

10 A. I don't know if the Township at the time, the  
11 Historic Board, had that type of official capacity.  
12 They would be better ones to know from the Township  
13 record if an official document was -- I can't remember  
14 if an official one was or if it was back and forth  
15 between us and the Historic Board on conditions on  
16 what we would agree to do and we would agree to it. I  
17 remember it being more back and forth as verbally, but  
18 there might have been a piece of paper back there.

19 Q. So you're not aware of anything in writing  
20 that's part of the approval requiring you to preserve  
21 the cemetery?

22 A. Not as I sit here. My memory more was  
23 starting over in 2018 and going to the Historic Board  
24 starting in January and February and March and

1 starting the process over to redo everybody's memory,  
2 to see if everybody was on the same page about  
3 conditions that we talked about, and that's what the  
4 process really was at that time, and we basically came  
5 up with the list, the list, you know, basically my  
6 recollection was very similar to what was agreed to  
7 back in 2007 with a couple changes to it that the  
8 Zooks brought up at these meetings. They weren't  
9 party to the meetings back in 2005, '6 and '7.

10 Q. So you're not aware of anything written as  
11 part of that approval process that required the  
12 preservation of the cemetery in 2007 for the 23-unit  
13 lot?

14 A. Not as I sit here now. There might be a  
15 piece of paper to do it. My memory was we weren't  
16 using as part of this record, so I didn't familiarize  
17 myself with going back and seeing if it was. I knew  
18 there was a 2018 piece of paper that we did, we all  
19 signed it and did it. Like I said, it probably does  
20 contain, if there was one, most of the conditions,  
21 because we never thought about doing any of the  
22 conditions. We thought they all sounded like  
23 reasonable conditions to be done then and they sound  
24 like reasonable conditions to be done now, as well as

1 other things that we agreed to do on the plot.

2 Q. And as far as the 23-unit plan in 2007, did  
3 it require the realignment of Flat Road?

4 A. Yes, it did.

5 MR. TIM CABAN: May I just make a  
6 comment?

7 MR. McGRORY: Not at this point. It's  
8 not time for your testimony.

9 Does the Board have any questions for  
10 this witness?

11 MR. ORLOW: Not at this time.

12 MS. DRUMMOND: No.

13 MR. LAMBERT: No.

14 MR. McGRORY: You'll have an opportunity  
15 to testify. Right now we're just asking questions of  
16 this witness. It's quarter of 9. We're ending in 15  
17 minutes; do you want a break now or do you want 15  
18 minutes of testimony from your next witness?

19 MR. BROSEMAN: Can I have a moment?

20 (Discussion off the record.)

21 MR. BROSEMAN: If it's okay with the  
22 Board I think we'll break now.

23 MR. McGRORY: The next hearing will be  
24 scheduled for - when is our next meeting in September?

1 MS. DRUMMOND: The 12th.

2 MR. McGRORY: We're probably going to do  
3 a special meeting on this. Any set days in September?

4 MR. NAGEL: No.

5 MS. DRUMMOND: You need a Wednesday,  
6 right?

7 MR. McGRORY: On the fourth week I have a  
8 Wednesday.

9 MS. DRUMMOND: 26th.

10 MR. BARNER: Joe, the 26th is the normal  
11 regular meeting of the Planning Commission. Can you  
12 do one before that?

13 MR. McGRORY: 24th, the fourth Monday I'm  
14 normally pretty good.

15 MR. ORLOW: Yeah, I'm good.

16 MR. McGRORY: Monday, the 24th? Are you  
17 and your witnesses available for Monday, the 24th of  
18 September?

19 MR. BARNER: Joe, I believe that's the  
20 night of the Zoning Hearing Board meeting which we may  
21 be able to do before, I suppose, before that meeting  
22 or I'm not sure if there is anything.

23 MR. McGRORY: Is that the Zoning Hearing  
24 Board I'm going to?



1 MR. BARNER: Not that I'm aware of.

2 MR. McGRORY: Can they meet in the  
3 kitchen? Is there anything going to draw a crowd?

4 MR. BARNER: I'm not sure if there is  
5 anything on the agenda. The applications would be due  
6 the last day of this month. So there are days --

7 MR. McGRORY: If you want to put them in  
8 the kitchen.

9 MR. BARNER: I'm sure they'll love that.

10 MR. McGRORY: Monday, the 24th, are you  
11 and your witnesses available?

12 MR. BROSEMAN: We have one witness that  
13 is on vacation then but we think we can do a  
14 work-around. We'll get someone else or have to do  
15 something.

16 What time would that meeting be, 7 p.m.?

17 MR. McGRORY: 7. I'm not sure how long  
18 it will go. It won't go beyond 10.

19 MS. DRUMMOND: He'll be totally cured by  
20 then.

21 MR. BROSEMAN: He'll be totally rehabbed  
22 by then.

23 MR. BARNER: Just a question: Would it  
24 be easier to have the hearing earlier if we'll be

1 putting a specific time limit on it?

2 MR. BROSEMAN: I have a conflict earlier.

3 MR. BARNER: How much earlier?

4 MR. BROSEMAN: I have something at 4:00.  
5 I can be here by 7 I think, but...

6 MR. ORLOW: We'll keep it at 7.

7 MR. McGRORY: So the next hearing will be  
8 September 4th -- 24th at 7:00 in this room. There  
9 will be no other advertising. There will be no other  
10 notices other than what the developer is sending out  
11 and so this is your notice for the time and place of  
12 the next hearing.

13 UNIDENTIFIED SPEAKER: Say that again.

14 MR. McGRORY: This is your notice of the  
15 time and place of the next hearing. It's Monday,  
16 September 24th at 7:00.

17 MR. BROSEMAN: P.M.

18 MR. McGRORY: Yeah. There is no 7:00  
19 a.m. on my calendar. Okay.

20 MR. JON BUZAN: Excuse me. Will we be  
21 getting any copies of the new plan? Will it be  
22 posted? Will there be an amended conditional use  
23 application?

24 MR. McGRORY: The conditional use was

1 just amended verbally and granted. That plan is  
2 public record now. So if you want to put it on the  
3 website, I don't have any issue with that.

4 MR. BARNER: I can post it tomorrow. Is  
5 it the exhibit packet or just the plan?

6 MR. McGRORY: His whole packet. You can  
7 if you want but...

8 MR. BROSEMAN: We haven't gotten to many  
9 of the exhibits yet.

10 MR. BARNER: Yeah, I can post the plan  
11 tomorrow.

12 MR. McGRORY: You can put the exhibit  
13 packet up there if you want so people know what we  
14 have in front of us.

15 MR. BARNER: George and John, can you  
16 send me the exhibit packet so I can post that?

17 MR. BROSEMAN: Yeah, I can send that. I  
18 think I have it electronically. If I don't I can get  
19 it scanned in. It may take me more than tomorrow to  
20 get it scanned in.

21 MR. JON BUZAN: Can it please be done  
22 well before one week before the next hearing? Can we  
23 get a promise it will be done in the next week or two  
24 so we don't have to read things the day before?

1 MR. McGRORY: A promise what is done?

2 MR. JON BUZAN: He just said it's going  
3 to take some time, so I'm hoping we'll have it days  
4 before the next meeting.

5 MR. BROSEMAN: I'll have it -- it's not  
6 going to take a long time but I just didn't want to  
7 promise it for tomorrow, and Zach will have it in a  
8 few days electronically.

9 MR. McGRORY: It's public record, too.

10 MR. JON BUZAN: Thank you. Thanks for  
11 your patience.

12 MR. McGRORY: Thanks everyone for coming  
13 out. I have to apologize for doing things in a  
14 certain way because we're legally required to have a  
15 formal hearing. So if I shut someone down who isn't a  
16 party, I'm just trying to follow the standards of the  
17 law. It's no reflection on how this Board feels about  
18 how anyone who wants to participate in this hearing.

19 UNIDENTIFIED SPEAKER: You're cool,  
20 brother. Thank you.

21 MS. DRUMMOND: All right. Meeting  
22 adjourned.

23 (Whereupon the hearing concluded at  
24 approximately 8:40 p.m.)



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