

BEFORE THE RADNOR TOWNSHIP
BOARD OF COMMISSIONERS
DELAWARE COUNTY, PENNSYLVANIA

- - -

IN RE: Conditional Use Hearing of the Trustees
of Dorrance Hamilton 3/15/1996 Revocable
Agreement of Trust to Develop Properties at 208
and 228 Strafford Avenue and 18 Forrest Lane

- - -

Public hearing in the above matter
held pursuant to notice on Monday, August 12,
2024, at the Radnor Township Municipal Building,
301 Iven Avenue, Wayne, Pennsylvania, commencing
at 6:48 p.m., before Norma Gerrity, Professional
Court Reporter.

- - -

BEFORE: MAGGY MYERS, President
CATHERINE AGNEW, Member
JACK LARKIN, Member
MOIRA MULRONEY, Member

JOHN RICE, ESQUIRE, Solicitor

APPEARANCES: GEORGE W. BROSEMAN, ESQUIRE,
for the Applicant

NOAH MARLIER, ESQUIRE,
Special Counsel for Radnor Township

- - -

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1 THE PRESIDENT: Okay. Welcome
2 everyone. We're going to get underway with
3 the Board of Commissioners conditional use
4 hearing for August 12th, 2024.

5 Would you join me for the Pledge of
6 Allegiance.

7 - - -

8 (Pledge of Allegiance)

9 - - -

10 THE PRESIDENT: Thank you.

11 Mr. Rice will get us started.

12 MR. RICE: Thank you. Just a couple
13 preliminary comments.

14 We were last at a hearing on
15 April 30th, I believe, and Mr. Hetzel was
16 on the witness stand, and I think Mr.
17 Broseman, you'll have some redirect, and
18 then we'll see where we go after that.

19 Just to get on the record, since it's
20 been two months plus since we've had a
21 hearing, I just want to make sure that all
22 of the parties, attorneys involved, that
23 we're waiving all of the time periods under
24 the MPC.

1 There are certain state law
2 requirements when you have conditional use
3 hearings. You've got to complete it within
4 a certain period of time.

5 The principal case has to be put on
6 within a certain period of time. The
7 township has to guarantee a certain number
8 of hours, et cetera.

9 The attorneys sitting up front
10 understand what I'm talking about, but it's
11 a state law requirement. I try to bring it
12 up before every hearing.

13 So is there an agreement on the record
14 with all of the parties that all of the
15 time periods under the MPC are waived at
16 this point?

17 Mr. Broseman?

18 MR. BROSEMAN: Good evening. I'm
19 George Broseman, for the applicant.

20 Yes, we had, as you recall, scheduling
21 conflicts, and then I had a surgery in
22 July. I'm still wearing my sling.

23 So I agree that we're okay on the time
24 period for conducting the hearing, and I

1 waive the requirement for the timing with
2 regard to that and confirm that.

3 MR. RICE: Thank you.

4 Mr. Marlier?

5 MR. MARLIER: Yes. No objection to
6 waiving any time periods under the MPC.

7 MR. RICE: Any objection from any of
8 the resident parties to that broad waiver?

9 - - -

10 (No response.)

11 - - -

12 MR. RICE: Okay. So with that, Mr.
13 Hetzel, you are still under oath, and Mr.
14 Broseman, he's your witness on redirect.

15 MR. BROSEMAN: Thank you.

16 - - -

17 ERIK W. HETZEL,
18 having been previously duly sworn, was examined
19 and testified further as follows:

20 - - -

21 REDIRECT EXAMINATION

22 - - -

23 BY MR. BROSEMAN:

24 Q. Erik, at the last hearing, there was

1 some discussion about the mix of bedroom units
2 for the proposed townhomes and the number of
3 bedrooms that you had used in the fiscal impact
4 study you submitted and whether that was three
5 bedrooms or four bedrooms a unit.

6 You testified regarding the impact if
7 it was assumed that all were four-bedroom units.
8 Do you recall that?

9 A. I do, yes.

10 Q. And although you verbally testified
11 regarding that topic, have you now prepared a
12 chart that summarizes that analysis?

13 A. I did.

14 Q. And can you bring up Exhibit A-28?

15 - - -

16 (Applicant's Exhibit A-28 was marked
17 for identification.)

18 - - -

19 THE WITNESS: On the screen is Exhibit
20 A-28. That shows a fiscal summary using
21 all the same background assumptions that my
22 original analysis used except that we
23 assumed four-bedroom units instead of
24 three-bedroom units, and all that really

1 impacted was the population projection
2 because the population multipliers relate
3 to four-bedroom townhouse units in this
4 study.

5 BY MR. BROSEMAN:

6 Q. And can you explain the two columns
7 that you have there on the right?

8 A. Yes. The column on the left describes
9 the development, the number of units, the market
10 value per unit, the total market value, total
11 assessed value, and then the residential
12 population projection and the school-aged
13 children population, and then it shows the net
14 township fiscal impact and the net school
15 district fiscal impact under that new population
16 projection.

17 How it relates to the earlier analysis
18 is because there are more people as a result of
19 the four-bedroom multipliers I used.

20 It diminished the net positive fiscal
21 impact to both the township and the school
22 district on the basis of that cost adjustment.

23 Q. And then why did you do the right
24 column, and can you explain that?

1 A. The right column, I used the same
2 Rutgers multipliers for the total persons per
3 unit, but for the school-aged children population
4 projection, I used a multiplier that I derived
5 after speaking with the Radnor Township School
6 District Transportation Department about their
7 census of students that live in a sample of
8 similar townhouse communities in the township,
9 where it was discovered that out of 39 townhouse
10 units in Radnor Township that's based on a list
11 of similar properties, there are three
12 school-aged children that are accounted for by
13 the school district.

14 So that relates to a population
15 multiplier of .0769 school-aged children per
16 unit. So just for information sake, I presented
17 that modeled analysis.

18 In the right-hand column using, out of
19 the 38 units that are proposed, using that
20 multiplier, it projects there will be three
21 school-aged children, which then there's
22 obviously a much lower number than the Rutgers
23 multipliers projects, hence the school district
24 fiscal impact is much higher because the costs

1 are much lower.

2 Q. And you testified last time how you
3 got that number from the school district and what
4 projects you looked at; correct?

5 A. I did. And I'd just like to correct
6 on this exhibit, this number down at the, on note
7 number two should read 0.0769, just to correct
8 it.

9 Q. Thank you. You received some
10 questions last time regarding the methodology
11 that you used to prepare the fiscal impact study.

12 You had testified that you prepared
13 that in accordance with generally-accepted
14 practices for fiscal impact analysis for proposed
15 land development projects.

16 Do you recall that?

17 A. Yes.

18 Q. And have you utilized the same
19 methodology that you utilized here for any other
20 land development projects that you worked on in
21 Radnor Township?

22 A. I have.

23 Q. And what project was that?

24 A. More recently, the 60 West Concordia

1 development. That's a mixed-use project located
2 on West Avenue at the corner of Lancaster Avenue
3 and Bellevue Avenue.

4 And it's a multifamily condominium
5 type of development with a small amount of retail
6 on the first floor.

7 Q. And you didn't testify at that
8 hearing; correct?

9 A. I did not testify. I provided my
10 analysis, and the applicant submitted that as an
11 exhibit.

12 Q. And at Exhibit A-30 -- and for the
13 record, we're skipping over A-29 for now. We're
14 going to come back to that.

15 - - -

16 (Applicant's Exhibit A-30 was marked
17 for identification.)

18 - - -

19 BY MR. BROSEMAN:

20 Q. Is this an exhibit list that was found
21 on the Radnor Township website for the exhibits
22 that were used in that hearing?

23 A. It is.

24 Q. And is your fiscal impact study listed

1 there?

2 A. It is. It's listed as Exhibit A-8.

3 Q. And did you use the same methodology
4 that you used for the current fiscal impact study
5 for this application in that application?

6 A. I did. I used the same methodology
7 and the same source of demographic multipliers,
8 but because the unit types were multifamily as
9 opposed to single family attached, the
10 multipliers were certainly different, but
11 methodology and the source of the multipliers was
12 identical.

13 Q. Is that Rutgers information that you
14 used? Is that the source?

15 A. Correct.

16 Q. And did you receive any comments that
17 the fiscal impact study or the methodology or
18 data was found to be unsuitable with regard to
19 that conditional use application?

20 A. I received no comments.

21 Q. Is it your understanding that the
22 township granted conditional use approval for
23 that project?

24 A. That's my understanding, yes.

1 Q. At the last hearing, you received
2 questions, some questions concerning the dates of
3 some of the source information, I guess, for the
4 multipliers that you used in this study.

5 Can you explain why you believe, in
6 your professional opinion, the use of the
7 methodology and data that you used was valid for
8 this study?

9 A. Well, first it's a fairly
10 commonly-used data source for population when you
11 don't have available to you various type of local
12 multipliers that are derived for the specific
13 community that you're in.

14 It is specific to the Commonwealth of
15 Pennsylvania, and it's one of the only sources
16 out there -- I'm speaking to the Rutgers
17 multipliers now -- is one of the only sources out
18 there that characterizes the per-unit population
19 on the basis of unit type, whether single family
20 detached, single family attached, multifamily,
21 owned or rented, and by the number of bedrooms
22 one, two, three, four, or five bedrooms,
23 depending on the type of development.

24 So being that we're trying to show

1 order of magnitude estimates of fiscal impacts,
2 and the population is the driving factor for the
3 cost portion of the analysis, we find that the
4 Rutgers multipliers are suitable and in some
5 cases tend to overestimate, depending on the land
6 use type.

7 Q. Overestimate what?

8 A. Overestimate population.

9 Q. And --

10 A. So we feel it's often a conservative
11 estimate, conservatively high.

12 Q. And was that borne out by the
13 information you received from the Radnor School
14 District regarding other similar townhome
15 projects in the township?

16 A. It was. I consider these multipliers,
17 that multiplier that I used that was based on
18 that very local and very current data to be as
19 reliable as anything.

20 Q. And that showed a much -- basically
21 showed that your analysis was very conservative.

22 Is that fair to say?

23 A. That's fair to say, yes.

24 Q. Notwithstanding your professional

1 opinion that you've given about the methodology
2 being used as appropriate, I recall last time
3 that someone brought up the DVRPC, which stands
4 for the Delaware Valley Regional Planning
5 Commission, and whether they had multipliers and
6 things like that.

7 Do you recall that?

8 A. I do.

9 Q. And did you take a look at the DVRPC
10 multipliers?

11 A. I did. And those multipliers were
12 developed for the DVRPC by Econsult Solutions,
13 which is an economic modeling company, and they
14 were created to assist with the development of a
15 report that analyzes the land use and
16 socioeconomic impacts of multifamily housing
17 specifically, but they did include some analysis
18 of other housing types in addition to multifamily
19 housing numbers.

20 So I was able to use some of those
21 numbers to do sort of a comparative analysis of
22 those somewhat more current and more local to
23 southeastern Pennsylvania numbers.

24 Q. And drawing your attention to Exhibit

1 A-29, is that a copy of that summary?

2 A. That is.

3 - - -

4 (Applicant's Exhibit A-29 was marked
5 for identification.)

6 - - -

7 THE WITNESS: It looks similar to
8 Exhibit A-28.

9 It's a similar summary comparison
10 where I used again all of the same
11 background assumptions as I did in my
12 original analysis, except for the
13 population multipliers, I used the DVRPC
14 Econsult 2018 multipliers.

15 And you'll note that it's for
16 townhomes of all bedroom configurations,
17 because that source did not break out
18 multipliers by the number of bedrooms.

19 It just had single family attached,
20 such as townhomes, across all bedroom
21 configurations.

22 So it's not specific to four bedroom
23 or three bedroom. It's just all of the
24 bedroom types.

1 BY MR. BROSEMAN:

2 Q. And can you explain the two columns,
3 as you did with A-28?

4 A. Yes. Again, on the left column, it
5 characterizes the development by showing the 38
6 residential units, the same value per unit, the
7 assessed value based on the common level ratio,
8 and then it projects the new residential
9 population using those DVRPC multipliers.

10 It projects that there would be 103
11 total persons living in the development. That's
12 based on the DVRPC multiplier of 2.72 total
13 persons per unit.

14 And the school-aged children is
15 projected to be 23 school-aged children based on
16 a multiplier of 0.6.

17 And that's total school-aged children.
18 That doesn't account for students that attend
19 nonpublic schools.

20 Q. And the right column, could you go
21 over that?

22 A. The right column, again I used total
23 persons number from the DVRPC Econsult Source,
24 but again, I used the multiplier I derived from

1 the local Radnor Township School District
2 analysis I mentioned earlier that projected three
3 school-aged children to be living here, which is
4 a lower number than the 23 that was projected by
5 the Econsult numbers.

6 Q. And you mentioned now, it made me
7 think, and you said this last time.

8 In all of your analysis for the
9 anticipated or projected school-aged children, is
10 it correct that you assumed that all would attend
11 the Radnor public schools?

12 A. That is correct. I took no deduction
13 for students that may be attending nonpublic
14 schools.

15 Q. And so that was done to be extra
16 conservative?

17 A. It was.

18 Q. In your experience, is it borne out
19 that way? Do a hundred percent of the
20 school-aged students tend to go to Radnor public
21 schools?

22 A. No. I actually looked at a source
23 from the U.S. Census, the American Community
24 Survey five-year data set from 2022 that

1 estimates that roughly 79 percent of all
2 school-aged children living in Radnor Township
3 who are enrolled in school attend public schools
4 and 21 percent attend nonpublic schools.

5 So the impact that would have on the
6 projection in the left-hand column is to reduce
7 that by about four or five school-aged children,
8 which in turn would reduce the cost to the school
9 district and result in a higher net fiscal impact
10 to the school district, a higher positive net
11 fiscal impact.

12 Q. Thank you.

13 MR. BROSEMAN: That's all I have for
14 Erik.

15 MR. RICE: Mr. Marlier?

16 MR. MARLIER: Yes.

17 MR. RICE: And, Mr. Broseman, do we
18 have paper copies of these exhibits?

19 MR. BROSEMAN: Yes, I do.

20 MR. RICE: Okay. Could we pass them
21 out to the board and any residents that
22 want them?

23 MR. BROSEMAN: My colleague will do
24 that, if that's okay. We've been also

1 e-mailing those to Peggy in past hearings,
2 so we could do that as well tomorrow.

3 - - -

4 RE CROSS EXAMINATION

5 - - -

6 BY MR. MARLIER:

7 Q. Mr. Hetzel, looking at A-28 you just
8 testified from, the factor you're using as a
9 multiplier is the number of bedrooms; correct?

10 A. Correct.

11 Q. And are there any other factors one
12 could use -- you chose to use bedrooms, I
13 understand that, but are there any other factors
14 one can use in making this calculation?

15 A. Well, there's unit type, and this is
16 specific to townhomes as opposed to single family
17 detached. There are some attributes that relate
18 to value of the home as well.

19 Q. What kind of attributes?

20 A. Just the value, that's about it, the
21 sale price. It hasn't been adjusted for
22 inflation or anything, so I tend to use either
23 the number for all values or, in a case like
24 this, where I feel this is going to be a higher

1 value sale price, I'll use the highest category
2 of value in those multipliers.

3 Q. Are there any other factors? Can you
4 use the size of bedrooms?

5 A. I haven't seen studies that use that
6 in the derivation of multipliers, no.

7 Q. And at the last hearing back in April,
8 you testified, and you did testify at Hamilton-1,
9 the conditional use application that was brought
10 a few years ago; correct?

11 A. Correct.

12 Q. Now, at that time, the size of the
13 homes was substantially similar; correct?

14 A. I don't recall the size of the homes
15 in that. I wasn't involved in that aspect. I
16 think there was -- I can't recall the home size
17 or the bedroom mix I used in that one.

18 Q. Can you recall that there was three
19 to four bedrooms proposed in those units as well?

20 A. I don't recall, but it's possible that
21 I used that number.

22 Q. And if those units were substantially
23 similar in size, three to four bedrooms, a
24 similar number of bedrooms, the number should be

1 similar to what you're stating that they would be
2 now; correct?

3 A. If they're the same unit type. As I
4 recall, it was single family detached units as
5 opposed to townhouse units.

6 Q. I wasn't here, you were. But reading
7 over the transcript, it's a very similar
8 proposal, townhomes, just 41, not 38.

9 A. Okay. I just don't recall.

10 Q. Does that refresh your recollection?

11 A. It's been a couple of years, and I've
12 done dozens of these studies since then, so.

13 Q. But if they were substantially
14 similar, the number should be similar; correct?

15 You didn't take -- the bedrooms being
16 the major factor that you're using, the number of
17 bedrooms?

18 A. Correct.

19 Q. And the fact that they're townhomes?

20 A. If that is, in fact, the case, then
21 that's true.

22 Q. And your testimony tonight, these new
23 calculations, you're still not taking into
24 account the size of the bedrooms; correct?

1 A. Correct.

2 Q. You're not taking into account still
3 the potential for five bedrooms; correct?

4 A. Correct. I used four bedrooms,
5 because that's what was asked at the last
6 hearing.

7 Q. Understood. I also asked about five
8 bedrooms.

9 A. And, incidentally, I don't believe
10 that Rutgers has a five-bedroom category for
11 single family attached homes.

12 Q. You were consistent in that testimony.
13 That's what you said last time as well.

14 And all of the testimony this evening
15 for A-28 and A-29, those two calculations, the
16 exhibits that show calculations, that's all --
17 the square footage remains the same with the
18 homes. Nothing has changed in that regard;
19 correct?

20 A. Square footage doesn't factor into
21 this analysis.

22 Q. Does the DVRPC study that you used in
23 Exhibit A-29, that was one of the commissioners
24 questions at the last hearing, did it break down

1 the multiplier in any other way and any other
2 factors besides the ones you're using?

3 A. It just broke it down by all bedroom
4 types and by single family attached homes.

5 It also had a geographic component,
6 whereas it characterizes communities or the
7 geographic units that they used to derive the
8 multipliers as different levels of development,
9 and it considered Radnor Township to be a, quote,
10 "developed community."

11 So there are slight nuances between
12 things like a growing suburb, a developed
13 community, the entire DVRPC study area.

14 So there's slightly different
15 geographic nuances based on those geographic
16 characteristics.

17 Q. And were all of those factors, are
18 they all reflected in your calculations on A-29,
19 Exhibit A-29?

20 A. They are, to the extent that those are
21 the attributes that went into the derivation of
22 those multipliers that were used.

23 Q. Please remind me when you spoke to
24 Radnor, you testified at the last hearing that

1 you spoke to someone at the Radnor School
2 District.

3 When was that roughly?

4 A. It was this past spring. I think it
5 might have been in March or April. I can't
6 remember the date. I can provide that, but it
7 was as recent as this past spring.

8 Q. Understood. And to your knowledge,
9 regarding the conditional use hearing for 60 West
10 GP, West Avenue that was held on December 5th,
11 2023, did anyone bring up the DVRPC study?

12 A. I wasn't asked to testify, so I wasn't
13 at the hearing, so I don't know if there was any
14 discussion at all about the fiscal analysis.

15 All I know is I wasn't asked to
16 provide any clarifications by my client, and I
17 tried to watch some of the hearings online, and I
18 did not hear any significant real discussion of
19 the fiscal analysis.

20 MR. MARLIER: I have no further
21 questions.

22 MR. RICE: Okay. Resident parties.
23 I'm going to go through the list. There
24 seems to be a few people missing from

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April.

Amber Levy?

- - -

(No response.)

- - -

MR. RICE: Mr. Chawla?

- - -

(No response.)

- - -

MR. RICE: Mr. Clemente?

MR. CLEMENTE: No questions.

MR. RICE: Mr. Curley?

MR. CURLEY: No questions.

MR. RICE: Mr. Gaeto?

- - -

(No response.)

- - -

MR. RICE: Cindy Hansen?

MS. HANSEN: No questions.

MR. RICE: Cas Holloway?

MR. HOLLOWAY: No questions.

MR. RICE: Mr. Hymel?

- - -

(No response.)

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MR. RICE: Ms. Lafarge?

- - -

(No response.)

- - -

MR. RICE: Mary Ann Mahoney?

- - -

(No response.)

- - -

MR. RICE: Margaret Ruschmann?

- - -

(No response.)

- - -

MR. RICE: Mr. Sareen?

- - -

(No response.)

- - -

MR. RICE: Mr. Satterfield? Any questions?

MR. SZARY: Yes, I do.

MR. RICE: Just make sure you speak into the microphone.

- - -

EXAMINATION

1 - - -

2 MR. SZARY: Gregory Szary, 6 Forrest
3 Lane. In your testimony, you mentioned
4 several times and were very clear that you
5 were talking about single family attached
6 or townhouse units, as if there is a
7 difference between that and -- a difference
8 in the multipliers between that and, say,
9 single family detached homes.

10 Is there, in fact, a difference?

11 THE WITNESS: I believe there is.

12 MR. SZARY: Okay. Do you know why
13 there would be a difference?

14 THE WITNESS: It's borne out by the
15 data. I think it could have something to
16 do with where people are in their lives
17 when they purchase an attached product
18 versus a detached product.

19 They tend to have larger families if
20 they're living in a detached product, and
21 that's borne out by the data. Anecdotally,
22 I can say my observations concur with that.

23 MR. SZARY: All right. Thank you.
24 That's all I needed to find out. Thank

1 you.

2 MR. RICE: Steve Scheri?

3 MR. SCHERI: No questions.

4 MR. RICE: Megan Scheri?

5 MS. SCHERI: No questions.

6 MR. RICE: Mr. Schuda is not here.

7 Kaitlin Silver?

8 - - -

9 (No response.)

10 - - -

11 MR. RICE: Greg Szary?

12 - - -

13 (No response.)

14 - - -

15 MR. RICE: Sharon Willis?

16 MS. WILLIS: No questions.

17 MR. RICE: David Willis?

18 MR. WILLIS: No questions.

19 MR. RICE: Cheryl Lutz?

20 - - -

21 (No response.)

22 - - -

23 MR. RICE: Okay. Any board questions?

24 Commissioner Larkin?

1 - - -

2 EXAMINATION

3 - - -

4 MR. LARKIN: I think it probably goes
5 without saying, but we're making a record,
6 so I do want to, number one, say it, and
7 number two, if I'm wrong, I want to correct
8 my misapprehension.

9 The numbers you're providing us with
10 are statistical averages; is that correct?

11 THE WITNESS: Correct.

12 MR. LARKIN: So in any given year, it
13 would be sheer coincidence if you hit the
14 numbers on the head.

15 We're looking for numbers that cluster
16 a little bit above, a little bit below; is
17 that correct?

18 THE WITNESS: Correct. It's meant to
19 provide an order of magnitude estimate to
20 demonstrate whether or not a development
21 comes close to paying for itself or has
22 disproportionate impacts compared to what
23 one might expect from a similar
24 development.

1 MR. LARKIN: Got it. I want to focus
2 specifically on the school-aged children
3 issue.

4 There is nothing that would require
5 there to be three new school-aged children
6 at this development. It could be zero;
7 right?

8 THE WITNESS: Correct.

9 MR. LARKIN: And it could be half a
10 dozen or more in each home; correct?

11 THE WITNESS: Half a dozen school-aged
12 children?

13 MR. LARKIN: Correct.

14 THE WITNESS: I suppose it's possible,
15 yes.

16 MR. LARKIN: And it's statistically
17 unlikely, but you're telling us it's not
18 impossible?

19 THE WITNESS: Correct.

20 MR. LARKIN: And you might see a
21 number that, although you're probably not
22 going to get that number of children every
23 single year, you might see one year in
24 which you get a lot of families move in

1 that have children, and then that falls off
2 over time; correct?

3 So you could have one large year, and
4 then it's followed by a number of smaller
5 years; right?

6 THE WITNESS: That's correct.

7 MR. LARKIN: Thank you.

8 MR. RICE: More commissioner
9 questions?

10 THE PRESIDENT: I have one. I'm just
11 a little bit confused.

12 When we look at this table or the
13 other one, the net school district fiscal
14 impact, why is it lower if there are more
15 children?

16 Like with 24, it's only \$13,000, but
17 with three, it's \$578,000.

18 THE WITNESS: Because that's a net
19 annual fiscal impact, which is revenues
20 over costs, and the more children there
21 are, the more costs there are, which
22 reduces the value of the revenues that are
23 collected from things like taxes and other
24 sources.

1 So it costs roughly 28,000 to 30,000
2 per student in the school district to
3 educate them, so with every child that's
4 there, it adds that amount of cost.

5 THE PRESIDENT: Thanks. That's very
6 helpful.

7 MS. AGNEW: Same thing. So the
8 Rutgers 2006, does that number take into
9 account the cost of special ed?

10 THE WITNESS: It's all of the
11 expenditures in the school district, so
12 yes, everything that's budgeted is
13 accounted for.

14 It's basically taking the total
15 expenditures, divided by the number of
16 students in the school district, to arrive,
17 and that includes special ed, special
18 programs, student activities, things like
19 that.

20 MS. AGNEW: Children who are educated
21 outside the school district with
22 extraordinary needs as well?

23 THE WITNESS: If it's in the budget,
24 it's accounted for. If it's in the school

1 district budget, it is accounted for in
2 that cost-per-student number.

3 MS. AGNEW: Thank you.

4 MR. RICE: Any other commissioner
5 questions?

6 MS. MULRONEY: Yes. I just want to
7 clarify something. I think I may have
8 misheard, but that's why I'm asking.

9 You had mentioned comparables, and
10 that's when you brought up 60 West, when we
11 were looking at these charts, about the
12 fiscal impact.

13 Did I hear that that was one of your
14 comps?

15 THE WITNESS: That was not a
16 comparable. It's a different type of
17 development.

18 MS. MULRONEY: That's why I was
19 questioning that.

20 THE WITNESS: That would be a
21 multifamily. My recollection, I'm not sure
22 if it still is this, but when we modeled
23 it, it was a multifamily, five-plus units
24 in a building, owned units as opposed to

1 rental units.

2 MS. MULRONEY: So other than running
3 the data, which I agree, 2006 seems a
4 little bit old for a model. I don't know
5 how often these get updated.

6 But other than running it through the
7 model, did you do any comps for existing
8 townhome communities here in Radnor?

9 Have you looked at what an existing
10 townhome community in Radnor produces as
11 far as fiscal impact, the number of kids,
12 that sort of thing?

13 THE WITNESS: Well, the number of
14 kids, we looked, as I mentioned, we looked
15 at 39 units -- I don't have the list in
16 front of me -- and asked the school
17 district, because they need to know how
18 many students live there, because they need
19 to bus them. That's school-aged, period,
20 not just kids that attended Radnor schools.

21 And their estimate was there's a total
22 of three school-aged kids living in those
23 39 similar townhouse units.

24 MS. MULRONEY: So you gave the school

1 district which units you were comparing,
2 and they gave you the data?

3 THE WITNESS: I did, and they
4 concurred that -- they represented what
5 they felt would be a comparable type of
6 community.

7 MS. MULRONEY: Sorry. I don't mean to
8 be -- I'm just trying to get my head around
9 it.

10 So it was a complex of 39 units, or a
11 grouping, not a unit over there in a
12 townhome and another townhome on the other
13 side of town. It was a neighborhood?

14 THE WITNESS: It was several
15 neighborhoods. I didn't pick out any
16 individual.

17 I just said, of all these homes that
18 exist on these streets, how many students
19 are generated by those townhomes.

20 They were all townhomes, not single
21 family detached or apartment units. They
22 were townhome communities.

23 MS. MULRONEY: And they were all
24 townhomes that would be close in value to

1 this neighborhood?

2 THE WITNESS: In my estimation,
3 according to the Delaware County property
4 records, they all came in with assessed
5 values very similar to what these values
6 were modeled at.

7 MS. MULRONEY: Okay. Thank you.

8 MS. AGNEW: What department -- who at
9 the school district did you speak with?

10 THE WITNESS: The transportation
11 department. It's the department that is in
12 charge of busing.

13 They need to plan bus routes, how many
14 students need to be picked up from each --
15 on each street and each bus stop. So they
16 break it down, I believe, by street.

17 MS. AGNEW: Why did you go there
18 instead of like a superintendent?

19 THE WITNESS: I started with the
20 superintendent, and they direct you, they
21 typically direct you to the transportation
22 department, because that's the department
23 that maintains that level of expertise.
24 Each year it's updated.

1 MS. AGNEW: How many other homes,
2 townhomes, are valued comparable to this
3 that you said from the transportation
4 department.

5 THE WITNESS: Are valued as
6 comparable?

7 MS. AGNEW: Well, you said you went to
8 townhomes that were, I believe that's what
9 you said you did, you went to, you asked
10 about townhomes, of the transportation
11 department, you asked about townhomes of a
12 similar value to get the numbers of school
13 children.

14 THE WITNESS: So George just provided
15 me with my previous testimony. So we
16 looked at all relatively newer
17 developments.

18 Specifically, I looked at 11 units at
19 Villa Strafford; eight units at Wayne Walk;
20 six units at Jardin; eight units at Wicklow
21 Court; and six units at Bloomingdale
22 Avenue, all relatively newer townhome
23 communities that have very similar
24 characteristics to what's being proposed.

1 MS. AGNEW: And they have very
2 little -- very few children, not little
3 children, but few children living in these
4 townhomes?

5 THE WITNESS: Yes. A total of three
6 have been, that are school-aged kids that
7 the transportation department has a record
8 of.

9 THE PRESIDENT: Just a quick
10 clarification.

11 You were talking, I think it was when
12 you were talking about 60 West, but you
13 mentioned there were differences in rental
14 properties versus properties that are
15 owned.

16 Did you mean that there are
17 differences in the number of children?

18 THE WITNESS: The multipliers get down
19 to that level of detail. They make
20 distinctions between owner-occupied versus
21 renter-occupied units.

22 THE PRESIDENT: And what did you use?

23 THE WITNESS: I used owner occupied,
24 correct, yes.

1 THE PRESIDENT: Thank you.

2 MR. MARLIER: Mr. Rice, I just have a
3 quick follow up.

4 MR. RICE: Well, hold on. I get to go
5 before you.

6 - - -

7 EXAMINATION

8 - - -

9 MR. RICE: And again, just following
10 up on what Ms. Mulroney started with, I had
11 the same questions.

12 Both of these 29 and 28 talk about
13 comparable townhouse properties in Radnor
14 Township.

15 So is that the list that George just
16 gave you? They're the comparable townhouse
17 properties in Radnor Township?

18 THE WITNESS: Yes.

19 MR. RICE: No other properties other
20 than those?

21 THE WITNESS: That's correct.

22 MR. RICE: Okay. So who developed
23 that list?

24 THE WITNESS: We -- I developed it on

1 the basis of looking to find newer
2 townhouse communities as opposed to older
3 townhouse communities or older, other types
4 of housing.

5 MR. RICE: You took that, that was
6 your list. You took it to the school
7 district?

8 THE WITNESS: Correct.

9 MR. RICE: And what information did
10 they give you once you took it to the
11 school district?

12 THE WITNESS: I asked them, there are
13 these 39 units in these, on these streets,
14 and they came back, they didn't break it
15 out by on this street, there's this number
16 of kids, on that street, there's that
17 number of kids.

18 They came back and said, out of all of
19 those 39 units, we have three students.

20 MR. RICE: Coming from there?

21 THE WITNESS: Correct.

22 MR. RICE: And that was the
23 transportation director?

24 THE WITNESS: That's correct.

1 MR. RICE: Do we have that list of
2 properties in the record other than in the
3 testimony? Is there a separate exhibit?

4 MR. BROSEMAN: I don't believe there
5 was a separate exhibit, but it was in the
6 testimony at pages, at April 30th, starting
7 at page 68 and 69.

8 MR. RICE: All right. I think Mr.
9 Hetzel repeated it tonight. Okay. That's
10 all I had.

11 MS. MULRONEY: I know I feel like
12 we're sort of really drilling down on this
13 one, but I just heard you say you looked at
14 these townhomes, and there was six on this
15 block and three on that one.

16 Was that the entire neighborhood, was
17 six townhomes on that one block, or are you
18 parceling out pieces of the neighborhood to
19 get a sufficient amount of numbers?

20 THE WITNESS: That's the entire
21 neighborhood.

22 MS. MULRONEY: The entire
23 neighborhood. So you pulled together
24 several neighborhoods, because they're not

1 as big as this one, so you had to go to a
2 multiple to get to the similar amount of
3 units?

4 THE WITNESS: Yes. And just, I think,
5 a bigger sample size is going to be better.

6 I mean, some of those may have none,
7 and I don't think that would be an accurate
8 representation either. A bigger sample
9 size, I think, is --

10 MS. MULRONEY: But you didn't go
11 bigger than how big this neighborhood would
12 be?

13 THE WITNESS: I didn't really identify
14 any other units in the township that I
15 felt were similar.

16 MS. MULRONEY: Can you say them again?
17 I know you read them out.

18 THE WITNESS: Yes. Eleven units at
19 Villa Strafford; eight units at Wayne Walk;
20 six units at Jardin; eight units at Wicklow
21 Court; and six units at Bloomingdale
22 Avenue.

23 MS. MULRONEY: Thank you.

24 MR. BROSEMAN: I would note also that

1 when Mr. Lambert testified, we looked at
2 those units for other characteristics,
3 primarily the internal driveways.

4 MS. AGNEW: Are you saying there's
5 only eight units at Wicklow Court?

6 THE WITNESS: That's what I had in my
7 list, yes.

8 MR. RICE: Mr. Marlier?

9 MR. MARLIER: I just have a couple
10 questions.

11 - - -

12 RECROSS EXAMINATION

13 - - -

14 BY MR. MARLIER:

15 Q. Do you remember who you spoke with at
16 the transportation department?

17 A. Whoever the director of transportation
18 is. The name escapes me.

19 Q. And did you get anything in writing,
20 or was this in a conversation?

21 A. I believe it was in e-mail. I could
22 be wrong. It might have just been a
23 conversation.

24 I e-mailed the list to them. I can't

1 remember if they replied with an e-mail or if it
2 was verbal.

3 MR. MARLIER: Okay.

4 MR. RICE: Is that it, Mr. Broseman?

5 MR. BROSEMAN: Could I have a follow
6 up?

7 - - -

8 REDIRECT EXAMINATION

9 - - -

10 BY MR. BROSEMAN:

11 Q. You were asked by Mr. Marlier about,
12 he's calling it Hamilton-1.

13 I just wanted to clarify, we already
14 have in the record A-3, which was the prior
15 adjudication.

16 That application was submitted in
17 September of 2020; is that correct?

18 A. That's what the adjudication says,
19 yes.

20 Q. So is it fair to assume you would have
21 done your fiscal analysis for that sometime
22 earlier that year in 2020?

23 A. Or I think I started in 2019,
24 actually.

1 Q. Right. And since then, there's been a
2 significant increase in the market value of units
3 like this?

4 A. That's been my observation.

5 Q. Thank you.

6 MR. BROSEMAN: That's all I have.

7 MR. RICE: All right. Mr. Broseman,
8 any more witnesses?

9 MR. BROSEMAN: Not for my case in
10 chief.

11 - - -

12 (Witness excused.)

13 - - -

14 MR. BROSEMAN: I had one exhibit I
15 would like to introduce.

16 MR. RICE: Okay.

17 MR. BROSEMAN: I had mentioned --
18 should I do that now or after?

19 MR. RICE: Sure.

20 MR. BROSEMAN: I had mentioned to Mr.
21 Marlier in going over my notes, I had put
22 into the record Exhibit A-3, which was the
23 adjudication from 2020 on what Mr. Marlier
24 calls Hamilton-1.

1 I wanted to submit into the record the
2 plan that was submitted for that.

3 There's been a lot of questions about
4 what the differences are between that plan
5 and this plan, and Mr. Marlier has even
6 raised the issue of res judicata, and I
7 wanted to have this in the record so that
8 would be in there.

9 So we've marked as Exhibit A-27 the
10 plans from that application for the 41
11 townhomes, and I would just like to make
12 that part of the record here to go along
13 with Exhibit A-3, the adjudication.

14 MR. RICE: Okay. Let me just ask you
15 about A-27. There's no date on it, at
16 least on the front page.

17 MR. BROSEMAN: I could help you, Mr.
18 Rice. A couple things.

19 We've noted that the first page is
20 former Exhibit A-7 from the conditional,
21 the prior conditional use adjudication.
22 That was an updated sheet at that time.

23 It is dated in the bottom right-hand
24 corner August 21, 2020, and it had a

1 revision date number one of December 8,
2 2020, revised layout.

3 MR. RICE: Okay. So you're offering
4 this, Mr. Broseman, just to address the res
5 judicata argument that this was the plan
6 that was considered part of the application
7 in, I'll call, it Hamilton-1.

8 MR. BROSEMAN: Yes. And just also,
9 there's a second page that then has 15
10 sheets.

11 That was the original full set, and
12 it's noted there that that was Exhibit A-4
13 from that, so just to be complete, we've
14 submitted both.

15 What happened was A-7 was an update of
16 A-4 based on some review comments that had
17 been received.

18 So this is essentially the plans that
19 related to that adjudication that was at
20 Exhibit A-3.

21 MR. RICE: Okay.

22 MR. MARLIER: Mr. Rice, we could, I'd
23 like to incorporate by reference the
24 exhibits and the transcripts from

1 Hamilton-1 into this record.

2 MR. RICE: Well, let's not -- I've got
3 to handle all of the exhibits, and
4 depending on who's unhappy, they've got to
5 be put together and sent to court at the
6 end of the day.

7 So I don't see any issue with this.
8 It's a public record. Mr. Marlier, any
9 questions about this in particular?

10 MR. MARLIER: Again, I just raised the
11 point about incorporating by reference the
12 entire record considering I'm not opposed
13 to A-27 coming in, but there may be things
14 in the record that belie some of the
15 information in A-27, and we wouldn't know
16 it in this record if --

17 MR. RICE: Well, you'll have an
18 opportunity to rebut this if there's
19 something else you want to add from that,
20 but that was a fairly large record.

21 I mean, there were several nights of
22 testimony, as I recall, at least four or
23 five, and a lot of exhibits.

24 And if we have to incorporate this

1 into some kind of an appeal down the road,
2 then you're going to have this record, and
3 you're going to have this record, and it's
4 going to go to a judge that has no idea
5 what they're getting from Radnor Township.

6 So I would keep it clean, as much as
7 possible. And this will be A-27 for
8 purposes of this hearing.

9 - - -

10 (Applicant's Exhibit A-27 was marked
11 for identification.)

12 - - -

13 MR. RICE: If you or Mr. Broseman want
14 to add anything else from Hamilton-1, we
15 could do that before we close the record.

16 So if the board's okay with that,
17 then, Mr. Broseman, anything else?

18 MR. BROSEMAN: I don't know if now is
19 the time to do it, but I would like to ask
20 that my exhibits be made part of the
21 record, and I'd like to reserve for
22 rebuttal, but that's the end of my case in
23 chief.

24 MR. RICE: Okay. So all of the

1 exhibits will be admitted.

2 - - -

3 (All Applicant Exhibits received in
4 evidence.)

5 - - -

6 (Applicant rested its case in chief.)

7 - - -

8 MR. RICE: And, Mr. Marlier, do you
9 have a witness?

10 MR. MARLIER: I do.

11 MR. RICE: Let's take about five
12 minutes.

13 MR. MARLIER: I've just got to set up
14 a couple things on the screen.

15 MR. BROSEMAN: Could I mention that I
16 was asked at the prior proceedings to
17 provide the name and the subject of all of
18 my witnesses, which I did each time.

19 I had asked Mr. Marlier for that, and
20 I did not receive that. I just heard that
21 he might have a land planning witness, so I
22 would like to get that information.

23 And I feel a little, I'm maybe not as
24 prepared as I might have liked to have been

1 since I provided the same info to all of
2 the other parties.

3 MR. RICE: I understand, Mr. Broseman,
4 but as you know, as well as Mr. Marlier
5 knows, there's no discovery in zoning
6 matters.

7 So I don't know what discussions have
8 been between you and Mr. Marlier, but it
9 happens all over the state.

10 Witnesses show up, and you have to be
11 prepared, assuming witnesses come in to
12 testify.

13 MR. MARLIER: And just to be clear for
14 the record, Mr. Broseman did ask. I did
15 let him know that I would be calling a land
16 planner. I think that's plenty sufficient.

17 MR. RICE: So there's no rules here.
18 I understand your complaint. But let's
19 just take ten minutes.

20 MR. BROSEMAN: Again, I just wanted to
21 say, I appreciate that, but I was
22 specifically asked many times to give the
23 names and the topic of the area of
24 expertise, and I did do that.

1 I gave that to the board and all the
2 parties. So I understand I wasn't
3 obligated to do that, but I was asked to,
4 and I did do that.

5 MR. MARLIER: And I would just say
6 that my case in chief is starting now.

7 I understood that there probably was
8 going to be one more witness, but I had no
9 idea where Mr. Broseman's case was actually
10 going.

11 It could have gone in a very different
12 direction. Who knows? Now that it's
13 closed, I have a witness, and we're ready
14 to go.

15 MS. AGNEW: May I, just because I said
16 I would check, there are, in fact, eight
17 townhomes in Wicklow Court.

18 MR. RICE: Okay. Let's go off the
19 record and take our ten minutes.

20 - - -

21 (At 7:42 p.m. a recess was taken,
22 resuming at 7:54 p.m. as follows:)

23 - - -

24 MR. RICE: Okay. We'll begin with Mr.

1 Marlier's case in chief.

2 And do you have a witness, Mr.

3 Marlier?

4 MR. MARLIER: I do have a witness, Mr.
5 Rice. I would call Golda Speyer.

6 - - -

7 RADNOR TOWNSHIP'S EVIDENCE

8 - - -

9 GOLDA SPEYER,

10 having been first duly sworn, was examined and
11 testified as follows:

12 - - -

13 THE WITNESS: My name is Golda Speyer,
14 spelled G-O-L-D-A, last name spelled
15 S-P-E-Y-E-R.

16 - - -

17 MR. MARLIER: Right off the bat, I'd
18 like to have Ms. Speyer's CV marked as, I
19 guess, Township-1, T-1, if I could, and
20 I'll pass out copies.

21 - - -

22 (Township's Exhibit T-1 was marked for
23 identification.)

24 - - -

1 DIRECT EXAMINATION (Voir Dire)

2 - - -

3 BY MR. MARLIER:

4 Q. Ms. Speyer, could you, for the board,
5 just describe your educational and professional
6 background?

7 A. Sure. So just reading off my own
8 resume, professionally I'm a planner, a principal
9 planner at my company. We're a land use planning
10 firm called Topology.

11 I do very high-level, oversee land
12 use, and supervise a team of land use planners as
13 well. I deal a lot with operations in my firm as
14 well.

15 I'm in charge of preparing staff
16 reports, look at zoning codes, prepare technical
17 reports, look at site plans, conditional uses,
18 things of that nature.

19 If there was variances from zoning
20 codes, how to navigate zoning codes, prepare
21 professional reports for various bodies,
22 including court, councils such as this, and
23 largely planning and zoning boards.

24 Prior to that, I was working in the

1 public sector. Actually, I still do.

2 Even though I'm on private sector, I
3 still do a lot of service for the public sector,
4 but there was a time where I was actually a
5 public sector employee.

6 I used to work for the City of Jersey
7 City in New Jersey, as well as the City of New
8 Brunswick. That's where actually Rutgers is
9 located.

10 And I did a lot of community
11 development and zoning administration work for
12 those two cities when I worked for them and
13 oversaw a bit of land use as well in those
14 processes around big development and zoning and
15 codes and land ordinances and funding and things
16 of that nature. So that's somewhat my
17 professional background.

18 My educational background, I have my
19 master's in city and regional planning from
20 Rutgers. I'm a two-time Rutgers graduate. I
21 also have my bachelor's in planning and public
22 policy and a dual, a dual major in political
23 science.

24 But what kind of distinguishes me is

1 my licensure. I have three accreditations.

2 One of them is the American Institute
3 of Certified Planners. That's a nationally-
4 recognized certification through the American
5 Planning Association.

6 The other one I have, I am a licensed
7 planner in the state of New Jersey. I note that
8 Pennsylvania doesn't have such a license in
9 existence; otherwise, I'd love to get one.

10 But I did throw that out there because
11 the work I do under that license is similar at
12 looking at codes. I've looked at codes in New
13 York as well. There's some parallels with that
14 work.

15 And then last year actually I became a
16 certified project manager, so I don't know if
17 that's really relevant to my expertise here
18 tonight, but it was a hard test though, just to
19 talk about it, if I can.

20 And then I have various technical
21 skills in planning, looking at zoning codes. I
22 do a lot of geographic information systems.

23 They call it GIS, look at mapping and
24 zoning mapping and neighboring context. I've

1 prepared zoning maps that have been adopted
2 before as well as various land use maps.

3 And then I have a couple other
4 certificates through the Rutgers continuing
5 education, just courses in zoning administration.

6 Q. And what kind of expert testimony will
7 you be giving this evening?

8 A. So tonight my focus is going to be
9 mostly about zoning, analyzing the zoning code of
10 Radnor, the conditional use, as well as the
11 zoning code, so the general zoning code, and then
12 what we have here is a conditional use, which has
13 its own section in the zoning code. So I think
14 that's where my expertise will be.

15 Q. And have you been recognized as an
16 expert in other municipalities?

17 A. I have, yes.

18 Q. About how many?

19 A. Maybe like 30. I've done it both
20 public and private, where I've represented
21 clients on the private side, kind of on the other
22 side of this table, and then I've done it on
23 behalf of municipalities as well.

24 Q. Would you say roughly even split?

1 A. Probably more municipality, way more
2 municipality. I would say probably two-thirds
3 municipality, maybe one-third private.

4 Q. And have you reviewed applications
5 such as the one that's before this board
6 currently?

7 A. I have. I've reviewed conditional
8 uses. I've reviewed multifamily development, new
9 construction similar to the density and the
10 acreage such as the application that's being
11 proposed.

12 Q. And have you been recognized as an
13 expert by a municipality in Pennsylvania?

14 A. I have, yes.

15 Q. And is your knowledge of land
16 planning, and we touched on this a little bit,
17 but your knowledge of land planning transferable
18 from New Jersey to Pennsylvania?

19 A. I would say yes. It's very common to
20 see the same, they call it the Ecode.com. I
21 think that's what Radnor is also using. It's
22 very common to see kind of the same structure.

23 While I'll say zoning codes are
24 obviously tailored to a municipality, you have

1 your permitted uses, conditional uses, prohibited
2 uses, your variance, dimensional standards such
3 as setbacks, coverages, design standards, things
4 of that nature, those conditions, what are those
5 conditions. I would say that same work seems to
6 carry from zoning code to zoning code.

7 Q. And has the township retained you to
8 testify this evening?

9 A. It has.

10 Q. And to review documents in this
11 conditional use hearing?

12 A. It has.

13 MR. MARLIER: At this time, Mr. Rice,
14 I'd call for Golda Speyer as an expert in
15 land use planning.

16 MR. RICE: Mr. Broseman, questions on
17 qualifications?

18 MR. BROSEMAN: Yes. Could I ask some
19 questions?

20 MR. RICE: Sure.

21 - - -

22 CROSS EXAMINATION (Voir Dire)

23 - - -

24

1 BY MR. BROSEMAN:

2 Q. Good evening, Ms. Speyer. My name is
3 George Broseman. I'm the attorney for the
4 applicant here. I have some questions for you.

5 You said in your company, I think,
6 you're responsible for operations?

7 A. Um-hum.

8 Q. Do I take that to mean that's like
9 reviewing business-type operations, not
10 necessarily zoning?

11 A. I can clarify. So last year I got my
12 project management license, and so what I do kind
13 of operationally with my company is, you know, we
14 have a finance team. I don't really mess with
15 the finances.

16 But how do we bridge the gap between
17 the planners and what kind of naturally happens
18 at a business, and I'm using my project
19 management skills lately on how to train new
20 planners.

21 Our lowest planners, we call them
22 Planner I's, the lowest staff members, how to
23 train them to, you know, review codes, so that
24 kind of operation, training planners how to look

1 at a site plan, what's a lighting plan, what is a
2 lighting fixture, what does this mean if this
3 happens on a site plan.

4 So kind of, maybe I used the word
5 operations. I'd say more high-level training and
6 bridging it together with the other side of
7 operations, the business side.

8 Q. And you talked about the mix between
9 your municipal work and private client or
10 developer work, two-thirds for municipalities,
11 you said?

12 A. That was just a -- yes. My point is,
13 I do more municipality than private.

14 Q. Right. How many plans have you
15 prepared for a development?

16 A. That I've prepared?

17 Q. Yes.

18 A. I don't prepare plans. I will say,
19 I'm not a licensed architect or a licensed
20 engineer, but I've reviewed and I'm trained to
21 know how to review such plans, but I don't, I
22 don't prepare.

23 Q. Land planners do prepare site plans at
24 times; correct?

1 A. I wouldn't always advise that, but
2 they could.

3 Q. But you haven't prepared any?

4 A. I've done like conceptual plans, but
5 only for like due diligence, hey, here are the
6 bulk requirements, here is the land, we can pull
7 a survey, we can kind of measure setbacks, and we
8 can kind of look at topography a little bit and
9 look at constraints on the land where there's
10 maybe steep slopes or environmental constraints
11 that, you know, make this area really
12 un-developable, but ultimately it becomes, it
13 evolves as a project of, I'd say, like an
14 engineer, the bulk.

15 Q. And what are those plans that you
16 prepared the conceptals for, those projects?

17 A. I've done concept plans for like
18 parking lots that have been trying to expand.

19 We do a lot of redevelopment reports
20 and projects, which are, you know, taking the
21 zoning, it's essentially rezoning and looking at
22 that land and what could conceptually go there
23 working with architects. So I would say these
24 are more illustrative.

1 Q. And what are those? I'm asking you
2 the specific projects.

3 A. Mixed use.

4 Q. Like the actual project, the property,
5 like the location, the name of the project.

6 A. Like specifically?

7 Q. Yes.

8 A. I know recently I worked on a concept
9 plan in Elmsford, New York. We have, Dr. Pepper
10 was a client of ours, and they were looking at a
11 parking lot expansion.

12 Our team looked at like the existing
13 parking lot, what the setbacks are. And there
14 are a lot of nuances in their ordinance that it
15 couldn't be ten feet to a building and it
16 couldn't, it had to have a ten-foot buffer from a
17 road.

18 So we were kind of plugging in all
19 these little requirements of the code and then
20 mocking up, again this isn't of civil engineering
21 quality, but mocking up concepts of what can you
22 kind of build because, as you know, it's very
23 expensive to retain some professionals to prepare
24 full-blown plans and doing a little bit of a

1 scrub of the zoning code very early just to look
2 at some basic requirements, basic setbacks,
3 looking at your land and conditions.

4 You can sometimes kind of mock up a
5 little bit of a box, hey, do we want to take this
6 further and retain civil, or is this site going
7 to be very difficult and challenging, and then
8 we'll advise, you know, it's more advisory to the
9 client.

10 Q. Understood. I understand. I'm just
11 trying to get a list of specific projects and
12 properties. Is that the only one you can give me
13 that you've done a plan for, the concept plan?

14 A. That one just comes to my mind because
15 it wasn't too long ago. That's the only one
16 coming to my mind right now.

17 Q. Okay. You were asked if you were
18 qualified in a Pennsylvania municipality. Which
19 was that?

20 A. Jenkintown.

21 Q. Is that the only one?

22 A. That is the only one, yes.

23 Q. And what role were you there in?

24 A. I was there looking at their zoning

1 code, and there was a challenge by a client of
2 ours as to the zoning code and if it was drafted
3 in a way that rendered -- it was like a spot
4 zoning question.

5 So you could zone for something and
6 then add conditions and that it has to be
7 buffered so much from certain locations.

8 And once you start mapping that out,
9 it turned out, you know, our findings was that it
10 turned out to be, just one parcel was only
11 allowed in the town, and that caused a legal
12 question from there.

13 So our firm was to look at the zoning
14 code and kind of draw up some buffer maps and
15 provide that testimony.

16 Q. What property or project was that?

17 A. It was a billboard case. I don't
18 remember the exact property off the top of my
19 head.

20 Q. And you were working for the billboard
21 company?

22 A. Our client was, yes, was the billboard
23 company.

24 Q. Did the billboard get built?

1 A. I don't know.

2 Q. So that was the only time you've been
3 recognized as an expert in Pennsylvania?

4 A. In Pennsylvania, yes.

5 Q. And what board were you in front of
6 for that?

7 A. I was in front of the commissioners,
8 the town commissioners.

9 Q. Okay. And your planning work, can you
10 tell us what other Pennsylvania planning work
11 you've done?

12 A. Specific to Pennsylvania, that case
13 was my Pennsylvania case.

14 A lot of my work has been in New
15 Jersey looking at site plans and advising
16 planning and zoning boards as it relates to
17 different types of variances, different types of
18 degree of variances, looking at site plans and
19 evaluating it against the metrics of the zoning
20 code objectively and advising the bodies what an
21 intent of a code may be, if it's in violation,
22 what, like what is the negative impacts that may
23 be associated with it, just guidance to the
24 members of these commissions.

1 There may be implemented certain
2 conditions of approval in those cases. But it's
3 a zoning. It's similar to what I'm kind of
4 looking at here, is looking at a lot of the
5 zoning code.

6 Q. What did you say? I missed that.

7 A. Looking at the zoning code and looking
8 at like the black-and-white text, what it says,
9 and then also looking at maybe the intent of what
10 it means, especially when there's conditional
11 uses or deviations from uses or densities or
12 heights or things like that.

13 MR. BROSEMAN: That's all I have at
14 this time.

15 MR. MARLIER: Just real quick follow
16 up.

17 - - -

18 REDIRECT EXAMINATION (Voir Dire)

19 - - -

20 BY MR. MARLIER:

21 Q. Mr. Broseman asked you a couple
22 questions about site design or plans that you've
23 prepared.

24 Just to be clear, how many plans

1 roughly have you reviewed?

2 A. I've reviewed probably over 200 plans.

3 Q. And Mr. Broseman asked you about your
4 experience here in Pennsylvania, but again, you
5 have certain national accreditations; correct?

6 A. I do.

7 Q. And it's your testimony during voir
8 dire that what you have done the majority of in
9 New Jersey admittedly is transferable to the
10 types of things that we're looking at in this
11 case; correct?

12 A. Correct.

13 MR. MARLIER: That's all I have. No
14 further questions.

15 MR. RICE: Mr. Broseman, any objection
16 to this witness being qualified as an
17 expert in land use planning?

18 MR. BROSEMAN: Not at this time. I
19 may have an objection to her testimony
20 later, but I would note she has almost no
21 experience in Pennsylvania, but that's been
22 brought out in the record.

23 MR. RICE: Okay. Then Ms. Speyer will
24 be accepted as an expert in land use

1 planning.

2 MR. MARLIER: Thank you, Mr. Rice.

3 May I proceed?

4 MR. RICE: Yes.

5 MR. MARLIER: Thank you.

6 - - -

7 DIRECT EXAMINATION

8 - - -

9 BY MR. MARLIER:

10 Q. Ms. Speyer, there's been a lot of
11 testimony in this case, a lot of exhibits.

12 Let's start off by asking what you've
13 reviewed in preparation for your testimony this
14 evening?

15 A. So I've reviewed the conditional use
16 application from the applicant, and there's been
17 a series of exhibits that have evolved over time.

18 I've looked at Radnor's Comprehensive
19 Plan, which I can speak to kind of as I get into
20 my testimony more.

21 I think there's some relevant points
22 as to why the comprehensive plan is probably
23 important to think about with certain aspects of
24 this application.

1 I've looked at the Radnor Chapter 280
2 Zoning Ordinance, and I've reviewed some relevant
3 portions of the transcripts when it comes to
4 discussions around the, kind of like the site.

5 Q. Let me ask you, have you produced a
6 report based on your review of these documents
7 and the testimony?

8 A. I have. I've drafted a report, a
9 planning report based on my analysis.

10 Q. I'm going to pass you what I have
11 marked T-2.

12 - - -

13 (Township Exhibit T-2 was marked for
14 identification.)

15 - - -

16 BY MR. MARLIER:

17 Q. Is this the report that you've
18 prepared for the conditional use hearing?

19 A. Yes.

20 Q. I'd like to mark this document as T-2,
21 Mr. Rice. I have copies for the entire board as
22 well I can distribute.

23 MR. RICE: Okay.

24 MR. MARLIER: I'll certainly e-mail

1 these to Peggy Hagan tomorrow,
2 commissioners.

3 BY MR. MARLIER:

4 Q. Ms. Speyer, if you can explain for the
5 board, this is a number of pages long.

6 Could you explain how your report is
7 broken down?

8 A. Sure. So no pun intended, but it is a
9 dense report. So kind of keeping in practice, I
10 like to offer planning guidance in a very
11 objective way.

12 So what this report does is it takes
13 what was my regulatory review of the zoning and
14 conditional use development and it puts it into
15 writing.

16 And what it does is it looks at
17 high-level zoning of the site, and then it goes
18 through what this applicant is proposing as a
19 conditional use and what those conditions are and
20 what the consistency or inconsistency against the
21 conditional use requirements are as I see it.

22 It takes a look at the zoning
23 ordinance, because there's really two parts of
24 the code here that we're looking at, which one is

1 the conditional use code and one is the zoning
2 code. So I'll specify that further momentarily.

3 But what it does is it explains
4 intent, I think, of code, using comprehensive
5 plan and using language right from the Radnor
6 code when it has sections that speak to meaning.

7 So what I mean by that is it's not
8 sometimes as black and white, hey, here's a
9 standard, do you follow it or not.

10 Sometimes within the code it will say
11 the objective of the moderate density development
12 is XYZ.

13 And so you can read some of these
14 things that, you know, while it might not be like
15 a metric to compare it to in like a zoning bulk
16 dimensional chart, there is intent guidance there
17 to think about and I think it's important for the
18 commission to think about.

19 And then finally, this report will go
20 over some of the findings of the comprehensive
21 plan as I reviewed it.

22 Q. And if you could, Ms. Speyer, briefly
23 explain to the commissioners what is unique about
24 conditional uses and the review process?

1 A. Sure.

2 Q. And just to be clear, Ms. Speyer, if
3 there's anything you're reading from your report
4 or testifying off your report, I can go to the
5 page so that all of the neighbors can see it.

6 A. Yes. Maybe before I answer that
7 question, I'll just show this page real quick,
8 because it's really easy just to pass this one.

9 As we know, this is the R-4 district.
10 It's the low/medium density residential. And so
11 what we have here are your permitted uses, your
12 special exception uses, and conditional uses.

13 So I think we called these townhomes.
14 The word I'm going to try to stick with is
15 density modification development, because that's
16 the use of the zoning code.

17 That's how it describes it as one of
18 the conditional uses. So when I say density
19 modification development, I'm talking about this
20 development.

21 So I'm just trying to get my
22 vernacular out there. So maybe it helps to go to
23 page three at this point.

24 But the question was about like what

1 is unique about conditional use applications, and
2 it's really why we're at this body, the council,
3 the commissioners.

4 As I said, this density modification
5 development is one of the conditional uses in the
6 R-4 and, in other words, it means that there
7 should be a heightened regulatory review process
8 and that this review process is what brings us to
9 this body, and this body should look at it to
10 make sure that we're following all sound planning
11 and necessary safeguards and we're avoiding, you
12 know, like any substantial negative impacts that
13 might hit the community, because this isn't one
14 of those uses that just goes, you know, by right
15 or site plan.

16 It comes here first because there's a
17 bit of an intensification or there was something
18 about this use that the commissioners at one
19 point -- I don't know if it's literally this
20 group of commissioners.

21 But at some point the commissioners of
22 Radnor said this type of use needs to be brought
23 here as a conditional use for an added layer of
24 review, and that really comes from Radnor's own

1 code where it talks about what the board of
2 commissioners' role is.

3 And that's, if you want a particular
4 section number, 280-134. Maybe we'll scroll back
5 up there, like if you want to scroll down
6 actually.

7 So the italics, what you're reading is
8 just from the code itself, and it speaks to what
9 the board of commissioners' role is.

10 And really in summation, it's what I
11 explained, is that, you know, not every site may
12 be appropriate for such a conditional use, and
13 that's why this process exists, and that really
14 is the sole discretion of the board of
15 commissioners, to ensure that we're complying or
16 that the standards are appropriate or may be
17 deemed a basis for denial or for the imposition
18 of appropriate conditions upon a grant of
19 approval.

20 I know I kind of word jammed that in.
21 I was trying to read the code, but let me resay
22 that.

23 What I'm saying is that the code is
24 speaking to the intent of this body and looking

1 at the standards and that this board has the
2 ability to actually even reject applications if
3 there is, if the record's clear that there is not
4 a compliance with the conditions, conditional
5 use.

6 So I think that the board of
7 commissioners should follow the standards, you
8 know, as described in your own code when it comes
9 to evaluating and acting upon this application.

10 That's, I think, what makes it a
11 unique process, is this conditional use process.

12 Q. Would you say that health, safety, and
13 welfare is something that the board should be
14 looking at?

15 A. Absolutely. That's kind of always
16 like the big intent of zoning is health, safety,
17 and welfare and to protect it.

18 Q. So why don't we move to this specific
19 application, if you would, Ms. Speyer, that
20 brings us here this evening, your general
21 thoughts, and we'll drill down deeper on what
22 your general thoughts are about this application.

23 A. Sure. So reviewing the applicant's
24 plan and reviewing their consistency with the

1 conditional use, I think there's a couple of
2 items that either need further clarification or
3 might be considered variances from the
4 conditional use that should at least have
5 discussion by this board or that the board of
6 commissioners should have the ability to review,
7 hear it, and hear maybe further testimony if they
8 need more clarification.

9 So there's three things with the
10 conditional use's requirements that I found.

11 I'm just going to start with two like
12 low-hanging ones that I think maybe even the
13 applicant could clarify, and then I want to get
14 into something a little bigger that I think we
15 should probably have a discussion about, which is
16 more around the open space, which I have my
17 objective questions myself.

18 But let's just talk about some quick
19 ones that the commissioners might want to, you
20 know, think about or get more information on.

21 I myself, I'm still having a hard time
22 confirming certain conditional use compliance
23 based on my review of this application when it
24 comes to certain things about the project's

1 design when it comes to height, for example.

2 One of the conditions is that a
3 maximum of 35 feet is permitted. As far as I
4 could see in the materials, it seems very limited
5 in architectural renderings.

6 I'm not even sure if the renderings
7 supplied were just general renderings or if it
8 was this site particular on Strafford.

9 I usually see height in elevations,
10 floor-to-floor heights with consideration of the
11 roof peak.

12 And if we've looked at the Radnor
13 definition of height, it's still a question, I
14 think. Are they complying with 35 feet maximum?

15 So I think it's a fair question to
16 still think about if this is an open-ended
17 compliance item, because this directly goes not
18 to just the zoning code, but the conditional use
19 requirements.

20 Q. In other words, Ms. Speyer, there may
21 have been testimony as to the height, but you're
22 talking about the application itself?

23 A. Um-hum. And maybe there has been, I
24 call it a bulk table. It could be a dimensional

1 table. But essentially the dimension
2 requirement, here's your setback, here's your
3 coverage, here's your height.

4 It's very easy to toss height into
5 that just general bulk table, dimension table,
6 but here in the conditional use standards, height
7 is one of the conditions.

8 So I think clarification is probably
9 warranted, considering that this is the board of
10 commissioners that's being charged with
11 overseeing the conditional use.

12 The other one is also what I think is
13 kind of more low hanging at the moment, which is
14 this townhome design, about how each townhome
15 must have at least one plan element on any floor
16 which projects or recedes within the wall plane
17 of the facade a minimum dimension of two feet.

18 Again, this is limited in
19 architectural details at the moment. The purpose
20 of that type of regulation is so that you don't
21 have a long, expansive wall.

22 These are town -- and I should stick
23 to my vernacular of density modification
24 development, but for the buildings, the townhomes

1 in multifamily, they're wider, and so I think
2 that type of regulation gets put in so that
3 there's a little bit of articulation here.

4 So I don't know if that has actually
5 been provided at this time, but it is one of the
6 conditional requirements.

7 But then if I was to kind of get into
8 a more larger component about one of the
9 conditional use requirements and intent around
10 this density modification development, it really
11 comes down to this whole clause which is written
12 within the density modification development, like
13 intense section about open space and preserving
14 it and encouraging conservation and the use of
15 open space in new residential development.

16 And what I can do next, if it helps
17 the record, is I can read exactly what the
18 conditions say.

19 Q. I think for this one, if you could
20 read the ordinance, that would be great, the
21 ordinance section.

22 A. Okay. So if you want to read along,
23 there is a table in the back of this report
24 starting on page 11. I don't know if you want to

1 scroll, so right here.

2 What this table does is it takes the
3 conditional use standards around this
4 development, and it's basically a chart, what is
5 the requirement and what are they proposing, but
6 also discussion about intent of the code.

7 So the first one about open space
8 requirements, you know, speaks to not less than
9 25 percent of the tract area shall be designated
10 in the subdivision or development plan as common
11 open space.

12 Common open space may not include the
13 required buffer yards, floodplain, or wetlands.

14 No more than ten percent of the
15 required common open space may be used to meet
16 the plan's stormwater management requirements,
17 and all required common open space shall be
18 contiguous unless the board of commissioners
19 approves otherwise.

20 So to unpack that a little bit,
21 25 percent is required, whereas there's like a
22 ten percent allowance underground if there's
23 going to be stormwater infrastructure. You can
24 put up to ten percent of your requirement in a

1 manmade underground infrastructure.

2 So going off the plans and the zoning
3 chart, what the applicant is proposing is
4 7.9 percent of the open space will be stormwater,
5 so that's under the allowance.

6 What is still a little unclear to me
7 is, and this is probably where I might turn to
8 the Applicant's Exhibit A-12.

9 So starting with this plan, the open
10 space proposed is the dark green, and if you zoom
11 in or I have a -- yes.

12 So it highlights areas that are going
13 to be infiltration beds. I don't know if you
14 want to zoom in just so we can clearly see that.

15 So infiltration bed number two. The
16 other one, I think, says infiltration bed. But
17 that's kind of what I'm getting in terms of the
18 details.

19 Q. And what you're referring to with your
20 laser pointer, Ms. Speyer, is the hashed line in
21 rectangle to the left of townhome 25 and the
22 hashed line in rectangle to the right of townhome
23 28; correct?

24 A. Correct. So if you were to turn to

1 the construction drawings, I don't know if it's
2 like -- I don't know the exact page number, but
3 maybe like six or seven here.

4 Q. Still on A-12?

5 A. It's still on the same exhibit. Yes.
6 Now zoom out. So what I see are details
7 referring to the infiltration bed, but what I
8 also see are a lot of other stormwater type
9 details.

10 So I would just like some clarity, if
11 you want to now move it to the left a little bit,
12 just to show like all these construction details.

13 Q. And just to be clear, we're still
14 looking at A-12, and this is sheet --

15 A. I think sheet seven, I think.

16 Q. But it is Exhibit A-12?

17 A. We can see it on the construction
18 details, just to ensure that, and I think it
19 might even go on to the next page, but we have
20 different types of, you know, utility trenches.

21 It seems to be more construction
22 details than just infiltration beds. If you want
23 to scroll down, it may carry over to the next
24 page, too.

1 MR. RICE: It looks like sheet seven.

2 MR. MARLIER: You say it's sheet
3 seven? Thank you.

4 THE WITNESS: So I just would want,
5 you know, if I was a planner reviewing this
6 and kind of giving my own notes, I'd want
7 some confirmation, you know, is that all
8 within the infiltration bed?

9 Is that more details, more
10 construction details, all these other
11 infrastructure?

12 Are they going to be within that
13 25 percent area, just to get really an
14 accurate accounting by this board.

15 BY MR. MARLIER:

16 Q. In other words, what we're looking at,
17 the stormwater facilities in Applicant's Exhibit
18 A-12, the stormwater facilities that are shown on
19 these sheets, your concern is that some of them
20 may not be within the hashed rectangles that
21 we're looking at on sheet four and, therefore,
22 there may be some of these facilities that,
23 underneath the open space, that would create a
24 higher percentage of stormwater facilities in the

1 open space; correct?

2 A. Or it's at least unclear. I think we
3 want more information to confirm that.

4 Q. Understood.

5 A. So moving on to the next condition,
6 common open space shall be land which is
7 appropriate and in suitable condition for
8 recreation, park site, school grounds, woodland
9 conservation, or other similar recreation or open
10 space purpose.

11 So I know that this is not the only
12 exhibit at this point, and there's one with a
13 circular path from the applicant. I don't know
14 exactly which exhibit that one is anymore, but it
15 is by their landscape architect.

16 But what it depicts, I'll just
17 describe it. It depicts open space that seems to
18 be pretty limited in programming. It's really
19 just a four-foot path that kind of circles within
20 itself.

21 Otherwise, there really is a lack of
22 kind of any features to really use, like benches
23 or picnic tables or pergolas or any kind of
24 playground equipment or anything like that.

1 So kind of going back to the
2 stormwater question, you know, ensuring that we
3 have all the information on all of the
4 construction details so that we're not
5 interfering with certain footings.

6 If certain permanent structures want
7 to be put into place, I think that should be
8 clarified on the plan.

9 But what's probably the more
10 concerning in terms of like intent is that I
11 think that, you know, there's the number that
12 we're talking about, 25 percent open space, but
13 then how much of this is really usable.

14 And what I put together was an exhibit
15 kind of within my report, so I guess my whole
16 report is an exhibit.

17 But if you go to Appendix B in my
18 report, what I did was I annotated the site plan
19 up a little bit and, you know, comparing it to
20 what like kind of might actually be really used
21 at this space in real life based off of, you
22 know, spatial distance from certain roads and the
23 main road and the drive aisle and the parking
24 spaces and privacy concerns of the houses.

1 What I mean by that is, you know, we
2 might be at the 25 percent technically, but in
3 reality, I think what might really be occurring
4 is you've got, you know, here where I labeled it
5 Part A on this annotated version of their
6 Exhibit 12, you have areas that are right up
7 against the drive aisle, right up against, you
8 know, a road that has no sidewalk that in reality
9 I don't think people are going to be sitting or
10 using that space, especially with kids or animals
11 so close to what is an active driveway.

12 Q. And just to be clear, Ms. Speyer,
13 we're now back on our Exhibit T-2, and we're on
14 Appendix B.

15 And what you're pointing out is you
16 have lettered, put letters onto the applicant's
17 proposed development indicating certain areas on
18 the development and specifically in the open
19 space; correct?

20 A. Correct.

21 Q. And you were just pointing to the two
22 A's kind of more towards the bottom, again next
23 to townhome, I believe that's 25 and 28?

24 A. Yeah. Above 21, closer to where the

1 road bends on this Drive Aisle A on both bottom
2 parts and then up above townhome 32, the areas
3 are, you know, maybe they're literally counting
4 in the 25 percentile, but when it comes to the
5 condition about programming and contiguous use
6 and appropriate and suitable condition is
7 actually what the code language says exactly, I
8 don't know how suitable these little areas become
9 in counting towards this requirement.

10 Then what I have here, which is --

11 Q. I'm sorry. When you say you don't
12 know?

13 A. What I mean by I don't know is I know,
14 and that is, they're not.

15 It's probably less likely that areas
16 right adjacent to drive aisles and roads and the
17 parking spaces are going to have the users want
18 to have some sort of buffer and setback from
19 those spaces for safety reasons. And so --

20 Q. So if we look at the A in the top left
21 corner, it's surrounded by Drive A and by
22 Strafford and by a townhome, I believe that's
23 townhome 21; correct?

24 A. Correct. And then what I was going to

1 point out for B, what I have hatched around,
2 again this is not to scale, I should point that
3 out. It's for illustrative demonstration.

4 But what's within B and hatched around
5 the townhomes, I'm trying to demonstrate that
6 it's probably less likely that someone's going to
7 use open space right against someone's house.
8 It's pretty awkward.

9 I don't want to be in someone's
10 backyard right against their window when I'm
11 hanging out with my dog or something.

12 I'm going to want to get away from
13 that, and the people in the house are probably
14 going to want the people to get away from their
15 house.

16 So in essence, these also become
17 somewhat of like dead spaces, not dead spaces.
18 They serve as buffers, which is great, allow for
19 pervious coverage and buffers, but to say that
20 it's useable open space is a little bit ludicrous
21 to me.

22 And then coupled with A, you've got
23 spaces right here that are, you know, as you
24 said, surrounded by Strafford, right against

1 Drive Aisle B with no sidewalk, right adjacent to
2 someone's place of residence.

3 You're starting to like close this box
4 in to what is really just kind of a square in the
5 center where letter D is, and that kind of
6 becomes your real overall space, which then
7 becomes more limited, and as of now, it's
8 depicted with a circular path, not on this plan.
9 I think it's on their landscape architect plan.

10 But, you know, what also becomes a
11 little problematic with having these units kind
12 of situated this way is then I think a
13 self-burden kind of becomes created in that, like
14 you're not going to see play equipment or certain
15 types of things there, because then it generates
16 noise. It generates nuisance to residents.

17 But I would almost say that that's
18 self-created, right, because of the way this got
19 designed out.

20 So not only are you limiting your open
21 space to this small, little area, you've got to
22 now respect, you know, the noise against the
23 residents that are right there as well so that
24 you're not having kids play and catch the ball

1 and screaming, and now the resident is annoyed
2 because there's screaming kids in their backyard.

3 Q. So if we could break it down this way,
4 tell me if this is fair.

5 The four letters that you have on
6 there, the four A's, those are areas within the
7 open space that are more adjacent to either
8 roads, Strafford, or what they're calling drive
9 and townhomes; correct?

10 A. Um-hum.

11 Q. That's correct? I'm sorry?

12 A. Say it one more time.

13 Q. Sure. The four A's, they're either
14 adjacent to Strafford or what they're calling
15 Drive A or Drive B and also adjacent to
16 townhomes?

17 A. Correct.

18 Q. And then what you've labeled as B are
19 the areas hashed out that are very close to the
20 townhomes but being considered as open space;
21 correct?

22 A. Correct.

23 Q. And what would C be?

24 A. Right, C. So within the open space

1 requirements, it allows you -- I wouldn't say
2 allows. It sets a metric that 30 feet from the
3 property line must be a buffer.

4 So what that means is you can't count,
5 you know, the first 30 feet toward your open
6 space, because it's contemplating something like
7 this, that from the property line, you don't want
8 to have something so close to the property line
9 be counted as your open space, because that's
10 like an active space likely.

11 And if you look at their property
12 survey, their property line actually starts in
13 the center of Strafford. I don't know exactly
14 what the exact dimension is, if it's ten feet or
15 15 feet.

16 But what this means is rather than 30
17 feet from, you know, you think of a property
18 line, you tend to think of like the sidewalk,
19 right?

20 But technically, because that property
21 line is extending way more into the right-of-way,
22 it makes, it artificially makes their buffer
23 lower, kind of to their benefit.

24 So I think putting this all together,

1 what we're doing is we're losing some contiguous
2 space and programmable space by designing this in
3 a way where you have all these areas that are
4 unusable, and then we're kind of artificially
5 getting to count certain areas as part of the
6 percentage because you get the benefit of that
7 property line being further into the street
8 rather than to the face of that sidewalk.

9 So it's more square footage that gets
10 to count on the applicant towards their
11 25 percent.

12 Q. Understood.

13 A. I know that was kind of a complicated
14 one. I'd be happy to answer if that one went
15 over some people's heads.

16 Q. Sure. Sure. So if you, could you
17 speak also to the contiguous nature of whether,
18 in your opinion, this is contiguous in spirit, if
19 not as defined.

20 A. No. In fact, I would go back to, I
21 think it was like page four of my memo, so the
22 top part. Maybe the prior page. Yeah, page
23 three. The top, please.

24 So something I always look for are

1 definitions, and I looked for the definition in
2 Radnor code for density modification development.
3 One did not exist.

4 So what I am leaning on is when you
5 turn to the whole chapter and the conditions and
6 the requirement of the density modification
7 development, it has an objective, an
8 interpretation section in the zoning code, or in
9 the conditional use code, which is also the
10 zoning code, in the overall land use code.

11 And I don't think it's an accident
12 that this conditional use around the open space
13 was so specific.

14 It really like shows here in the
15 objectives and interpretation part of this
16 conditional use, and I'm going to read this one,
17 too, from the code.

18 It is the intent of this article to
19 provide for modification of lot area, yard, and
20 use requirements in certain zoning districts in
21 connection with single family dwelling
22 development for the purposes of accomplishing the
23 following objectives.

24 One: To encourage conservation and

1 use of open space in new residential development.

2 Two: To encourage land development
3 which preserves trees and natural topography,
4 prevent soil erosion, and promotes the best
5 interests of the township from an aesthetic,
6 ecological, and natural resource standpoint.

7 And three: To encourage attractive
8 arrangements of dwellings by permitting the
9 design and layout of dwellings to be closely
10 related to the physical characteristics of the
11 site in harmony with surrounding tracts.

12 So just being that this is number, you
13 know, like number one in the objective
14 interpretation, which is like the description of
15 talking about this modification development, you
16 know, to answer your question about the
17 contiguous use, you know, they sometimes say
18 things are open for interpretation.

19 I think this kind of speaks in that
20 there is a pretty clear objective here that this
21 open space, these open space conditions and
22 making it programmable and activated and usable
23 was very much contemplated, and to see it break
24 up that way seems to be hurting the integrity of

1 what the code was aiming to do.

2 Q. And broken up, when you say broken up
3 that way?

4 A. Broken up, designed in a way where the
5 reality is a lot of the sections are probably
6 going to be really not usable based on how it is
7 designed out.

8 And then I didn't get to it yet, but
9 it's probably redundant to everything I've kind
10 of said at this point, but there's two more
11 conditions around open space and the conditional
12 use requirements, and that is:

13 Consideration shall be given to the
14 arrangement and location of common open space to
15 take advantage of physical characteristics of the
16 site and to place common open space within easy
17 access and view of dwelling units, at the same
18 time preserving and enhancing natural features.

19 Areas set aside for common open space
20 shall contain no structure other than a structure
21 related to outdoor recreational use. And then
22 the last one:

23 Common open space, within the meaning
24 of this article, shall consist of a parcel or

1 parcels of land or an area of water, or a
2 combination of land and water, within a
3 development site, designed and intended for the
4 use or enjoyment of residents of the development
5 or the public, not including streets, off-street
6 parking areas, and areas set aside for public
7 facilities.

8 Q. Can we just go back to the first one?
9 You read that the open space is to take advantage
10 of the physical characteristics of the site and
11 to place common open space within easy access and
12 view of dwelling units.

13 Do the dwelling units, going back to
14 your Appendix B, do all of the dwelling units
15 have a view of the open space?

16 A. I would say not all of them do. So
17 there's some across Drive Aisle A, and I think
18 some of these dwelling units are probably
19 blocked.

20 I can't read the numbers. It looks
21 like five and six, for example, and 35, 34, so
22 some of the interior units of some of the
23 dwellings across the street seem to just face the
24 other buildings, and so that would be probably a

1 violation of that condition as well, yes.

2 Q. And regarding easy access, you may
3 have read the testimony, but there will be no
4 sidewalk on the inner loop of what they're
5 calling Drive A and Drive B, what the applicant's
6 calling Drive A and Drive B.

7 Would that make it more easily
8 accessible if there was a sidewalk on that side?

9 A. Oh, very much so.

10 Q. It talks about, in the first section
11 that you read, it talks about any structures put
12 into this open space must be related to outdoor
13 recreational use.

14 Is there any outdoor recreational use
15 structures proposed here?

16 A. So this plan doesn't show that, and I
17 believe a circular path is all that's given,
18 which I wouldn't call that a structure. So from
19 what I've reviewed, no.

20 Q. Is there any concern that you have if,
21 down the line, there would be a pergola put in or
22 a gazebo, playground equipment?

23 A. So I guess going back to the
24 stormwater question, which is kind of a question

1 right now, is it really all shown on the plan,
2 you know. They need to probably show how it is
3 on the plan.

4 It could very well not be in this
5 area, but I don't know if we have that
6 information right now, and that would impede to
7 put in, of course, to have that underneath.

8 But to answer your question about, you
9 know, pergolas and benches and structures like
10 that, you know, it's not in the design that's
11 shown to me right now, so I haven't really, you
12 know, looked at it that way, because it's just
13 simply not even proposed at this point.

14 Q. You mentioned a few minutes ago some
15 of this open space is very close, runs right,
16 abuts some of the townhomes, 21 through 24, 25
17 through 28, and 29 through 32.

18 Playground equipment put, let's say,
19 within the hash marks of E, behind townhome 21,
20 would you have concerns about that?

21 A. So, yes. Like we would have to kind
22 of like think of it like accessory structures and
23 how they get regulated with setbacks, and I see
24 often accessory structures need to be set back

1 from certain buildings.

2 So we are playing a regulation game in
3 that, you know, how far back is the appropriate
4 suitable for certain types of accessory
5 structures like playgrounds, especially when you
6 have backyards and side yards and houses right
7 there.

8 Q. Ms. Speyer, if kids were playing
9 outdoors right next to someone's home, townhome
10 in the backyard, which there are no backyards
11 shown on this plan, but the back of the house,
12 you mentioned a few minutes ago about noise and
13 people running around in close proximity to
14 people's houses.

15 Would that be a concern as well, just
16 from a living perspective?

17 A. It would be annoying.

18 Q. Right.

19 A. Yeah, because I think what you have is
20 like a site plan, and then you're adding stuff
21 later that isn't even contemplated in the site
22 plan at the moment.

23 So like can I say I'm concerned? I
24 don't know if the land use board or the board of

1 commissioners could be concerned, because it's
2 just not even on this plan, and it would be
3 awkward to put certain structures within these
4 yards against these houses.

5 Q. In reviewing the applicant's plan as
6 presented with their conditional use application,
7 what, if any, zoning variances need further
8 clarification?

9 A. Right. So I was saying there's a
10 whole conditional use chapter. So then there's
11 also just the general zoning code and complying
12 with the zoning code.

13 Based on my review, I see two
14 requirements that I think more information is
15 needed, whether that's showing it on the plans or
16 clarifying it in testimony with plan details
17 perhaps.

18 The first one is around parking. The
19 zoning requirement here is that two spaces per
20 dwelling unit is required, so that would be 76
21 spaces in total.

22 What is proposed now are these five
23 spaces here, and then --

24 Q. You're pointing down towards the

1 bottom right of the open space between B and A on
2 our Exhibit T-2; correct?

3 A. Correct.

4 Q. The appendix page?

5 A. Correct. So these five spaces here,
6 and I believe the garages were what were proposed
7 to be parking.

8 Where I have questions or what I would
9 say is open-ended or to be confirmed is what's
10 required in a parking space is that they need to
11 be nine and a half by 20 feet by the ordinance.

12 I haven't seen any exhibit with floor
13 plans showing the garage spaces, how big these
14 garages are.

15 And then when you're not putting them
16 in, you know, a nine-and-a-half, 20-foot space on
17 a parking lot and you're putting them in a
18 garage, then you need to start thinking about the
19 other stuff that's in the garage, your trash and
20 your bikes.

21 And so maybe the requirement is nine
22 and a half by 20 feet, but then, okay, if you're
23 going to put it in the garage, do you have ample
24 space for, you know, simple home things that

1 typically go in garages, especially things like
2 trash, things like a clear path in and out of
3 garages. It's very common to open the garage and
4 you just need to get in and out.

5 So I think a floor plan that's a
6 little bit more accurate with square footages and
7 dimensions can clarify that better, but as of
8 now, it's unclear.

9 And I know that some of the driveways
10 here are a little undersized, so the requirement
11 is 20 feet.

12 So looking at some of these driveways,
13 you know, some of them are right at 20 feet, so
14 does that mean that they kind of, you know,
15 literally like the space, no one's going to park
16 like touching their garage door, so they're going
17 to need to kind of be back a foot from the garage
18 door so that they start overhanging into the
19 sidewalks in those scenarios.

20 So I think a little clarity around
21 that and site plan around that is important to
22 know. Then the other one is loading here.

23 A loading space is pretty, this one is
24 pretty objective and simple. 5,000 square feet

1 or more requires a loading space. I don't see
2 one labeled here.

3 You know, Amazon is a thing, but also
4 not just Amazon, like moving in and moving out
5 and things to consider about that.

6 And also, just kind of jumping back to
7 the parking and then coming back to the loading,
8 is if you start having parties and parking taking
9 up these drive aisles, where does the Amazon
10 loading person park, you know?

11 If he's starting to get blocked
12 because people are parked in this driveway
13 because there's a need for parking. So just
14 general questions around those zoning
15 requirements.

16 Q. And those questions regarding parking,
17 regarding loading, and kind of the interplay
18 between the two potentially, does that bring up
19 health, safety, and welfare concerns?

20 A. I would say absolutely, yes. Traffic
21 is usually always the biggest public health,
22 safety question that seems to come up a lot, but
23 amongst other things, but yes.

24 MR. MARLIER: Can we just go off the

1 record, Mr. Rice, for a moment? Mr. Rice,
2 if we could just go off the record for just
3 a moment?

4 MR. RICE: Sure.

5 - - -

6 (Discussion off the record.)

7 - - -

8 MR. RICE: The board and the parties
9 went off the record to discuss future
10 dates.

11 We have three dates for future
12 hearings, all at 6:30 in this location:
13 September 17th, October 1st, and October
14 29th.

15 MR. MARLIER: All at 6:30, Mr. Rice?

16 MR. RICE: 6:30, same time, same
17 place, and there will be no further
18 advertisement. The dates will be posted on
19 the township's website.

20 If anybody has any questions between
21 now and the next meeting, feel free to
22 reach out to either me or Peggy Hagan.

23 MR. BROSEMAN: 6:30 p.m.?

24 THE PRESIDENT: 6:30 p.m.

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Can I have a motion to adjourn?

MS. MULRONEY: So moved.

MS. AGNEW: Second.

THE PRESIDENT: Thank you. All in favor?

- - -

(The Board unanimously responds aye.)

- - -

THE PRESIDENT: We're adjourned.

- - -

(Proceedings concluded at 9:09 p.m.)

- - -

1
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3 CERTIFICATE OF REPORTER
4
5

6 I, Norma Gerrity, a Professional Court
7 Reporter, do hereby certify that the foregoing
8 record is a true and accurate transcript of my
9 stenographic notes in the above-captioned matter.

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13 Norma Gerrity
14 Professional Court Reporter
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