



Allen Township Board of Supervisors

Meeting Minutes

December 27, 2018

7:00 P.M.

A General Meeting of the Allen Township Board of Supervisors, was held on Tuesday, December 27, 2018 at 7:00 P.M. at the Allen Township Municipal Building, 4714 Indian Trail Road, Northampton, PA 18067. The Pledge of Allegiance to the Flag was led by Vice Chairman Dale Hassler.

1. **Roll Call:** Present: Gary Behler; Bruce Frack; Dale Hassler; Gerald Montanari; B. Lincoln Treadwell, Jr., Esq, Robert Cox, PE, PLS, Ilene Eckhart, Manager. Absent: Larry Oberly
2. **Public to be Heard:** No comments from the audience.
3. **Public Hearings:**
 - A. **Allen Township Zoning Ordinance Map Amendment (Ordinance #2018-06) – Public Hearing and Tentative Adoption – See Full Stenographic Transcript Attached.**
4. **Unfinished Business:** No Unfinished Business.
5. **New Business:** No New Business.
6. **Public to be Heard:** No comments from the audience.
7. **Adjournment:** There being no further comments or business the meeting adjourned at 7:50 PM.

Respectfully submitted,

Ilene M. Eckhart

ALLEN TOWNSHIP BOARD OF SUPERVISORS HEARING

IN RE:

PUBLIC HEARING AND INTENT TO ADOPT ZONING ORDINANCE

(MAP) AMENDMENT CHAPTER 27, 2018-06

Taken at the Offices of the Allen
Township Municipal Building, 4714 Indian Trial
Road, Northampton, Pennsylvania, on Thursday,
December 28, 2018, commencing at 7:00 p.m., by
Leandra M. Stoudt, RPR, CBC, CCP, CRR, Notary
Public.

BEFORE: Ilene M. Eckhart, Manager
 Dale Hassler, Vice Chairman
 Bruce Frank, Member
 Gary Behler, Member
 Gerald Montanari, Member
 Robert J. Cox, Engineer

APPEARANCES:

By: B. LINCOLN TREADWELL, JR., ESQ.
 c/o Allen Township
 4714 Indian Trail Road
 Northampton, PA 18067
 -- For the Township
 STEVENS & LEE

By: James F. Kratz, Esq.
 840 W. Hamilton Street
 Suite 521
 Allentown, PA 18101
 610-997-5065
 jfk@stevenslee.com

<p style="text-align: right;">Page 2</p> <p>1 INDEX TO WITNESSES</p> <p>2</p> <p>3 WITNESS PAGE</p> <p>4 Ilene Eckhart</p> <p>5 By Mr. Treadwell 4</p> <p>6 Robert Cox</p> <p>7 By Mr. Treadwell 14</p> <p>8</p> <p>9 INDEX TO EXHIBITS</p> <p>10 EXHIBIT DESCRIPTION PAGE</p> <p>11 Exhibit 1 Legal Affidavit 5</p> <p>12 Exhibit 2 Newspaper Transmittal 6</p> <p>13 Exhibit 3 Notice to Northampton</p> <p>County Law Library 6</p> <p>14</p> <p>Exhibit 4 Certified mail notices 7</p> <p>15 to property owners and</p> <p>copies of return receipts</p> <p>16</p> <p>Exhibit 5 Photographs of posted signs 8</p> <p>17</p> <p>Exhibit 6 Draft minutes 10</p> <p>18</p> <p>Exhibit 7 Lehigh Valley Planning 10</p> <p>19 Commission response</p> <p>20 *Exhibit 1 - 7 not in custody of reporter</p> <p>21 K-1 Right to know request form 24</p> <p>22 K-2 Newspaper article 25</p> <p>23 K-3 Online assement cards 27</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 4</p> <p>1 MR. BEHLER: Yes.</p> <p>2 MR. HASSLER: Gerald?</p> <p>3 MR. MONTANARI: Yes.</p> <p>4 MR. HASSLER: And myself, yes.</p> <p>5 MR. TREADWELL: I'll explain the</p> <p>6 substance of the ordinance in a minute. I'm going</p> <p>7 to go through a couple procedural things with</p> <p>8 Ilene. So can you swear Ilene in, please?</p> <p>9 ILENE ECKHART, was duly sworn and</p> <p>10 testified as follows:</p> <p>11 * * *</p> <p>12 EXAMINATION</p> <p>13 BY MR. TREADWELL:</p> <p>14 Q. And, Ilene, what's your position with</p> <p>15 the Township?</p> <p>16 A. I'm the Township Manager.</p> <p>17 Q. And, okay. And in that position, did</p> <p>18 you receive any correspondence from Mr. Oberly?</p> <p>19 A. Yes, I did.</p> <p>20 Q. And what does that say?</p> <p>21 A. It's a letter dated December 12, 2018</p> <p>22 to the Board of Supervisors. And I'll read it very</p> <p>23 brief. Due to the proximity of my property to one</p> <p>24 of the properties being considered for rezoning, I</p> <p>25 will recuse myself from the proposed vote on</p>
<p style="text-align: right;">Page 3</p> <p>1 (Pledge.)</p> <p>2 (Roll call).</p> <p>3 MR. HASSLER: We'll have Gary Behler?</p> <p>4 GARY BEHLER: Here.</p> <p>5 MR. HASSLER: Bruce Frack?</p> <p>6 MR. FRACK: Here.</p> <p>7 MR. HASSLER: Gerald Montanari?</p> <p>8 MR. MONTANARI: Here.</p> <p>9 MR. HASSLER: Dale Hassler. Here.</p> <p>10 And Larry Oberly is absent.</p> <p>11 First thing on the agenda is public</p> <p>12 hearings.</p> <p>13 MR. TREADWELL: It's a sensitive</p> <p>14 microphone. This is the public hearing for</p> <p>15 proposed ordinance 2018-06, which contemplates</p> <p>16 amending the Allen Township zoning map. So the</p> <p>17 first thing we need is a motion to open the</p> <p>18 hearing.</p> <p>19 MR. BEHLER: I'll make a motion we</p> <p>20 open the hearing.</p> <p>21 MR. FRACK: I'll second.</p> <p>22 MR. HASSLER: We have a motion by</p> <p>23 Gary Behler, and a second by Bruce.</p> <p>24 MR. FRACK: Yes.</p> <p>25 MR. HASSLER: Gary?</p>	<p style="text-align: right;">Page 5</p> <p>1 December 27, 2018. Thank you for understanding.</p> <p>2 Larry Oberly, Chairman.</p> <p>3 MR. TREADWELL: Okay. And in your</p> <p>4 position as Township Manager, are you familiar with</p> <p>5 the ordinance that is the subject of tonight's</p> <p>6 public hearing?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. Did you advertise the public</p> <p>9 hearing for ordinance 2018-06?</p> <p>10 A. Yes.</p> <p>11 Q. And where did you advertise that?</p> <p>12 A. The Express-Times published on</p> <p>13 12/11/18 and 12/18/18.</p> <p>14 Q. And do you have a piece of paper that</p> <p>15 shows that?</p> <p>16 A. I have the legal affidavit from the</p> <p>17 Express-Times.</p> <p>18 Q. Okay.</p> <p>19 A. Marked as Exhibit 1.</p> <p>20 (Exhibit 1 was marked for</p> <p>21 identification.)</p> <p>22 Q. As Exhibit 1, okay.</p> <p>23 A. Yes.</p> <p>24 Q. And did you also advertise that the</p> <p>25 board intended to consider adoption of that</p>

<p style="text-align: right;">Page 6</p> <p>1 ordinance this evening?</p> <p>2 A. Yes, immediately following the public</p> <p>3 hearing.</p> <p>4 Q. Okay. And is that in the same</p> <p>5 Exhibit 1?</p> <p>6 A. Yes.</p> <p>7 Q. Okay. Did you send a copy of the</p> <p>8 proposed ordinance with exhibits to the newspaper?</p> <p>9 A. Yes. On December -- on November 14,</p> <p>10 2018.</p> <p>11 Q. Did you send a copy of the proposed</p> <p>12 ordinance and exhibits to the Northampton County</p> <p>13 Law Library?</p> <p>14 A. And that's Exhibit 2, the transmittal</p> <p>15 to the newspaper.</p> <p>16 (Exhibit 2 was marked for</p> <p>17 identification.)</p> <p>18 Q. Okay. Did you send it to the</p> <p>19 Northampton County Law Library?</p> <p>20 A. Yes. The letter is dated November 9,</p> <p>21 2018. It's marked as Exhibit 3.</p> <p>22 (Exhibit 3 was marked for</p> <p>23 identification.)</p> <p>24 Q. Okay. Thank you. Did you send</p> <p>25 notices to all of the property owners within the</p>	<p style="text-align: right;">Page 8</p> <p>1 (Exhibit 5 was marked for</p> <p>2 identification.)</p> <p>3 Q. And okay. Thank you. Did you post</p> <p>4 the area to be rezoned with signs to notify</p> <p>5 potentially interested citizens?</p> <p>6 A. Yes.</p> <p>7 Q. And how many postings did you do?</p> <p>8 A. There were a total of eight signs --</p> <p>9 Q. Okay. And --</p> <p>10 A. -- posted.</p> <p>11 Q. Where did you post them and what</p> <p>12 areas?</p> <p>13 A. Sign number one was posted on the</p> <p>14 west side of Howertown Road, north of Foreigner</p> <p>15 Road. And I've noted on my Exhibit 5 here, I won't</p> <p>16 read these out, the latitude and longitude of the</p> <p>17 sign placement.</p> <p>18 Q. And then what you're reading from is</p> <p>19 photographs of the signs; is that correct?</p> <p>20 A. Yes. Sign two was placed at Horner</p> <p>21 Road on the south side of Horner Road north of the</p> <p>22 gate.</p> <p>23 And sign three was placed at Atlas</p> <p>24 Road on the south side east of Short Lane</p> <p>25 intersection.</p>
<p style="text-align: right;">Page 7</p> <p>1 area proposed to be rezoned?</p> <p>2 A. Yes.</p> <p>3 Q. And how many of those did you send?</p> <p>4 A. Four.</p> <p>5 Q. To whom did you send them?</p> <p>6 A. Kenneth A. Ucob at 1225 Fourth Street</p> <p>7 Catasauqua, PA; Horwith Leasing Company, Inc., P.O.</p> <p>8 Box 7, Northampton, PA; Whitehall Cement</p> <p>9 Manufacturing Company, care of the Tax Department,</p> <p>10 621 North Anne Street, Anne Arbor Road, Dundee,</p> <p>11 Michigan, 48131; Howard J. and K.L. Krapf, 700</p> <p>12 Savage Road, Suite 7, Northampton, PA.</p> <p>13 Q. Okay. When did you send those?</p> <p>14 A. November 21, 2018.</p> <p>15 Q. Okay. And did you send them regular</p> <p>16 mail? Certified mail? How did you send them?</p> <p>17 A. I sent them certified mail and I</p> <p>18 marked the return receipts as Exhibit 4, certified</p> <p>19 mail notices to property owners.</p> <p>20 (Exhibit 4 was marked for</p> <p>21 identification.)</p> <p>22 Q. Okay. And so, you got four return</p> <p>23 receipts from those four property owners that you</p> <p>24 mentioned?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 9</p> <p>1 Sign four was placed on Nor-Bath</p> <p>2 Trail on north side -- on the north side of the</p> <p>3 trail east of the parking lot on the east side of</p> <p>4 Savage Road.</p> <p>5 Sign five was placed on Atlas Road at</p> <p>6 the Short Lane intersection.</p> <p>7 Sign six was placed on Savage Road in</p> <p>8 the east side adjacent to the Nor-Bath trail</p> <p>9 crossing and parking lots.</p> <p>10 And sign seven was placed at Savage</p> <p>11 Road on the east side of the Atlas Lane</p> <p>12 intersection.</p> <p>13 And sign eight was placed on Nor-Bath</p> <p>14 Boulevard on the north side near the intersection</p> <p>15 of Commerce Drive.</p> <p>16 Q. And when did you post those signs?</p> <p>17 A. These signs were placed the afternoon</p> <p>18 of December 14, 2018, which was a Friday.</p> <p>19 Q. Okay. And, again, you took pictures</p> <p>20 of all the signs posted?</p> <p>21 A. Yes, and those pictures are included</p> <p>22 with Exhibit 5.</p> <p>23 Q. Okay. Thank you.</p> <p>24 Did you propose ordinance 2018-06 get</p> <p>25 submitted to the Allen Township Planning Commission</p>

<p style="text-align: right;">Page 10</p> <p>1 for its review?</p> <p>2 A. Yes.</p> <p>3 (Exhibit 6 was marked for</p> <p>4 identification.)</p> <p>5 Q. And when did it get -- or I'm sorry,</p> <p>6 did they make a recommendation?</p> <p>7 A. The Allen Township Planning</p> <p>8 Commission made their recommendation on November</p> <p>9 19, 2018, at their regularly scheduled meeting.</p> <p>10 And they voted to recommend the draft to the Allen</p> <p>11 Township Board of Supervisors. I have a copy here</p> <p>12 of the draft minutes of that meeting marked as</p> <p>13 Exhibit 6. They have not met since that time to</p> <p>14 approve these minutes.</p> <p>15 Q. To officially approve proof the</p> <p>16 minutes?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. And did the proposed ordinance</p> <p>19 get submitted to the Lehigh Valley Planning</p> <p>20 Commission for its review?</p> <p>21 A. Yes.</p> <p>22 (Exhibit 7 was marked for</p> <p>23 identification.)</p> <p>24 Q. And did the Lehigh Valley Planning</p> <p>25 Commission respond?</p>	<p style="text-align: right;">Page 12</p> <p>1 MR. TREADWELL: Okay. Thank you.</p> <p>2 For the board and the public edification, the</p> <p>3 purpose of tonight's public hearing is, I will</p> <p>4 explain the proposed changes to the zoning map. We</p> <p>5 will then entertain any questions from the Board,</p> <p>6 and then we'll open it up to the public for</p> <p>7 questions and/or comments. So, if you would look</p> <p>8 at the wall behind Mr. Clater over there --</p> <p>9 Mr. Clater, raise your hand so we know who are you.</p> <p>10 Thank you.</p> <p>11 That wall contains four exhibits</p> <p>12 which are part of ordinance 2018-06. The one on</p> <p>13 the left shows a portion of two different tax map</p> <p>14 parcels that are being changed from industrial</p> <p>15 commercial, which is the orange color that you see,</p> <p>16 to white, which is rural. Those two portions are</p> <p>17 -- or those two properties are a portion of tax map</p> <p>18 parcel L43-8, and portion of tax map parcel</p> <p>19 L49-8-6. So, those are currently today zoned IC,</p> <p>20 which is orange color. And if this ordinance is</p> <p>21 adopted, they will be rural, which is the white</p> <p>22 color.</p> <p>23 The second change, which is Exhibit</p> <p>24 B, shows a portion of a piece of property and a</p> <p>25 small square property at the top of that purple</p>
<p style="text-align: right;">Page 11</p> <p>1 A. Yes. Their response is included as</p> <p>2 Exhibit 7 in the transmittal dated November 9.</p> <p>3 Their response letter is dated November 3, 2018 and</p> <p>4 discusses the consistency with the County</p> <p>5 Comprehensive Plan general land use maps.</p> <p>6 Q. And does that -- could you be a</p> <p>7 little more specific with what their comments were?</p> <p>8 A. I'll read you the main paragraph</p> <p>9 here. The amendment proposes four zoning</p> <p>10 designation changes intended to achieve greater</p> <p>11 consistency with the Township's recently adopted</p> <p>12 Comprehensive Plan. A portion of two parcels west</p> <p>13 of Howertown Road adjacent to the Northampton</p> <p>14 Industrial Park would change from industrial</p> <p>15 commercial to rural zoning. And these changes</p> <p>16 bring the Township's zoning into greater</p> <p>17 consistency with the County Comprehensive Plan's</p> <p>18 general planned use map, which designates these</p> <p>19 areas for rural development, page 45. And the</p> <p>20 remaining two map amendments changed the zoning of</p> <p>21 portions of two parcels east of Savage Road from</p> <p>22 industrial to neighborhood commercial and R2 medium</p> <p>23 residential respectively. These zoning changes</p> <p>24 maintain the existing consistency of the general</p> <p>25 land use map.</p>	<p style="text-align: right;">Page 13</p> <p>1 color. Right now, that land is zoned industrial.</p> <p>2 It's proposed to be rezoned to neighborhood</p> <p>3 commercial. Those two properties are a portion of</p> <p>4 tax map L4-15-11, and the entire L4 SE 1-8-1, so</p> <p>5 that's a portion of one property going from white,</p> <p>6 which is industrial, to purple, and there's a</p> <p>7 little square up in the top that is a, I believe,</p> <p>8 residential use now that would also go from</p> <p>9 industrial to neighborhood commercial.</p> <p>10 The third proposed change, which is</p> <p>11 identified as Exhibit C on the map, would take the</p> <p>12 remaining portion of tax map parcel L4-15-11, which</p> <p>13 is currently zoned industrial and change it to</p> <p>14 blue. So you can see the difference between the</p> <p>15 second exhibit, where it's all white, and the third</p> <p>16 exhibit, it's blue. Blue is the R2 residential</p> <p>17 zoning district.</p> <p>18 So if this ordinance is adopted, that</p> <p>19 industrial area would be changed from industrial to</p> <p>20 neighborhood commercial on Exhibit B and then R2 on</p> <p>21 Exhibit C. And Exhibit D, which is on the far</p> <p>22 right, shows the map as it would look if this</p> <p>23 ordinance is adopted.</p> <p>24 So, what we tried to do, to help</p> <p>25 explain it to everybody, was to show the different</p>

<p style="text-align: right;">Page 14</p> <p>1 changes in Exhibit A, B, and C, and then D is what 2 the map would look like if the ordinance gets 3 adopted in its entirety this evening. 4 Does anybody on the Board have any 5 questions? I'm just going ask the Township 6 Engineer one question. Can you swear him in, 7 please? 8 ROBERT COX, was duly sworn and 9 testified as follows: 10 * * * 11 EXAMINATION 12 BY MR. TREADWELL: 13 Q. Mr. Cox, are you the Township 14 engineer? 15 A. Yes. 16 Q. Who do you work for? 17 A. Barry Isett and Associates. 18 Q. And did your firm prepare the maps 19 that I just explained up on the board? 20 A. We did. 21 Q. And did you have an opportunity to 22 review the Township's Comprehensive Plan? 23 A. Yes, and generally, they reflect the 24 changes that were requested in the Comprehensive 25 Plan.</p>	<p style="text-align: right;">Page 16</p> <p>1 provided a land development plan to the Township on 2 Friday for industrial use. Here is my business 3 card. I'll grab yours at the end. 4 The Krapfs acquired the property in 5 1979 from United States Steel Corporation. And 6 United States Steel Corporation used it as a 7 quarry. And they had acquired the property when 8 they acquired the Universal Atlas Cement Company in 9 1958. And the Universal Atlas Cement Company 10 acquired it in 1930. At least since 1930 this 11 property has been in industrial-type use, from at 12 least 1930 up to present day. 13 I appreciate the solicitor pointing 14 out the exhibit for the proposed ordinance map 15 amendment, which I'm here tonight to ask you not 16 adopt, by the way. And I was here to ask Chairman 17 Oberly to recuse himself. I'm thankful he did. 18 Although, it's still creating an issue, because if 19 he was involved in any point in the process, that's 20 an issue which I'll get into in a minute. 21 Here is the Krapf's property here, 22 which actually it's better to start with your 23 exhibiting zoning map, which is here on your 24 left-hand side. 25 So, it's this gray designated parcel</p>
<p style="text-align: right;">Page 15</p> <p>1 Q. So the Comprehensive Plan that was 2 adopted -- help me out, Ilene, back in -- 3 MS. ECKHART: October 2017. 4 BY MR. TREADWELL: 5 Q. In October of 2017, these changes are 6 the same as were identified in that plan? 7 A. Yes. 8 Q. Thank you. 9 MR. TREADWELL: Thank you. If the 10 Board doesn't have any questions or comments, we 11 can now open it up to the audience for questions or 12 comments. 13 MR. KRATZ: Good evening, Attorney 14 James Kratz. I represent Kay Krapf, owner of 15 L4-15-11, and also K&H Development, LLC. I'll come 16 on up. 17 DALE HASSLER: Please come to the 18 mic. 19 MR. KRATZ: Sure. That's fine. 20 Also, I wanted to give my card -- I'll start over. 21 I'm Attorney James Kratz. I represent Kay Krapf 22 and K&H development, LLC. Kay Krapf is owner of 23 the L4-15-11. I'll point it out on the map in a 24 second. And also, K&H Development, LLC and 25 equitable owner in the property who recently</p>	<p style="text-align: right;">Page 17</p> <p>1 right here labeled I for industrial. It's your 2 last industrial district in the Township. You've 3 changed this parcel down here, which is FedEx hub 4 and Rockefeller Industrial subdivision, which was 5 approved a few years ago. You changed that from 6 industrial to I/C, which limits the industrial uses 7 and commercial uses there. 8 So it's your last industrial parcel 9 which you're now proposing to split zone it. So 10 part of it will be you're proposing to zone it as 11 neighborhood commercial, which there are three 12 industrial flex buildings here presently today. So 13 you're proposing to make them nonconforming uses, 14 is what you're doing, really. And here, the 15 remainder of parcel which is recently industrial, 16 you're proposing to make all of that into 17 residential, R2, your medium density zoning 18 designation, which we don't believe is appropriate. 19 It's an industrial parcel from 20 history and present day use. And frankly, we don't 21 see it being able to be developed for residential 22 purposes at medium density. That's what you're 23 saying, is you should be able to get a medium 24 density subdivision in that parcel. And the way of 25 the physical conditions today and mining pits and</p>


<p style="text-align: right;">Page 18</p> <p>1 things like that, I don't see that happening.</p> <p>2 So, I'm here to ask, you know, what</p> <p>3 studies were performed relative to this proposed</p> <p>4 zoning ordinance amendment? It sounds to me,</p> <p>5 frankly, I have not seen anything yet. You went</p> <p>6 through all your exhibits. And I have not heard</p> <p>7 one thing that provided a study where you took</p> <p>8 inventory of what the uses were in that area and</p> <p>9 history and what's going on here and why you're</p> <p>10 proposing to make this change. I have not heard</p> <p>11 anything that you reflected upon as documented to</p> <p>12 you to do this. So I ask, why did you do this?</p> <p>13 Why is this being proposed; do you know?</p> <p>14 MR. BEHLER: So, if you're looking at</p> <p>15 the map that -- I mean, it's pretty obvious to keep</p> <p>16 consistency around the area. The I in the middle</p> <p>17 is not consistent with any of the zoning areas</p> <p>18 surrounded by it. So that was the main reason as</p> <p>19 it was mentioned many times already to bring zoning</p> <p>20 map to be consistent all around.</p> <p>21 MR. KRATZ: Yeah, but that was your</p> <p>22 own industrial area.</p> <p>23 MR. BEHLER: And that's actually, I'm</p> <p>24 pretty sure, that's incorrect. I don't think</p> <p>25 you're looking at the most accurate map. It's the</p>	<p style="text-align: right;">Page 20</p> <p>1 Board of Supervisors.</p> <p>2 MR. KRATZ: Which Mr. Oberly was a</p> <p>3 part of?</p> <p>4 MS. ECKHART: Yes, he was.</p> <p>5 MR. KRATZ: Okay.</p> <p>6 MS. ECKHART: We identified all of</p> <p>7 the existing land use. Pipeline developments at</p> <p>8 that time, you know, plans that were under review.</p> <p>9 We tried to identify where there were spot zoning</p> <p>10 issues, which I think is what Mr. Behler is eluding</p> <p>11 to, would be industrial, set in the middle of the</p> <p>12 more residential zones.</p> <p>13 And that document went through the</p> <p>14 full review of the adjoining municipalities and MPC</p> <p>15 required sent to the Lehigh Valley Planning</p> <p>16 Commission and adopted. And we then took</p> <p>17 considerable amount of time looking at the map that</p> <p>18 was developed and the existing zoning map which you</p> <p>19 referred to in the back.</p> <p>20 MR. KRATZ: Sure.</p> <p>21 MS. ECKHART: And we looked at land</p> <p>22 use analysis on support of septic systems in the</p> <p>23 area, especially in the rural areas and the what</p> <p>24 would be considered reasonable lot dimensional</p> <p>25 requirements. And then we, through the efforts of</p>
<p style="text-align: right;">Page 19</p> <p>1 one on the left.</p> <p>2 MR. KRATZ: When you say the one on</p> <p>3 the left, hidden by the speaker?</p> <p>4 MR. BEHLER: Or far right. It's the</p> <p>5 same thing.</p> <p>6 MR. KRATZ: Right here.</p> <p>7 MR. BEHLER: Right. If you look at</p> <p>8 what you pointed out before, where FedEx is, that</p> <p>9 is industrial.</p> <p>10 MR. KRATZ: Right. You're saying</p> <p>11 it's changed.</p> <p>12 MR. TREADWELL: No, it's industrial.</p> <p>13 MR. BEHLER: No, it's industrial.</p> <p>14 MR. KRATZ: That's industrial. Which</p> <p>15 that's good. That makes sense. Okay.</p> <p>16 MR. TREADWELL: Maybe it would be</p> <p>17 helpful for Attorney Kratz, either Ilene or</p> <p>18 somebody on the Board, could explain the</p> <p>19 comprehensive plan process and the time that that</p> <p>20 took and what was analyzed during that process.</p> <p>21 MS. ECKHART: That was about a</p> <p>22 four-month process we worked with a land planner,</p> <p>23 Hawk Valley Associates, on development of that</p> <p>24 document. We had worked through a task force</p> <p>25 setting of the combined Planning Commission and</p>	<p style="text-align: right;">Page 21</p> <p>1 our planning commission and our board, developed</p> <p>2 these maps that are exhibits hereto.</p> <p>3 MR. KRATZ: This was developed during</p> <p>4 the Comprehensive Plan program?</p> <p>5 MS. ECKHART: These were -- well, the</p> <p>6 future land use map. These maps are consistent</p> <p>7 with the future land use map that was included with</p> <p>8 the adoption of the Comprehensive Plan in October</p> <p>9 of 2017.</p> <p>10 MR. KRATZ: Are you saying the</p> <p>11 Comprehensive Plan, especially said this parcel</p> <p>12 should be rezoned?</p> <p>13 MS. ECKHART: Yes, it did.</p> <p>14 MR. KRATZ: To this designation, the</p> <p>15 two different designations?</p> <p>16 MS. ECKHART: Yes, it did.</p> <p>17 MR. KRATZ: Well --</p> <p>18 MR. HASSLER: Mind if I say</p> <p>19 something?</p> <p>20 MR. KRATZ: Sure.</p> <p>21 * * *</p> <p>22 Dale Hassler, was duly sworn and</p> <p>23 testified as follows:</p> <p>24 DALE HASSLER: One of the things the</p> <p>25 comprehensive group did, the supervisor and</p>

<p style="text-align: right;">Page 22</p> <p>1 Planning Commission surveys were sent out to all 2 the residents. And one of the big things residents 3 asked was to be less industry. That was the 4 biggest, most negative part. They want to see less 5 industrial, because the influx of warehouses and 6 everything else, and a lot of that was taken into 7 our -- into consideration when we were making these 8 changes. And that's one of the big things, you 9 know, the residents were crying out we don't want 10 the warehouses. 11 And we're trying to look to say, 12 okay, we're listening. Everybody says, no, we're 13 not listening. But, yes, we are listening. And 14 this is one way that we saw, you know, looking at 15 the land use and figured, okay, we'll have that 16 area as R. 17 MR. KATZ: All those surveys, you 18 don't know how many were returned but -- 19 MS. ECKHART: There was a 40 percent 20 response on the surveys, which were mailed first 21 class mail with return first class envelope, as 22 well as the ones that were sent out on the database 23 we keep, email addresses, electronically. 24 MR. KRATZ: When did the survey go 25 out?</p>	<p style="text-align: right;">Page 24</p> <p>1 Krapfs, because they were wise, to put the laterals 2 in then to do more industrial flex buildings, you 3 know, small ones on the property. And they just 4 recently submitted land development application for 5 an additional 40,000 square foot industrial flex 6 building. 7 So, you know, this is a long-standing 8 township resident taxpayer who helped the Township 9 with certain jobs, not just that one. There was a 10 bridge that needed to be fixed in that area, which 11 they helped out with that. There's actually a list 12 of things they helped the Township out 13 project-wise. 14 And now they're having their 15 industrial development rights stripped of them. 16 That's what they're proposing to do. I don't get 17 it. I understand. I hear you about the survey and 18 traffic and trucks. But that was after reaction to 19 the FedEx hub and additional parcels that 20 Rockefeller got approved in that project. 21 Also, I'm going to submit this right 22 to know request form, because I want to see what's 23 going on. I'm going to mark it K-1. 24 (Exhibit K1 was marked for 25 identification.)</p>
<p style="text-align: right;">Page 23</p> <p>1 MS. ECKHART: The survey went out -- 2 MR. KRATZ: After the FedEx hub was 3 approved and Rockefeller lots were approved? 4 MS. ECKHART: Yeah, we began the 5 process, I would say, Spring of 2017 to mail. 6 MR. KRATZ: After those projects were 7 approved and the people realized what was going on 8 down there. But, see, our parcel is different. 9 And I -- I disagree with the term spot zoning. It 10 was not -- it's not spot zoned. It turns out the 11 end of the day, yes, it looks like it's a spot in 12 the middle of the Township. But there was a reason 13 for that. The history of this property, okay? And 14 there's three small industrial flex buildings 15 already on the property here. And the Krapfs 16 actually, right here, in this area here, and that's 17 now being proposed neighborhood commercial, which 18 would take away property rights, okay? 19 And the Krapfs, they actually helped 20 the Township extend the sewer line up here all the 21 way up to Atlas Road by providing equipment and 22 operators. Now, the Township did the engineering 23 and bought the materials. But the Krapfs helped 24 them do that, extend the sewer line up there in 25 2002. And even new laterals at the time, the</p>	<p style="text-align: right;">Page 25</p> <p>1 Not the best handwriting. I'll give 2 you one. This is for you. Thanks. And you'll end 3 up with a copy of that anyway. 4 MR. TREADWELL: Thanks. 5 MR. KRATZ: I won't go through all 6 the records I'm seeking because they're listed in 7 there. But I Want to see what's been provided to 8 you in order for you to make a decision relative to 9 this. And it concerns me that Mr. Oberly was 10 involved in the process at all. Okay. He recused 11 himself tonight, which was wise on his part. But 12 the fact that he was involved in the process at all 13 taints the process because it's -- it's -- it's not 14 a secret that he has an issue with my clients and 15 their property. I didn't want to overwhelm you 16 with documents tonight. But I'll mark this as K-2. 17 (Exhibit K2 was marked for 18 identification.) 19 MR. KATZ: You all want one? I have 20 multiple copies. I won't write K on each one and 21 take all the time. There you go. 22 For your file I'll give one that is 23 marked. This is just an example of prior to 24 becoming an elected official here at the township 25 some of the comments made by Mr. Oberly.</p>

<p style="text-align: right;">Page 26</p> <p>1 This is a newspaper article published 2 in the Home News on May 17, 2012. Him and a couple 3 other residents came to a Township Board of 4 Supervisors' meeting concerned about the Krapfs 5 operation, moving truck load after truck load, this 6 is his words, of soil to fill a quarry on his 7 property. 8 There is a permitted clean fill 9 operation at the property. And the Township is 10 well aware of it. And it was permitted back in 11 2008. Mr. Oberly lives directly across the street. 12 He's complained about truck traffic and also 13 elevations of soil and things like that. The 14 second part of K2 is an article from the 15 Northampton Press where Mr. Oberly and unnamed 16 residents and unnamed number of residents, from 17 Atlas Road, appeared before the Allen Township 18 Board of Supervisors to voice complaints regarding 19 fill being dumped, what they call, into an 20 abandoned quarry near their homes. 21 Oberly and the residents argued the 22 operation is questionable and Township has ignored 23 taking any corrective action. This is just an 24 example, two examples of Mr. Oberly being in front 25 of the Township and making complaints because he</p>	<p style="text-align: right;">Page 28</p> <p>1 you can see, which supports what you told us 2 earlier, because if you look at the recitals for 3 the Krapf deed, you'll see that it's been, you 4 know, Mrs. Krapf got it in 1979 along with her 5 husband. But they acquired it off U.S. Steel, who 6 had it since '58, because they acquired the cement 7 company that owned it since I guess 1932. I would 8 have to look. So my point is the operations on 9 that property industrial uses, that property, have 10 been there since at least 1930, '32-ish, frankly 11 earlier. I think Mr. Oberly quoted one article 12 saying the cement company was there in 1895. I 13 believe he's a local historian. I would not be 14 surprised if the cement company was operating back 15 in 1895. The point is that property has industrial 16 type uses since at least 1930. My client purchased 17 it in 1979 in reliance upon that and has used it 18 and capitalized on that use and wants to capitalize 19 on her property rights. 20 What you're proposing to do is strip 21 her of those rights. So, again, I ask why? I 22 understand that you already gave me certain 23 answers. But I respectfully request that you not 24 enact this zoning ordinance, that you exclude my 25 client's property from what you're proposing to do.</p>
<p style="text-align: right;">Page 27</p> <p>1 lives across the street, and from his perspective, 2 he had a problem, and I believe still does, with 3 his neighbor across the street, my client, Mrs. 4 Krapf. Her husband died a couple years ago -- how 5 long has that been, Randy? 6 UNKNOWN SPEAKER: Eight years. 7 MR. KRATZ: Mrs. Krapf owns 8 residential property and operating in conformance 9 with law whenever she received a complaint they 10 addressed it. 11 Mr. Oberly has an issue with my 12 client. And therefore, I believe has, you know, 13 moved to have this issue addressed from his 14 perspective by rezoning my client's property. How 15 would you like it if your neighbor had an issue 16 with you, and I then got elected, and then 17 advocated to have things rezoned to take care of 18 his personal business. I don't think you would 19 like that. 20 (Exhibit K3 was marked for 21 identification.). 22 MR. KRATZ: What I'm handing you I've 23 mark as K3. And it's an online assessment card for 24 Mr. Oberly's property and his deed and also online 25 assessment card and deed for Mrs. Krapf, just so</p>	<p style="text-align: right;">Page 29</p> <p>1 And let me just check my notes. Hopefully some of 2 you were involved in the Comprehensive Plan process 3 and interacted with Mr. Oberly, so you know his 4 voice on this and whether they sway you at all 5 relative to this. 6 I hit my points. Thank you. 7 MR. TREADWELL: Thank you, Attorney 8 Kratz. Is there anybody else that wants to 9 comment? 10 Yes, ma'am? 11 * * * 12 SANDRA BLAUKOVITZ, having been duly 13 sworn was examined and testified as follows: 14 SANDRA BLAUKOVITZ: Could you tell me 15 what kind of businesses would be included in your 16 commercial residential rezoning? 17 MR. TREADWELL: The neighborhood 18 commercial, the purple. 19 SANDRA BLAUKOVITZ: Whatever you 20 called it, commercial along with housing, what 21 would be allowed specifically? 22 MR. TREADWELL: If you bear with me a 23 minute I will read from the zoning ordinance. 24 Okay. Currently the Allen Township 25 Zoning Ordinance in part 13, section 27-1301,</p>

<p style="text-align: right;">Page 30</p> <p>1 allows the following uses permitted by right in the 2 neighborhood commercial district: Office, medical 3 office, retail store, service business, financial 4 establishment, eating place, repair shop, funeral 5 home, tavern, veterinary, bed and breakfast, 6 nursing home. It also then allows single-family 7 detached dwellings, duplex, rooming house, churches 8 or places of worship, community group home, public 9 municipal buildings, public conservation areas, 10 daycares, no-impact home-based business, clinic, 11 convenience store, farmers market, fitness center, 12 mini mall, mini market, service business, 13 restaurant, drive-in, fast food, tavern. There are 14 then 15 types of uses that are permitted by 15 conditional use.</p> <p>16 SANDRA BLAUKOVITZ: The repair ship, 17 are we talking about garages that would fix perhaps 18 something that comes from FedEx that they cannot 19 fix there or --</p> <p>20 MR. TREADWELL: I think the repair 21 shop definition is probably fairly broad. I mean, 22 we would have to see what the proposal is in order 23 to determine whether it fits into that or not.</p> <p>24 SANDRA BLAUKOVITZ: Just curious. I 25 needed to note specifics. Thank you. Okay.</p>	<p style="text-align: right;">Page 32</p> <p>1 now by Mud Run -- I'm sorry, by Dry Run, all right? 2 And the intent was to keep that as a demarcation. 3 You're not going to have building that typically 4 will expand over Dry Run.</p> <p>5 So the fact that they would become 6 nonconforming, they would have the ability to 7 expand, but naturally would not expand over Dry 8 Run. So, I think, just keep in mind that zoning 9 changes. It keeps on changing. And I think 10 another reason that I do want to comment, one thing 11 on the references to Mr. Oberly, when we had our 12 combined meetings, as you all know, since you all 13 attend, just about all of them, virtually all the 14 discussions were involving the full boards. They 15 were not unifocal, for instance, Larry proposing 16 one thing and us not agreeing. Everybody had their 17 thoughts. It represented a total of eight 18 individuals the combined of two boards. And if I'm 19 not mistaken, I may be wrong on one vote, every 20 vote coming out of the comprehensive plan and 21 subsequent zoning recommendations after that was 22 unanimous. There may have been one vote where he 23 had discussion. I'm not sure there were any votes, 24 though, where there were any dissension.</p> <p>25 It was unanimous amongst the eight</p>
<p style="text-align: right;">Page 31</p> <p>1 * * *</p> <p>2 GENE CLATER, was duly sworn and 3 testified as follows:</p> <p>4 MR. CLATER: My address is 107 Snow 5 Hill Road, Northampton, PA. And as you know, I've 6 been chairman of the Township Planning Commission 7 and been on the Planning Commission 20 years. One 8 thing I would like to say is zoning does not last 9 forever, which the attorney certainly knows. 10 Zoning is evolution. And things change, as things 11 develop.</p> <p>12 So, there's a natural evolution that 13 says just because you have something now or had 14 something 30 years going, doesn't necessarily mean 15 it will be the same tomorrow. It depends on how 16 communities evolve. This community has evolved and 17 it's second fastest growing community in the 18 two-county area for the last 15 years or so, 19 becoming far more residential in the northern side 20 and far more industrial-oriented on the southern 21 side of 329 that is, more or less.</p> <p>22 But surrounding the zone that we 23 talked about is basically residential uses with the 24 exception of the three facilities that are on 25 Savage Road. But as you know, they're restricted</p>	<p style="text-align: right;">Page 33</p> <p>1 people that live in the Township and know how the 2 Township is evolving and you know how the survey 3 went. And the Comprehensive Plan I think 4 accurately reflected that survey.</p> <p>5 And these plans represent what came 6 out of that survey in the Comprehensive Plan. So 7 everything has been consistent for two and a half 8 years now that we've been at this. And I might add 9 that when we -- for the record, when we had our 10 comprehensive meetings, they were public. They 11 were announced. And plenty of advanced notice.</p> <p>12 I do not recall the current 13 applicant, you know, Mrs. Krapf, responding at any 14 one of those meetings. Not a one. And yet these 15 were discussions that were out there and they were 16 open. The public involvement, as you know, was 17 fairly minimal in those meetings even they though 18 they were advertised. We had to do the best we 19 could do as a board and any public input.</p> <p>20 I think what is here reflects what 21 the public has wanted. And again, keep in mind, 22 zoning changes. And things evolve. And nothing is 23 forever. Thank you.</p> <p>24 MR. TREADWELL: Any other comments or 25 questions from the public?</p>

<p style="text-align: right;">Page 34</p> <p>1 MR. KRATZ: One last rebuttal 2 comment. Attorney Kratz. Zoning does change over 3 time, and has to be thoughtful and nonarbitrary and 4 well studied. And also you have to take into 5 consideration whether or not you're stripping the 6 use of a property, because then it's called a 7 regulatory taking, which I think you're about to, 8 what's the word, pursue. So just be mindful of 9 that. Thanks.</p> <p>10 MR. TREADWELL: Anybody else? 11 GENE CLATER: One thing I forgot to 12 say, as a follow-on, and it's not a rebuttal, just 13 another follow-on.</p> <p>14 MR. KRATZ: That's okay. 15 GENE CLATER: Savage Road that 16 provides access to this property, as well as Atlas 17 Road, are not appropriately designed to handle 18 truck traffic. That was another major contribution 19 factor as to why, as a group, we said we really 20 need to get more towards uses, that R2, which is 21 for more than residential. There's a lot of usage 22 you can do with R2 environment. Doesn't have to be 23 just houses. And you can read the table, Linc, but 24 they can say it, too, there's a lot of uses. So 25 the road network is another reason that I think</p>	<p style="text-align: right;">Page 36</p> <p>1 quarry that would have to be reclaimed to state 2 standards for something like that. I don't see a 3 developer touching that property for those uses you 4 just read off.</p> <p>5 SANDRA BLAUKOVITZ: Then we'll just 6 grow crops.</p> <p>7 * * *</p> <p>8 VINCE BLAUKOVITCH, was duly sworn and 9 was examined and testified as follows:</p> <p>10 VINCE BLAUKOVITCH: You talked, 11 attorney, about what went on across the street.</p> <p>12 MR. KRATZ: I did.</p> <p>13 VINCE BLAUKOVITCH: My property, 10 14 Drexel Drive, my backyard faces Atlas. Larry 15 Oberly is behind me. Year after year after year 16 nothing but dirt and dust and trucks coming 17 through, even 2 or 3 in the morning. And she can 18 attest to phone calls we made complaining about the 19 dirt and everything that Mrs. Krapf or whoever 20 owned the property at the time would dump stuff in 21 there. And it didn't belong in there. It came 22 from -- supposedly had to go to Allentown dump 23 yard. It came up here in the middle of the night. 24 We heard that all the time.</p> <p>25 And the dust. Poor Larry's house.</p>
<p style="text-align: right;">Page 35</p> <p>1 combined commissions looked at making this 2 particular change. The road network is not going 3 to accommodate truck traffic.</p> <p>4 MR. TREADWELL: Any other questions 5 or comments from the Board?</p> <p>6 GERALD MONTANARI: What options do 7 they have in R2, if you would not mind?</p> <p>8 MR. TREADWELL: I happen to have the 9 book.</p> <p>10 R2, the medium density residential 11 district, permitted uses include farming, 12 single-family detached dwellings, public 13 conservation areas, public municipal buildings, 14 commercial forestry, no-impact home-based business, 15 church or place of worship, fitness center or 16 exercise center, banquet facility, health facility, 17 medical center, restaurant, and then there are 18 again some conditional uses, which include 19 conversion of an existing building, nursing home, 20 housing for elderly people, assisted living 21 facility, personal care home, clinic, and Nano 22 brewery.</p> <p>23 MR. KRATZ: If I may, you need to 24 consider all those theoretical uses, not with this 25 property, okay. This is a quarry, historical</p>	<p style="text-align: right;">Page 37</p> <p>1 You could not see his front with the junk that that 2 person did. So don't go telling me you guys did a 3 great job there. You didn't. The place is an 4 absolute mess. And now you want to go and change 5 it again? What are you going to do with it now?</p> <p>6 MR. KRATZ: Right now currently we're 7 proposing 40,000 square foot industrial flex 8 building.</p> <p>9 VINCE BLAUKOVITCH: Then I don't know 10 what, just a building? You don't know what's going 11 in the building at all?</p> <p>12 MR. KRATZ: I'm not at liberty to 13 discuss that.</p> <p>14 VINCE BLAUKOVITCH: So you stick four 15 walls up and throw a for sale sign up and hope 16 somebody comes in.</p> <p>17 MR. KRATZ: That's not what I'm 18 saying at all, no.</p> <p>19 VINCE BLAUKOVITCH: But you talked 20 about how neat this was done. That's a lot of 21 bologna, okay? We were up there for years. I've 22 been there since 1965. And that was an absolute 23 mess.</p> <p>24 UNIDENTIFIED SPEAKER: I agree. 25 MR. TREADWELL: I keep asking this</p>

<p style="text-align: right;">Page 38</p> <p>1 question and people keep taking me up on it. Any 2 other questions or comments? 3 Okay. If there's -- hearing none, 4 the next step would be a motion to close the 5 hearing. 6 GARY BEHLER: I'll make that motion. 7 GERALD MONTANARI: I'll second it. 8 DALE HASSLER: Bruce? 9 MR. FRACK: Yes. 10 MR. HASSLER: Gary? 11 MR. BEHLER: Yes. 12 MR. HASSLER: Gerald? 13 MR. MONTANARI: Yes. 14 MR. HASSLER: Dale, yes. Okay. 15 MR. TREADWELL: Okay. As you heard 16 Miss Eckert state during the public hearing, this 17 ordinance was also advertised. It was also 18 advertised the Board would consider adoption of 19 this ordinance at tonight's meeting. So, that's 20 the stage we're at now. And the Board cares to 21 take that under consideration? 22 MR. BEHLER: I'll make a motion we 23 adopt Ordinance 2018-06 as it pertains to 24 amendments of zoning map contained in code of 25 ordinances of Allen Township.</p>	<p style="text-align: right;">Page 40</p> <p>1 2 3 CERTIFICATE 4 5 I do hereby certify that the aforesaid 6 testimony was taken before me, pursuant to notice, 7 at the time and place indicated; that said deponent 8 was by me duly sworn to tell the truth, the whole 9 truth, and nothing but the truth; that the 10 testimony of said deponent was correctly recorded 11 in machine shorthand by me and thereafter 12 transcribed under my supervision with 13 computer-aided transcription; that the deposition 14 is a true and correct record of the testimony given 15 by the witness; and that I am neither of counsel 16 nor kin to any party in said action, nor interested 17 in the outcome thereof  18 19 Leandra Stoudt, RPR, CRR 20 CBC, CCP, Notary Public 21 22 23 24 25</p>
<p style="text-align: right;">Page 39</p> <p>1 MR. HASSLER: Do we have a second? 2 Mr. MONTANARI: I'll second it. 3 MR. HASSLER: Okay. We have first 4 and second, roll call. Bruce? 5 MR. FRACK: Yes. 6 MR. HASSLER: Gary? 7 MR. BEHLER: Yes. 8 MR. HASSLER: Gerald? 9 MR. MONTANARI: Yes. 10 MR. HASSLER: Myself, yes. 11 MR. TREADWELL: Okay. That's it for 12 that subject. 13 (Concluded 7:48 p.m.) 14 15 16 17 18 19 20 21 22 23 24 25</p>	

&	38:23	9	aforesaid 40:5
& 1:20	21 7:14	9 6:20 11:2	afternoon 9:17
1	25 2:22	a	agenda 3:11
1 2:11,20,21 5:19 5:20,22 6:5 24:23	27 1:3 5:1	abandoned 26:20	ago 17:5 27:4
1-8-1 13:4	27-1301 29:25	ability 32:6	agree 37:24
10 2:17,18 36:13	28 1:7	able 17:21,23	agreeing 32:16
107 31:4	3	absent 3:10	aided 40:13
12 4:21	3 2:13,23 6:21,22 11:3 36:17	absolute 37:4,22	allen 1:1,4,17 3:16 9:25 10:7,10 26:17 29:24 38:25
12/11/18 5:13	30 31:14	access 34:16	allentown 1:22 36:22
12/18/18 5:13	32 28:10	accommodate 35:3	allowed 29:21
1225 7:6	329 31:21	accurate 18:25	allows 30:1,6
13 29:25	4	accurately 33:4	amending 3:16
14 2:7 6:9 9:18	4 2:5,14 7:18,20	achieve 11:10	amendment 1:3 11:9 16:15 18:4
15 30:14 31:18	40 22:19	acquired 16:4,7,8 16:10 28:5,6	amendments 11:20 38:24
17 26:2	40,000 24:5 37:7	action 26:23 40:16	amount 20:17
18067 1:18	45 11:19	add 33:8	analysis 20:22
18101 1:22	4714 1:5,18	additional 24:5,19	analyzed 19:20
1895 28:12,15	48131 7:11	address 31:4	anne 7:10,10
19 10:9	488 40:17	addressed 27:10 27:13	announced 33:11
1930 16:10,10,12 28:10,16	5	addresses 22:23	answers 28:23
1932 28:7	5 2:11,16 8:1,15 9:22	adjacent 9:8 11:13	anybody 14:4 29:8 34:10
1958 16:9	521 1:21	adjoining 20:14	anyway 25:3
1965 37:22	58 28:6	adopt 1:2 16:16 38:23	appearances 1:16
1979 16:5 28:4,17	6	adopted 11:11 12:21 13:18,23 14:3 15:2 20:16	appeared 26:17
2	6 2:13,17 10:3,13	adoption 5:25 21:8 38:18	applicant 33:13
2 2:12,22 6:14,16 25:16 36:17	610-997-5065 1:22	advanced 33:11	application 24:4
20 31:7	621 7:10	advertise 5:8,11 5:24	appreciate 16:13
2002 23:25	7	advertised 33:18 38:17,18	appropriate 17:18
2008 26:11	7 2:14,18,20 7:8,12 10:22 11:2	advocated 27:17	appropriately 34:17
2012 26:2	700 7:11	affidavit 2:11 5:16	approve 10:14,15
2017 15:3,5 21:9 23:5	7:00 1:7		approved 17:5 23:3,3,7 24:20
2018 1:7 4:21 5:1 6:10,21 7:14 9:18 10:9 11:3	7:48 39:13		arbor 7:10
2018-06 1:3 3:15 5:9 9:24 12:12	8		
	8 2:16		
	840 1:21		

area 7:1 8:4 13:19 18:8,16,22 20:23 22:16 23:16 24:10 31:18 areas 8:12 11:19 18:17 20:23 30:9 35:13 argued 26:21 article 2:22 26:1 26:14 28:11 asked 22:3 asking 37:25 asessment 2:23 assessment 27:23 27:25 assisted 35:20 associates 14:17 19:23 atlas 8:23 9:5,11 16:8,9 23:21 26:17 34:16 36:14 attend 32:13 attest 36:18 attorney 15:13,21 19:17 29:7 31:9 34:2 36:11 audience 15:11 aware 26:10	becoming 25:24 31:19 bed 30:5 began 23:4 behler 1:13 3:3,4 3:19,23 4:1 18:14 18:23 19:4,7,13 20:10 38:6,11,22 39:7 believe 13:7 17:18 27:2,12 28:13 belong 36:21 best 25:1 33:18 better 16:22 big 22:2,8 biggest 22:4 blaukovitch 36:8 36:10,13 37:9,14 37:19 blaukovitz 29:12 29:14,19 30:16,24 36:5 blue 13:14,16,16 board 1:1 4:22 5:25 10:11 12:2,5 14:4,19 15:10 19:18 20:1 21:1 26:3,18 33:19 35:5 38:18,20 boards 32:14,18 bologna 37:21 book 35:9 bought 23:23 boulevard 9:14 box 7:8 breakfast 30:5 brewery 35:22 bridge 24:10 brief 4:23 bring 11:16 18:19	broad 30:21 bruce 1:12 3:5,23 38:8 39:4 building 1:5 24:6 32:3 35:19 37:8 37:10,11 buildings 17:12 23:14 24:2 30:9 35:13 business 16:2 27:18 30:3,10,12 35:14 businesses 29:15	chairman 1:11 5:2 16:16 31:6 change 11:14 12:23 13:10,13 18:10 31:10 34:2 35:2 37:4 changed 11:20 12:14 13:19 17:3 17:5 19:11 changes 11:10,15 11:23 12:4 14:1 14:24 15:5 22:8 32:9 33:22 changing 32:9 chapter 1:3 check 29:1 church 35:15 churches 30:7 citizens 8:5 class 22:21,21 clater 12:8,9 31:2 31:4 34:11,15 clean 26:8 client 27:3,12 28:16 client's 27:14 28:25 clients 25:14 clinic 30:10 35:21 close 38:4 code 38:24 color 12:15,20,22 13:1 combined 19:25 32:12,18 35:1 come 15:15,17 comes 30:18 37:16 coming 32:20 36:16 commencing 1:7
b	b	c	c 1:17 13:11,21 14:1 17:6 call 3:2 26:19 39:4 called 29:20 34:6 calls 36:18 capitalize 28:18 capitalized 28:18 card 15:20 16:3 27:23,25 cards 27:23 care 7:9 27:17 35:21 cares 38:20 catasauqua 7:7 cbc 1:8 40:19 ccp 1:8 40:19 cement 7:8 16:8,9 28:6,12,14 center 30:11 35:15 35:16,17 certain 24:9 28:22 certainly 31:9 certificate 40:3 certified 2:14 7:16 7:17,18 certify 40:5
b	b	c	c

comment 29:9 32:10 34:2 comments 11:7 12:7 15:10,12 25:25 33:24 35:5 38:2 commerce 9:15 commercial 11:15 11:22 12:15 13:3 13:9,20 17:7,11 23:17 29:16,18,20 30:2 35:14 commission 2:19 9:25 10:8,20,25 19:25 20:16 21:1 22:1 31:6,7 commissions 35:1 communities 31:16 community 30:8 31:16,17 company 7:7,9 16:8,9 28:7,12,14 complained 26:12 complaining 36:18 complaint 27:9 complaints 26:18 26:25 comprehensive 11:5,12,17 14:22 14:24 15:1 19:19 21:4,8,11,25 29:2 32:20 33:3,6,10 computer 40:13 concerned 26:4 concerns 25:9 concluded 39:13 conditional 30:15 35:18 conditions 17:25	conformance 27:8 conservation 30:9 35:13 consider 5:25 35:24 38:18 considerable 20:17 consideration 22:7 34:5 38:21 considered 4:24 20:24 consistency 11:4 11:11,17,24 18:16 consistent 18:17 18:20 21:6 33:7 contained 38:24 contains 12:11 contemplates 3:15 contribution 34:18 convenience 30:11 conversion 35:19 copies 2:15 25:20 copy 6:7,11 10:11 25:3 corporation 16:5 16:6 correct 8:19 40:14 corrective 26:23 correctly 40:10 correspondence 4:18 counsel 40:15 county 2:13 6:12 6:19 11:4,17 31:18 couple 4:7 26:2 27:4 cox 1:15 2:6 14:8 14:13	creating 16:18 crops 36:6 crossing 9:9 crr 1:8 40:18 crying 22:9 curious 30:24 current 33:12 currently 12:19 13:13 29:24 37:6 custody 2:20	detached 30:7 35:12 determine 30:23 develop 31:11 developed 17:21 20:18 21:1,3 developer 36:3 development 11:19 15:15,22,24 16:1 19:23 24:4 24:15 developments 20:7 died 27:4 difference 13:14 different 12:13 13:25 21:15 23:8 dimensional 20:24 directly 26:11 dirt 36:16,19 disagree 23:9 discuss 37:13 discusses 11:4 discussion 32:23 discussions 32:14 33:15 dissension 32:24 district 13:17 17:2 30:2 35:11 document 19:24 20:13 documented 18:11 documents 25:16 doing 17:14 draft 2:17 10:10 10:12 drexel 36:14 drive 9:15 30:13 36:14 dry 32:1,4,7
---	--	--	---

due 4:23 duly 4:9 14:8 21:22 29:12 31:2 36:8 40:8 dump 36:20,22 dumped 26:19 dundee 7:10 duplex 30:7 dust 36:16,25 dwellings 30:7 35:12	entire 13:4 entirety 14:3 envelope 22:21 environment 34:22 equipment 23:21 equitable 15:25 especially 20:23 21:11 esq 1:17,20 establishment 30:4	exhibiting 16:23 exhibits 2:9 6:8,12 12:11 18:6 21:2 existing 11:24 20:7,18 35:19 expand 32:4,7,7 explain 4:5 12:4 13:25 19:18 explained 14:19 express 5:12,17 extend 23:20,24	five 9:5 fix 30:17,19 fixed 24:10 flex 17:12 23:14 24:2,5 37:7 follow 34:12,13 following 6:2 30:1 follows 4:10 14:9 21:23 29:13 31:3 36:9 food 30:13 foot 24:5 37:7 force 19:24 foreigner 8:14 forestry 35:14 forever 31:9 33:23 forgot 34:11 form 24:22 form24 2:21 four 7:4,22,23 9:1 11:9 12:11 19:22 37:14 fourth 7:6 frack 3:5,6,21,24 38:9 39:5 frank 1:12 frankly 17:20 18:5 28:10 friday 9:18 16:2 front 26:24 37:1 full 20:14 32:14 funeral 30:4 future 21:6,7
e		f	
earlier 28:2,11 east 8:24 9:3,3,8 9:11 11:21 eating 30:4 eckert 38:16 eckhart 1:10 2:4 4:9 15:3 19:21 20:4,6,21 21:5,13 21:16 22:19 23:1 23:4 edification 12:2 efforts 20:25 eight 8:8 9:13 27:6 32:17,25 either 19:17 elderly 35:20 elected 25:24 27:16 electronically 22:23 elevations 26:13 eluding 20:10 email 22:23 enact 28:24 engineer 1:15 14:6 14:14 engineering 23:22 entertain 12:5	evening 6:1 14:3 15:13 everybody 13:25 22:12 32:16 evolution 31:10,12 evolve 31:16 33:22 evolved 31:16 evolving 33:2 examination 4:12 14:11 examined 29:13 36:9 example 25:23 26:24 examples 26:24 exception 31:24 exclude 28:24 exercise 35:16 exhibit 2:10,11,12 2:13,14,16,17,18 2:20 5:19,20,22 6:5,14,16,21,22 7:18,20 8:1,15 9:22 10:3,13,22 11:2 12:23 13:11 13:15,16,20,21,21 14:1 16:14 24:24 25:17 27:20	f 1:20 faces 36:14 facilities 31:24 facility 35:16,16 35:21 fact 25:12 32:5 factor 34:19 fairly 30:21 33:17 familiar 5:4 family 30:6 35:12 far 13:21 19:4 31:19,20 farmers 30:11 farming 35:11 fast 30:13 fastest 31:17 fedex 17:3 19:8 23:2 24:19 30:18 figured 22:15 file 25:22 fill 26:6,8,19 financial 30:3 fine 15:19 firm 14:18 first 3:11,17 22:20 22:21 39:3 fitness 30:11 35:15 fits 30:23	g garages 30:17 gary 1:13 3:3,4,23 3:25 38:6,10 39:6 gate 8:22 gene 31:2 34:11,15 general 11:5,18,24

generally 14:23 gerald 1:14 3:7 4:2 35:6 38:7,12 39:8 give 15:20 25:1,22 given 40:14 go 4:7 13:8 22:24 25:5,21 36:22 37:2,4 going 4:6 13:5 14:5 18:9 23:7 24:21,23,23 31:14 32:3 35:2 37:5,10 good 15:13 19:15 grab 16:3 gray 16:25 great 37:3 greater 11:10,16 group 21:25 30:8 34:19 grow 36:6 growing 31:17 guess 28:7 guys 37:2	heard 18:6,10 36:24 38:15 hearing 1:1,2 3:14 3:18,20 5:6,9 6:3 12:3 38:3,5,16 hearings 3:12 help 13:24 15:2 helped 23:19,23 24:8,11,12 helpful 19:17 hereto 21:2 hidden 19:3 hill 31:5 historian 28:13 historical 35:25 history 17:20 18:9 23:13 hit 29:6 home 26:2 30:5,6 30:8,10 35:14,19 35:21 homes 26:20 hope 37:15 hopefully 29:1 horner 8:20,21 horwith 7:7 house 30:7 36:25 houses 34:23 housing 29:20 35:20 howard 7:11 howertown 8:14 11:13 hub 17:3 23:2 24:19 husband 27:4 28:5	25:18 27:21 identified 13:11 15:6 20:6 identify 20:9 ignored 26:22 ilene 1:10 2:4 4:8 4:8,9,14 15:2 19:17 immediately 6:2 impact 30:10 35:14 include 35:11,18 included 9:21 11:1 21:7 29:15 incorrect 18:24 index 2:1,9 indian 1:5,18 indicated 40:7 individuals 32:18 industrial 11:14 11:14,22 12:14 13:1,6,9,13,19,19 16:2,11 17:1,2,4,6 17:6,8,12,15,19 18:22 19:9,12,13 19:14 20:11 22:5 23:14 24:2,5,15 28:9,15 31:20 37:7 industry 22:3 influx 22:5 input 33:19 instance 32:15 intended 5:25 11:10 intent 1:2 32:2 interacted 29:3 interested 8:5 40:16 intersection 8:25 9:6,12,14	inventory 18:8 involved 16:19 25:10,12 29:2 involvement 33:16 involving 32:14 isett 14:17 ish 28:10 issue 16:18,20 25:14 27:11,13,15 issues 20:10
h		j	
half 33:7 hamilton 1:21 hand 12:9 16:24 handing 27:22 handle 34:17 handwriting 25:1 happen 35:8 happening 18:1 hassler 1:11 3:3,5 3:7,9,9,22,25 4:2,4 15:17 21:18,22,24 38:8,10,12,14 39:1 39:3,6,8,10 hawk 19:23 health 35:16 hear 24:17		j 1:15 7:11 james 1:20 15:14 15:21 jfk 1:23 job 37:3 jobs 24:9 jr 1:17 junk 37:1	
i		k	
ic 12:19 identification 5:21 6:17,23 7:21 8:2 10:4,23 24:25		k 2:21,22,23 24:23 25:16,20 k&h 15:15,22,24 k.l. 7:11 k1 24:24 k2 25:17 26:14 k3 27:20,23 katz 22:17 25:19 kay 15:14,21,22 keep 18:15 22:23 32:2,8 33:21 37:25 38:1 keeps 32:9 kenneth 7:6 kin 40:16 kind 29:15 know 2:21 12:9 18:2,13 20:8 22:9 22:14,18 24:3,7,22 27:12 28:4 29:3	

31:5,25 32:12 33:1,2,13,16 37:9 37:10 knows 31:9 krapf 7:11 15:14 15:21,22 27:4,7,25 28:3,4 33:13 36:19 krapf's 16:21 krapfs 16:4 23:15 23:19,23 24:1 26:4 kratz 1:20 15:13 15:14,19,21 18:21 19:2,6,10,14,17 20:2,5,20 21:3,10 21:14,17,20 22:24 23:2,6 25:5 27:7 27:22 29:8 34:1,2 34:14 35:23 36:12 37:6,12,17	leandra 1:8 40:18 leasing 7:7 lee 1:20 left 12:13 16:24 19:1,3 legal 2:11 5:16 lehigh 2:18 10:19 10:24 20:15 letter 4:21 6:20 11:3 liberty 37:12 library 2:13 6:13 6:19 limits 17:6 linc 34:23 lincoln 1:17 line 23:20,24 list 24:11 listed 25:6 listening 22:12,13 22:13 little 11:7 13:7 live 33:1 lives 26:11 27:1 living 35:20 llc 15:15,22,24 load 26:5,5 local 28:13 long 24:7 27:5 longitude 8:16 look 12:7 13:22 14:2 19:7 22:11 28:2,8 looked 20:21 35:1 looking 18:14,25 20:17 22:14 looks 23:11 lot 9:3 20:24 22:6 34:21,24 37:20 lots 9:9 23:3	m m 1:8,10 ma'am 29:10 machine 40:11 mail 2:14 7:16,16 7:17,19 22:21 23:5 mailed 22:20 main 11:8 18:18 maintain 11:24 major 34:18 making 22:7 26:25 35:1 mall 30:12 manager 1:10 4:16 5:4 manufacturing 7:9 map 1:3 3:16 11:18,20,25 12:4 12:13,17,18 13:4 13:11,12,22 14:2 15:23 16:14,23 18:15,20,25 20:17 20:18 21:6,7 38:24 maps 11:5 14:18 21:2,6 mark 24:23 25:16 27:23 marked 5:19,20 6:16,21,22 7:18,20 8:1 10:3,12,22 24:24 25:17,23 27:20 market 30:11,12 materials 23:23 mean 18:15 30:21 31:14 medical 30:2 35:17	medium 11:22 17:17,22,23 35:10 meeting 10:9,12 26:4 38:19 meetings 32:12 33:10,14,17 member 1:12,13 1:14 mentioned 7:24 18:19 mess 37:4,23 met 10:13 mic 15:18 michigan 7:11 microphone 3:14 middle 18:16 20:11 23:12 36:23 mind 21:18 32:8 33:21 35:7 mindful 34:8 mini 30:12,12 minimal 33:17 mining 17:25 minute 4:6 16:20 29:23 minutes 2:17 10:12,14,16 mistaken 32:19 montanari 1:14 3:7,8 4:3 35:6 38:7,13 39:2,9 month 19:22 morning 36:17 motion 3:17,19,22 38:4,6,22 moved 27:13 moving 26:5 mpc 20:14 mud 32:1 multiple 25:20
l	l4 13:4 l4-15-11 13:4,12 15:15,23 l43-8 12:18 l49-8-6 12:19 labeled 17:1 land 11:5,25 13:1 16:1 19:22 20:7 20:21 21:6,7 22:15 24:4 lane 8:24 9:6,11 larry 3:10 5:2 32:15 36:14 larry's 36:25 laterals 23:25 24:1 latitude 8:16 law 2:13 6:13,19 27:9		

municipal 1:5 30:9 35:13 municipalities 20:14	notary 1:8 40:19 note 30:25 noted 8:15 notes 29:1 notice 2:13 33:11 40:6 notices 2:14 6:25 7:19 notify 8:4 november 6:9,20 7:14 10:8 11:2,3 number 8:13 26:16 nursing 30:6 35:19	ones 22:22 24:3 online 2:23 27:23 27:24 open 3:17,20 12:6 15:11 33:16 operating 27:8 28:14 operation 26:5,9 26:22 operations 28:8 operators 23:22 opportunity 14:21 options 35:6 orange 12:15,20 order 25:8 30:22 ordinance 1:2 3:15 4:6 5:5,9 6:1 6:8,12 9:24 10:18 12:12,20 13:18,23 14:2 16:14 18:4 28:24 29:23,25 38:17,19,23 ordinances 38:25 oriented 31:20 outcome 40:17 overwhelm 25:15 owned 28:7 36:20 owner 15:14,22,25 owners 2:15 6:25 7:19,23 owns 27:7	17:8,15,19,24 21:11 23:8 parcels 11:12,21 12:14 24:19 park 11:14 parking 9:3,9 part 12:12 17:10 20:3 22:4 25:11 26:14 29:25 particular 35:2 party 40:16 pennsylvania 1:6 people 23:7 33:1 35:20 38:1 percent 22:19 performed 18:3 permitted 26:8,10 30:1,14 35:11 person 37:2 personal 27:18 35:21 perspective 27:1 27:14 pertains 38:23 phone 36:18 photographs 2:16 8:19 physical 17:25 pictures 9:19,21 piece 5:14 12:24 pipeline 20:7 pits 17:25 place 30:4 35:15 37:3 40:7 placed 8:20,23 9:1 9:5,7,10,13,17 placement 8:17 places 30:8 plan 11:5,12 14:22 14:25 15:1,6 16:1 19:19 21:4,8,11
n	o	p	
nano 35:21 natural 31:12 naturally 32:7 near 9:14 26:20 neat 37:20 necessarily 31:14 need 3:17 34:20 35:23 needed 24:10 30:25 negative 22:4 neighbor 27:3,15 neighborhood 11:22 13:2,9,20 17:11 23:17 29:17 30:2 neither 40:15 network 34:25 35:2 new 23:25 news 26:2 newspaper 2:12 2:22 6:8,15 26:1 night 36:23 nonarbitrary 34:3 nonconforming 17:13 32:6 north 7:10 8:14,21 9:2,2,14 northampton 1:6 1:18 6:12,19 7:8 7:12 11:13 26:15 31:5 northamton 2:13 northern 31:19	o 1:17 oberly 3:10 4:18 5:2 16:17 20:2 25:9,25 26:11,15 26:21,24 27:11 28:11 29:3 32:11 36:15 oberly's 27:24 obvious 18:15 october 15:3,5 21:8 office 30:2,3 offices 1:4 official 25:24 officially 10:15 okay 4:17 5:3,8,18 5:22 6:4,7,18,24 7:13,15,22 8:3,9 9:19,23 10:18 12:1 19:15 20:5 22:12,15 23:13,18 25:10 29:24 30:25 34:14 35:25 37:21 38:3,14,15 39:3,11	p.m. 1:7 39:13 p.o. 7:7 pa 1:18,22 7:7,8 7:12 31:5 page 2:3,10 11:19 paper 5:14 paragraph 11:8 parcel 12:18,18 13:12 16:25 17:3	

<p>29:2 32:20 33:3,6 plan's 11:17 planned 11:18 planner 19:22 planning 2:18 9:25 10:7,19,24 19:25 20:15 21:1 22:1 31:6,7 plans 20:8 33:5 please 4:8 14:7 15:17 pledge 3:1 plenty 33:11 point 15:23 16:19 28:8,15 pointed 19:8 pointing 16:13 points 29:6 poor 36:25 portion 11:12 12:13,17,18,24 13:3,5,12 portions 11:21 12:16 position 4:14,17 5:4 post 8:3,11 9:16 posted 2:16 8:10 8:13 9:20 postings 8:7 potentially 8:5 prepare 14:18 present 16:12 17:20 presently 17:12 press 26:15 pretty 18:15,24 prior 25:23 probably 30:21 problem 27:2</p>	<p>procedural 4:7 process 16:19 19:19,20,22 23:5 25:10,12,13 29:2 program 21:4 project 24:13,20 projects 23:6 proof 10:15 properties 4:24 12:17 13:3 property 2:15 4:23 6:25 7:19,23 12:24,25 13:5 15:25 16:4,7,11,21 23:13,15,18 24:3 25:15 26:7,9 27:8 27:14,24 28:9,9,15 28:19,25 34:6,16 35:25 36:3,13,20 proposal 30:22 propose 9:24 proposed 3:15 4:25 6:8,11 7:1 10:18 12:4 13:2 13:10 16:14 18:3 18:13 23:17 proposes 11:9 proposing 17:9,10 17:13,16 18:10 24:16 28:20,25 32:15 37:7 provided 16:1 18:7 25:7 provides 34:16 providing 23:21 proximity 4:23 public 1:2,9 3:11 3:14 5:6,8 6:2 12:2,3,6 30:8,9 33:10,16,19,21,25 35:12,13 38:16</p>	<p>40:19 published 5:12 26:1 purchased 28:16 purple 12:25 13:6 29:18 purpose 12:3 purposes 17:22 pursuant 40:6 pursue 34:8 put 24:1</p> <p>q</p> <p>quarry 16:7 26:6 26:20 35:25 36:1 question 14:6 38:1 questionable 26:22 questions 12:5,7 14:5 15:10,11 33:25 35:4 38:2 quoted 28:11</p> <p>r</p> <p>r 22:16 r2 11:22 13:16,20 17:17 34:20,22 35:7,10 raise 12:9 randy 27:5 reaction 24:18 read 4:22 8:16 11:8 29:23 34:23 36:4 reading 8:18 realized 23:7 really 17:14 34:19 reason 18:18 23:12 32:10 34:25 reasonable 20:24 rebuttal 34:1,12</p>	<p>recall 33:12 receipts 2:15 7:18 7:23 receive 4:18 received 27:9 recitals 28:2 reclaimed 36:1 recommend 10:10 recommendation 10:6,8 recommendations 32:21 record 33:9 40:14 recorded 40:10 records 25:6 recuse 4:25 16:17 recused 25:10 references 32:11 referred 20:19 reflect 14:23 reflected 18:11 33:4 reflects 33:20 regarding 26:18 regular 7:15 regularly 10:9 regulatory 34:7 relative 18:3 25:8 29:5 reliance 28:17 remainder 17:15 remaining 11:20 13:12 repair 30:4,16,20 reporter 2:20 represent 15:14 15:21 33:5 represented 32:17 request 2:21 24:22 28:23</p>
--	---	--	---

requested 14:24 required 20:15 requirements 20:25 resident 24:8 residential 11:23 13:8,16 17:17,21 20:12 27:8 29:16 31:19,23 34:21 35:10 residents 22:2,2,9 26:3,16,16,21 respectfully 28:23 respectively 11:23 respond 10:25 responding 33:13 response 2:19 11:1 11:3 22:20 restaurant 30:13 35:17 restricted 31:25 retail 30:3 return 2:15 7:18 7:22 22:21 returned 22:18 review 10:1,20 14:22 20:8,14 rezoned 7:1 8:4 13:2 21:12 27:17 rezoning 4:24 27:14 29:16 right 2:21 13:1,22 17:1 19:4,6,7,10 23:16 24:21 30:1 32:1 37:6 rights 23:18 24:15 28:19,21 road 1:6,18 7:10 7:12 8:14,15,21,21 8:24 9:4,5,7,11 11:13,21 23:21	26:17 31:5,25 34:15,17,25 35:2 robert 1:15 2:6 14:8 rockefeller 17:4 23:3 24:20 roll 3:2 39:4 rooming 30:7 rpr 1:8 40:18 run 32:1,1,4,8 rural 11:15,19 12:16,21 20:23 s sale 37:15 sandra 29:12,14 29:19 30:16,24 36:5 savage 7:12 9:4,7 9:10 11:21 31:25 34:15 saw 22:14 saying 17:23 19:10 21:10 28:12 37:18 says 22:12 31:13 scheduled 10:9 se 13:4 second 3:21,23 12:23 13:15 15:24 26:14 31:17 38:7 39:1,2,4 secret 25:14 section 29:25 see 12:15 13:14 17:21 18:1 22:4 23:8 24:22 25:7 28:1,3 30:22 36:2 37:1 seeking 25:6 seen 18:5 send 6:7,11,18,24 7:3,5,13,15,16	sense 19:15 sensitive 3:13 sent 7:17 20:15 22:1,22 septic 20:22 service 30:3,12 set 20:11 setting 19:25 seven 9:10 sewer 23:20,24 ship 30:16 shop 30:4,21 short 8:24 9:6 shorthand 40:11 show 13:25 shows 5:15 12:13 12:24 13:22 side 8:14,21,24 9:2 9:2,3,8,11,14 16:24 31:19,21 sign 8:13,17,20,23 9:1,5,7,10,13 37:15 signature 40:17 signs 2:16 8:4,8,19 9:16,17,20 single 30:6 35:12 six 9:7 small 12:25 23:14 24:3 snow 31:4 soil 26:6,13 solicitor 16:13 somebody 19:18 37:16 sorry 10:5 32:1 sounds 18:4 south 8:21,24 southern 31:20 speaker 19:3 27:6 37:24	specific 11:7 specifically 29:21 specifics 30:25 split 17:9 spot 20:9 23:9,10 23:11 spring 23:5 square 12:25 13:7 24:5 37:7 stage 38:20 standards 36:2 standing 24:7 start 15:20 16:22 state 36:1 38:16 states 16:5,6 steel 16:5,6 28:5 step 38:4 stevens 1:20 stevenslee.com 1:23 stick 37:14 store 30:3,11 stoudt 1:8 40:18 street 1:21 7:6,10 26:11 27:1,3 36:11 strip 28:20 stripped 24:15 stripping 34:5 studied 34:4 studies 18:3 study 18:7 stuff 36:20 subdivision 17:4 17:24 subject 5:5 39:12 submit 24:21 submitted 9:25 10:19 24:4 subsequent 32:21
--	---	--	--

substance 4:6 suite 1:21 7:12 supervision 40:12 supervisor 21:25 supervisors 1:1 4:22 10:11 20:1 26:4,18 support 20:22 supports 28:1 supposedly 36:22 sure 15:19 18:24 20:20 21:20 32:23 surprised 28:14 surrounded 18:18 surrounding 31:22 survey 22:24 23:1 24:17 33:2,4,6 surveys 22:1,17,20 sway 29:4 swear 4:8 14:6 sworn 4:9 14:8 21:22 29:13 31:2 36:8 40:8 systems 20:22	taxpayer 24:8 tell 29:14 40:8 telling 37:2 term 23:9 testified 4:10 14:9 21:23 29:13 31:3 36:9 testimony 40:6,10 40:14 thank 5:1 6:24 8:3 9:23 12:1,10 15:8 15:9 29:6,7 30:25 33:23 thankful 16:17 thanks 25:2,4 34:9 theoretical 35:24 thereof 40:17 thing 3:11,17 18:7 19:5 31:8 32:10 32:16 34:11 things 4:7 18:1 21:24 22:2,8 24:12 26:13 27:17 31:10,10 33:22 think 18:24 20:10 27:18 28:11 30:20 32:8,9 33:3,20 34:7,25 third 13:10,15 thoughtful 34:3 thoughts 32:17 three 8:23 17:11 23:14 31:24 throw 37:15 thursday 1:6 time 10:13 19:19 20:8,17 23:25 25:21 34:3 36:20 36:24 40:7 times 5:12,17 18:19	today 12:19 17:12 17:25 told 28:1 tomorrow 31:15 tonight 16:15 25:11,16 tonight's 5:5 12:3 38:19 top 12:25 13:7 total 8:8 32:17 touching 36:3 township 1:1,5,17 1:19 3:16 4:15,16 5:4 9:25 10:7,11 14:5,13 16:1 17:2 23:12,20,22 24:8,8 24:12 25:24 26:3 26:9,17,22,25 29:24 31:6 33:1,2 38:25 township's 11:11 11:16 14:22 traffic 24:18 26:12 34:18 35:3 trail 1:18 9:2,3,8 transcribed 40:12 transcription 40:13 transmittal 6:14 11:2 transmittal6 2:12 treadwell 1:17 2:5 2:7 3:13 4:5,13 5:3 12:1 14:12 15:4,9 19:12,16 25:4 29:7,17,22 30:20 33:24 34:10 35:4,8 37:25 38:15 39:11 trial 1:5	tried 13:24 20:9 truck 26:5,5,12 34:18 35:3 trucks 24:18 36:16 true 40:14 truth 40:8,9,9 trying 22:11 turns 23:10 two 8:20 11:12,20 11:21 12:13,16,17 13:3 21:15 26:24 31:18 32:18 33:7 type 16:11 28:16 types 30:14 typically 32:3
t			u
table 34:23 taints 25:13 take 13:11 23:18 25:21 27:17 34:4 38:21 taken 1:4 22:6 40:6 talked 31:23 36:10 37:19 talking 30:17 task 19:24 tavern 30:5,13 tax 7:9 12:13,17 12:18 13:4,12			u.s. 28:5 ucob 7:6 unanimous 32:22 32:25 understand 24:17 28:22 understanding 5:1 unidentified 37:24 unifocal 32:15 united 16:5,6 universal 16:8,9 unknown 27:6 unnamed 26:15,16 usage 34:21 use 11:5,18,25 13:8 16:2,11 17:20 20:7,22 21:6,7 22:15 28:18 30:15 34:6 uses 17:6,7,13 18:8 28:9,16 30:1 30:14 31:23 34:20 34:24 35:11,18,24 36:3

v	work 14:16 worked 19:22,24 worship 30:8 35:15 write 25:20 wrong 32:19
valley 2:18 10:19 10:24 19:23 20:15 veterinary 30:5 vice 1:11 vince 36:8,10,13 37:9,14,19 virtually 32:13 voice 26:18 29:4 vote 4:25 32:19,20 32:22 voted 10:10 votes 32:23	y yard 36:23 yeah 18:21 23:4 year 36:15,15,15 years 17:5 27:4,6 31:7,14,18 33:8 37:21
w	z
w 1:21 wall 12:8,11 walls 37:15 want 22:4,9 24:22 25:7,15,19 32:10 37:4 wanted 15:20 33:21 wants 28:18 29:8 warehouses 22:5 22:10 way 16:16 17:24 22:14 23:21 we've 33:8 went 18:5 20:13 23:1 33:3 36:11 west 8:14 11:12 white 12:16,21 13:5,15 whitehall 7:8 wise 24:1,13 25:11 witness 2:3 40:15 witnesses 2:1 word 34:8 words 26:6	zone 17:9,10 31:22 zoned 12:19 13:1 13:13 23:10 zones 20:12 zoning 1:2 3:16 11:9,15,16,20,23 12:4 13:17 16:23 17:17 18:4,17,19 20:9,18 23:9 28:24 29:23,25 31:8,10 32:8,21 33:22 34:2 38:24

Commonwealth of Pennsylvania Rules of Civil

Procedure

Title 231, Chapter 4000

Depositions and Discovery

Rule 4017

(c) When the testimony is fully transcribed a copy of the deposition with the original signature page shall be submitted to the witness for inspection and signing and shall be read to or by the witness and shall be signed by the witness, unless the inspection, reading and signing are waived by the witness and by all parties who attended the taking of the deposition, or the witness is ill or cannot be found or refuses to sign. Any changes in form or substance which the witness desires to make shall be entered upon the deposition by the person before whom it was taken with a statement of the reasons given by the witness for making the changes. If the deposition is not signed by the witness within thirty days of its submission to the witness, the person before whom the deposition was taken shall sign it and state on the record the fact of the waiver or of the illness or absence of the witness or the refusal to sign together with the reason, if

any, given therefor; and the deposition may then be used as fully as though signed, unless the court holds that the reasons given for the refusal to sign require rejection of the deposition in whole or in part.

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